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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 UNITED STATES OF AMERICA,

8 Plaintiff,

9 v.

10 KOBY DON WILLIAMS,

11 Defendant.

12 NO: 2:23-CR-0024-TOR

13 ORDER DENYING DEFENDANT'S
14 MOTIONS FOR ACQUITTAL AND
15 NEW TRIAL

16 BEFORE THE COURT are Defendant's Motions for Acquittal and New
17 Trial. ECF Nos. 88 and 89. The Court has reviewed the briefing, record, and files
18 herein, and has considered testimony and exhibits received at trial, and is fully
19 informed.

20 A jury trial was held in this matter on March 13-14, 2024. Defendant Koby
21 Don Williams was charged by Indictment with Attempted Online Enticement in
22 violation of 18 U.S.C. § 2422. ECF No. 1. The jury returned a guilty verdict.

1 In the first motion, Defendant moves for acquittal of the charge because he
2 did not entice an individual under the age of 18 to engage in prostitution or any
3 sexual activity. In the second motion, Defendant requests a new trial because the
4 verdict goes against the weight of the evidence presented to the jury and there was
5 insufficient evidence of enticement.

6 DISCUSSION

7 A. Motion for Acquittal

8 First, Defendant complains that the Government has failed to prove that an
9 individual under the age of 18 was enticed. Defendant was charged with
10 Attempted Online Enticement, in violation of 18 U.S.C. § 2422(b). Two critical
11 elements of that offense have been ignored by the Defendant. The third element is
12 that “the defendant believed the individual the defendant attempted to persuade,
13 induce, entice, or coerce was under the age of 18” and the fourth element is that
14 “the defendant did something that was a substantial step toward committing the
15 crime and that strongly corroborated the defendant’s intent to commit the crime.”

16 The Ninth Circuit held in *United States v. Meek*, 366 F.3d 705, 717–18 (9th
17 Cir. 2004) the following:

18 The question we consider is whether § 2422(b) imposes criminal
19 liability when the defendant believes he is inducing a minor, but
20 the object of his inducement is really an adult. We join our sister
circuits in concluding that “an actual minor victim is not required
for an attempt conviction under 18 U.S.C. § 2422(b).” *United
States v. Root*, 296 F.3d 1222, 1227 (11th Cir. 2002) (holding

1 that “belief that a minor was involved is sufficient to sustain an
2 attempt conviction under 18 U.S.C. § 2422(b)’’); *United States v.*
3 *Farner*, 251 F.3d 510, 513 (5th Cir. 2001) (legal impossibility
4 normally not a defense to an attempt to violate § 2422(b));
5 *United States v. Bailey*, 228 F.3d 637, 639 (6th Cir. 2000)
(attempt provision of § 2422(b) constitutional because the
restriction “does not infringe on any constitutionally protected
rights of adults”), *cert. denied*, 532 U.S. 1009, 121 S.Ct. 1737,
149 L.Ed.2d 661 (2001).

6 Thus, to be convicted of Attempted Online Enticement an actual minor victim is
7 not required. The Government presented overwhelming evidence at trial that the
8 victim repeatedly represented herself as age 13 and Defendant attempted to entice
9 her. Defendant’s motion for acquittal is denied.

10 Defendant’s second argument is that the verdict of guilty goes against the
11 weight of the evidence because the victim was not under 18 and that the
12 communications to the adult intermediary did not transform or overcome the will
13 of the minor for purposes of engaging in illegal sexual activity.

14 Again, Defendant is severely mistaken. An actual minor victim is not
15 required for conviction of Attempted Online Enticement. Additionally, the
16 purported victim repeatedly represented herself as age 13. Defendant
17 communicated with her for three days, negotiated prices for sex, convinced her that
18 he would meet her at her hotel, and brought two large bottles of vodka, bottles of
19 generic Viagra, and \$4,075.00 in U.S. currency to the meeting.

1 The Government presented overwhelming evidence as to Defendant's
2 intentions and fully proved Attempted Online Enticement in violation of 18 U.S.C.
3 § 2422(b). Defendant's motion for new trial is denied.

4 **WHEREFORE, IT IS ORDERED:**

5 1. Defendant's Motion for Acquittal, ECF No. 88, is **DENIED**.
6 2. Defendant's Motion for New Trial, ECF No. 89, is **DENIED**.

7 The District Court Executive is directed to enter this order and provide copies to
8 counsel.

9 **DATED** June 14, 2024.



A handwritten signature in blue ink that reads "Thomas O. Rice".

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11 THOMAS O. RICE
12 United States District Judge
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