

The Virgin Islands Consortium

Judge Denies New Trials for Martinez and O'Neil, Saying Evidence Supported Bribery and Fraud Convictions

Judge Mark Kearney denied acquittal and new trial requests from Ray Martinez and Jenifer O'Neil, finding the jury had ample evidence that public trust was sold to help fund Martinez's restaurant and O'Neil's café plans.

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Ray Martinez, center in left image, and Jenifer O'Neil, right, whose post-trial bids for acquittal or new trials were denied as their Mon Ethos corruption convictions remain in place. By. ERNICE GILBERT, V.I. CONSORTIUM.

Former V.I. Police Commissioner Ray Martinez and former Office of Management and Budget Director Jenifer O'Neil will not receive new trials or acquittals after a federal judge refused to disturb the jury verdicts that found both former senior government officials guilty in the Mon Ethos corruption case.

In a 48-page memorandum issued Wednesday, District Court Judge Mark Kearney denied the defendants' post-trial motions, concluding that the evidence presented at trial was sufficient to support the convictions. Mr. Martinez and Ms. O'Neil had argued that prosecutors failed to prove the allegations of fraud, bribery and money laundering beyond a reasonable doubt. The government maintained that the jury's verdict was fully supported by the trial record.

Judge Kearney agreed with prosecutors.

"The adduced evidence overwhelmingly confirmed the officials' disregard for the rule of law," he wrote.

The case stems from the federal prosecution of Mr. Martinez and Ms. O'Neil over their dealings with Mon Ethos Pro Support, the company operated by David Whitaker, whom Judge Kearney described in the memorandum as an "admitted federal felon and widely-known fraudster."

According to the judge's summary of the evidence, Mr. Whitaker came to the Virgin Islands, formed Mon Ethos as a digital solutions company, and "began engendering the trust of government officials who hired his company to work as a government contractor."

Mr. Martinez met Mr. Whitaker in 2022, and the two developed "both a working relationship and valued personal friendship." Mon Ethos began doing work for the Virgin Islands Police Department that year without a formal contract. Instead, VIPD requested services, Mon Ethos performed the work, and invoices were submitted for payment.

Mr. Whitaker testified that most of those invoices were sent directly to Mr. Martinez, who was then police commissioner. Even invoices not sent directly to him required his approval before payment could proceed.

Like many government vendors, Mon Ethos experienced delays in receiving payment. According to the evidence outlined by Judge Kearney, Mr. Whitaker approached Mr. Martinez about the unpaid invoices, and Mr. Martinez responded that working on the opening of his restaurant left him with no time to address them.

Mr. Whitaker testified that he understood the response as an invitation to help Mr. Martinez with "payment or things of value to help the restaurant" in exchange for getting Mon Ethos invoices paid.

The jury saw evidence of the arrangement, including a payment from the company's bank account to a kitchen supply company on November 28, 2022. The next day, Mr. Martinez sent a letter to the commissioner of Property and Procurement concerning Mon Ethos invoices. The invoices were approved about a week later.

According to the court, the arrangement continued into 2023. Mr. Whitaker later proposed the "Steak Out" agreement, which he testified was designed as a cover for payments to

Mr. Martinez. Judge Kearney noted that jurors heard both prosecution questioning and defense cross-examination on that agreement, as well as on the Boston trips, restaurant payments, rent payments for Mr. Martinez's wife, tuition payments for the Martinez children, and a deposit on a new house.

Mon Ethos' relationship with VIPD was later formalized through a nearly \$1.5 million contract funded by the American Rescue Plan Act. Mr. Whitaker began cooperating with the FBI shortly before Governor Albert Bryan Jr. signed that contract in October 2023.

Because the contract involved federal funds, payments now moved through the Office of Management and Budget. Ms. O'Neil, then OMB director, later entered the discussions between Mr. Martinez and Mr. Whitaker.

The court's memorandum describes several recorded conversations involving Mon Ethos invoices and personal expenses. After the contract was executed, Mon Ethos received large government payments, including \$372,420.75 in October 2023 and \$325,912 in December 2023.

