

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

United States v. Mayfield

771 F.3d 417 (7th Cir. 2014) (en banc) · No. No. 11-2439 · Decided November 13, 2014

SUMMARY

The en banc Seventh Circuit held that entrapment is a factual defense requiring evidence of both government inducement and lack of predisposition. It ruled that when the defense is raised pretrial, the court must accept the defendant's factual proffer as true and may not weigh it against the government's contrary evidence. The court vacated Leslie Mayfield's convictions and remanded for a new trial because he had proffered sufficient evidence to warrant an entrapment jury instruction.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Diane P. Wood; William J. Bauer; Frank H. Easterbrook; Richard D. Cudahy; Michael S. Kanne; Ilana Diamond Rovner; Ann Claire Williams; Annette K. Sykes; John Daniel Tinder; David F. Hamilton
JURISDICTION	Federal
DECIDED	November 13, 2014
DOCKET	No. 11-2439
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Mayfield appealed his federal convictions after the district court granted the government's pretrial motion in limine barring him from presenting an entrapment defense. A Seventh Circuit panel affirmed, and the court granted rehearing en banc to clarify the substantive and procedural requirements for an entrapment defense.
STANDARD OF REVIEW	The court reviewed de novo the legal standards governing entrapment and the district court's pretrial exclusion of the defense; in assessing Mayfield's proffer, the court was required to accept his factual account as true, draw reasonable inferences in his favor, and avoid weighing competing evidence or making credibility determinations.
PRECEDENTIAL VALUE	published en banc precedent
PARTIES	Leslie C. Mayfield v. United States of America

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QUESTIONS PRESENTED

1. What are the substantive elements of the federal entrapment defense?
2. What constitutes government inducement beyond merely providing an ordinary opportunity to commit a crime?
3. How is predisposition defined and when must it exist?
4. What burden of production must a defendant meet to obtain an entrapment instruction?
5. May a court resolve an entrapment defense before trial by weighing the defendant's factual proffer against the government's evidence?
6. Did Mayfield proffer sufficient evidence of government inducement and lack of predisposition to require a jury instruction?

HOLDINGS

1. Entrapment requires government inducement of the charged crime and the defendant's lack of predisposition to commit it before government intervention. The two elements are formally and temporally distinct, although related.
2. Inducement means more than government solicitation, initiation of contact, suggestion of the crime, or provision of an ordinary opportunity to commit it. It requires additional government conduct that creates a risk that a person who otherwise would not commit the crime will do so in response to the government's efforts.
3. A defendant is predisposed if, before government intervention, he was ready and willing to commit the charged crime and likely would have committed it without government involvement, or actively wanted to commit it but lacked the means.
4. Entrapment is ordinarily a question for the jury. A defendant is entitled to an entrapment instruction upon producing some evidence from which a reasonable jury could find both government inducement and lack of predisposition.
5. When the government seeks to preclude an entrapment defense before trial, the court must accept the defendant's factual proffer as true and may not weigh it against the government's competing evidence or make credibility determinations.
6. Mayfield presented sufficient evidence of inducement and lack of predisposition to require submission of entrapment to the jury.

KEY QUOTATIONS

“We hold that inducement means more than mere government solicitation of the crime; the fact that government agents initiated contact with the defendant, suggested the crime, or furnished the ordinary opportunity to commit it is insufficient to show inducement.” (771 F.3d at 435)

“To summarize then, a defendant is predisposed to commit the charged crime if he was ready and willing to do so and likely would have committed it without the government’s intervention, or actively wanted to but hadn’t yet found the means.” (771 F.3d at 444)

“Procedurally, entrapment is an issue of fact for the jury.” (771 F.3d at 453)

“When the issue is raised before trial on the government’s motion to preclude the defense, the court must accept the defendant’s factual proffer as true and not weigh it against the government’s evidence.” (771 F.3d at 453)

FACTUAL BACKGROUND

A confidential informant working with the ATF repeatedly urged Mayfield, a coworker and former felon, to participate in a stash-house robbery. According to Mayfield's proffer, he initially resisted, but the informant appealed to his financial hardship, gave him money that created a debt, and implied that the Gangster Disciples might retaliate if the debt was not repaid. Mayfield eventually joined the proposed robbery, helped recruit participants and assemble weapons, and was arrested during the staged operation involving an undercover agent. The district court credited the government's evidence of predisposition and barred Mayfield from presenting entrapment to the jury.

PROCEDURAL HISTORY

Mayfield was indicted and convicted of conspiracy and attempt to distribute cocaine, possession of a firearm in connection with a drug crime, and possession of a firearm by a felon. The district court excluded his entrapment defense before trial and sentenced him to 322 months' imprisonment. A divided panel affirmed in *United States v. Kindle*, 698 F.3d 401 (7th Cir. 2012). On rehearing en banc, the Seventh Circuit held that Mayfield's proffer was sufficient to require submission of entrapment to the jury, vacated the judgment, and remanded for a new trial.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Vacate the judgment and conduct a new trial at which Mayfield may present his entrapment evidence and obtain an entrapment instruction if the evidence at trial supports it.

CASES CITED

- *United States v. Kindle*, 698 F.3d 401 (7th Cir. 2012)
- *Casey v. United States*, 276 U.S. 413 (1928)

- *Sorrells v. United States*, 287 U.S. 435 (1932)
- *Sherman v. United States*, 356 U.S. 369 (1958)
- *United States v. Russell*, 411 U.S. 423 (1973)
- *Hampton v. United States*, 425 U.S. 484 (1976)
- *Mathews v. United States*, 485 U.S. 58 (1988)
- *Jacobson v. United States*, 503 U.S. 540 (1992)
- *United States v. Hollingsworth*, 27 F.3d 1196 (7th Cir. 1994) (en banc)
- *United States v. Pillado*, 656 F.3d 754 (7th Cir. 2011)
- *United States v. Plowman*, 700 F.3d 1052 (7th Cir. 2012)
- *United States v. Evans*, 924 F.2d 714 (7th Cir. 1991)
- *United States v. McGill*, 754 F.3d 452 (7th Cir. 2014)
- *United States v. Orr*, 622 F.3d 864 (7th Cir. 2010)
- *United States v. Kindle*, 698 F.3d 401 (7th Cir. 2012)

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