The most significant discussion centered on a later invoice that prosecutors said was inflated by \$70,000. According to the memorandum, Mr. Martinez and Mr. Whitaker discussed adding that amount so restaurant equipment could be ordered for Mr. Martinez. Mr. Martinez also raised the possibility of adding money for Ms. O'Neil.

In a January 2024 recorded meeting, Ms. O'Neil discussed with Mr. Whitaker the amount needed for a down payment on her planned coffee shop lease at Yacht Haven Grande. The court noted that she later communicated with OMB staff about processing American Rescue Plan Act-related invoices.

That invoice was paid in January 2024. The government later introduced evidence that funds were used for expenses tied to both Mr. Martinez and Ms. O'Neil, including a \$17,730 payment from Mon Ethos to Yacht Haven Grande for Ms. O'Neil's coffee shop lease obligations.

The court also referenced recorded conversations in which Ms. O'Neil expressed concern about traceability.

During an April 2024 recorded meeting with Mr. Martinez and Mr. Whitaker, the discussion turned to how to make the payment for Ms. O'Neil's lease. According to the memorandum, when wire transfer was discussed, Ms. O'Neil said "I don't like traces of anything" and "[w]ire means it's traced."

Judge Kearney also addressed the obstruction allegations against Mr. Martinez. After the FBI seized Mr. Martinez's devices in June 2024, recorded conversations captured discussions between him and Mr. Whitaker about destroying devices and using new communication channels.

In one recorded call, Mr. Martinez told Mr. Whitaker to "burn the phone," which Mr. Whitaker understood to mean getting rid of the phone they had been using. The court also noted evidence that Mr. Martinez created a new email address and discussed how Mr. Whitaker should explain payments if questioned.

The jury also heard evidence concerning a promissory note dated August 15, 2023, which characterized payments for rent and tuition as loans. Judge Kearney found that jurors could conclude the document was created after Mr. Martinez learned of the investigation and was used to explain earlier payments.

After reviewing the evidence, the judge rejected Mr. Martinez's argument that the government failed to prove honest services wire fraud, bribery, money laundering conspiracy and obstruction. Judge Kearney found that jurors had sufficient evidence to determine that Mr. Martinez took official acts related to Mon Ethos contracts and payments, accepted benefits in exchange for favorable action, participated in money laundering, and falsified records to obstruct the investigation.

The court also rejected Ms. O'Neil's request for acquittal. She argued that the evidence showed a gift from Mr. Martinez rather than bribery, and that prosecutors had not proven she agreed to take official action in exchange for the lease payment.

Judge Kearney disagreed. He found that the jury could infer a corrupt agreement from the January 2024 discussions, the processing of the Mon Ethos invoice, and the later payment toward her coffee shop lease.

Ms. O'Neil also sought a new trial, arguing that she should have been tried separately from Mr. Martinez because of the greater volume of evidence against him. The court rejected that argument as well, finding that she had not preserved the severance issue and had not shown the kind of prejudice required for a new trial.

Judge Kearney said the government presented a narrower but distinct case against Ms. O'Neil, focused on her communications with Mr. Whitaker, OMB staff, the Mon Ethos invoice, the April meeting, and the Yacht Haven Grande lease payment. He also noted that jurors were instructed to consider the evidence against each defendant separately.

In closing, Judge Kearney wrote that the defendants had not presented grounds to vacate the verdicts.

"The United States presented ample evidence of the senior public officials violating federal law," the judge concluded. "They knew they were doing so and the evidence confirms they proceeded [to] selling the public trust to help fund their dreams of restaurant and café entrepreneurs in addition to drawing salaries from the public trust."

"The facts are a powerful deterrence to arrogance," Judge Kearney also wrote.

Mr. Martinez and Ms. O'Neil are scheduled to be sentenced next month. After sentencing, they will have approximately two weeks to signal whether they intend to appeal.