

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 23<sup>rd</sup> day of December, two thousand twenty-four.

Present:

DEBRA ANN LIVINGSTON,  
*Chief Judge,*  
DENNIS JACOBS,  
STEVEN J. MENASHI,  
*Circuit Judges.*

UNITED STATES OF AMERICA,

*Appellee,*

v.

23-7211-cr

GERMAINE RAMSEY,

*Defendant-Appellant,\**

For Appellee:

Meredith A. Arfa (David C. James, *on the brief*), Assistant United States Attorneys *for* Breon Peace, United States Attorney for the Eastern District of New York, Brooklyn, NY.

\* The Clerk of Court is respectfully directed to amend the official case caption as set forth above.

For Defendant-Appellant: MATTHEW B. LARSEN, Assistant Federal Defender, Federal Defenders of New York, New York, NY.

Appeal from a judgment of the United States District Court for the Eastern District of New York (Ross, *J.*).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the judgment of the district court is **AFFIRMED**.

Germaine Ramsey appeals from a September 27, 2023 judgment of the United States District Court for the Eastern District of New York (Ross, *J.*) convicting her, following a jury trial, of (1) conspiring to steal United States property in violation of 18 U.S.C. § 371; (2) aiding and abetting the theft of such property in violation of § 2 and § 641; and (3) making a false statement in violation of § 1001. At trial, the government presented evidence that Ramsey and her co-conspirator Robert Gaines conspired to steal, and did steal, remittance funds totaling \$7,781 from a safe in a vault at the Metro Station post office in Brooklyn, New York. This evidence included testimony regarding Ramsey’s admissions to agents of the United States Postal Service Office of the Inspector General (“USPS-OIG”) that she provided her then-fiancé Gaines information necessary to gain access to the remittance safe and commit the theft. The government also submitted video evidence that Ramsey entered the Metro Station vault prior to the theft and appeared to check the contents of the remittance safe. According to cell site location data, Ramsey then left and joined Gaines at their shared residence before they both traveled to Metro Station. Video evidence showed that Gaines accessed Metro Station using the employee entrance and thereafter twice entered the vault. A few hours later, Ramsey purchased money orders totaling \$4,000, and the remittance funds were discovered missing the following day.

USPS-OIG agents interviewed Ramsey regarding the missing funds on January 2, 2020, at which point Ramsey denied involvement in the theft. In a subsequent interview on January 28,

1 2020, she again initially denied involvement. Interviewing Agent Strasser testified that, when  
2 asked why she had entered the vault, Ramsey claimed she did so to return a set of Metro Station  
3 keys. But after further questioning, Ramsey admitted she had lied during both interviews.  
4 Ramsey also stated during this interview that Gaines was abusive and that he had demanded infor-  
5 mation from her regarding the layout of Metro Station, which she then provided to him. Agent  
6 Strasser addressed these reports of abuse at the end of the interview, asking if she felt safe returning  
7 to her shared residence with Gaines. Ramsey responded that she was fine to go home.

8 Ramsey first argues that her convictions under Counts One and Two must be vacated be-  
9 cause the district court abused its discretion by excluding statements she made to law enforcement  
10 alleging that Gaines was abusive and threatening. Ramsey argues that the rule of completeness  
11 required admitting these hearsay statements to provide necessary context for other admitted state-  
12 ments, made in the same interview, that she gave Gaines information critical to committing the  
13 theft. In addition, Ramsey argues that her conviction under Count Three should be set aside be-  
14 cause the government did not provide sufficient evidence that she “falsely stated she entered the  
15 vault at the Post Office . . . only to return a key,” when in fact “she entered the vault . . . to check  
16 on the contents of a safe drawer inside the vault at the Post Office.”

17 We assume the parties’ familiarity with the underlying facts, the procedural history of the  
18 case, and the issues on appeal.

### 19 **I. Rule of Completeness**

20 “We review the district court’s evidentiary rulings ‘under a deferential abuse of discretion  
21 standard, and we will disturb an evidentiary ruling only where the decision to admit or exclude  
22 evidence was manifestly erroneous.’” *United States v. Williams*, 930 F.3d 44, 58 (2d Cir. 2019)  
23 (quoting *United States v. McGinn*, 787 F.3d 116, 127 (2d Cir. 2015)).

1           While Ramsey’s out-of-court statements may be admitted as opposing party statements  
2   when offered against her, they are considered inadmissible hearsay when offered by Ramsey for  
3   their truth. *See* Fed. R. Evid. 801(d)(2). The district court is required to place otherwise inad-  
4   missible hearsay statements into evidence, however, if their exclusion would violate the rule of  
5   completeness.<sup>1</sup> *United States v. Johnson*, 507 F.3d 793, 796 (2d Cir. 2007). The rule of com-  
6   pleteness requires that “an ‘omitted portion of a statement must be placed in evidence if necessary  
7   to explain the admitted portion, to place the admitted portion in context, to avoid misleading the  
8   jury, or to ensure fair and impartial understanding of the admitted portion.’” *United States v.*  
9   *Thiam*, 934 F.3d 89, 96 (2d Cir. 2019) (quoting *United States v. Castro*, 813 F.2d 571, 575–76 (2d  
10   Cir. 1987)). This Court has held that “the rule of completeness ‘is violated only where admission  
11   of the statement in redacted form distorts its meaning or excludes information substantially excul-  
12   patory of the declarant.’” *Id.* (quoting *United States v. Benitez*, 920 F.2d 1080, 1086–87 (2d Cir.  
13   1990)). Moreover, we have been careful to note that “the rule of completeness does not require  
14   the admission of self-serving exculpatory statements in all circumstances.” *Williams*, 930 F.3d  
15   at 61 (emphasis omitted); *see also United States v. Herman*, 997 F.3d 251, 264 (5th Cir. 2021)  
16   (explaining that the rule “permits a party to correct an incomplete and misleading impression” but

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<sup>1</sup> At the time of Ramsey’s trial, Federal Rule of Evidence 106 partially codified the common law rule of completeness, allowing a party against whom “all or part of a writing or recorded statement” is introduced to “require the introduction . . . of any other part . . . that in fairness ought to be considered at the same time.” Fed. R. Evid. 106. That rule was amended, effective December 2023, to apply to oral testimony as well as recorded statements. Fed. R. Evid. 106 Advisory Committee Note to 2023 Amendments. But because we have previously held that Federal Rule of Evidence 611(a) renders the rule of completeness “substantially applicable to oral testimony, as well,” the rule nevertheless applies here. *United States v. Johnson*, 507 F.3d 793, 796 n.2 (2d Cir. 2007) (quoting *United States v. Mussaleen*, 35 F.3d 692, 695 (2d Cir. 1994)).

1 “does not permit a party to introduce . . . statements to affirmatively advance their own, alternative  
2 theory of the case”).

3 The exclusion of Ramsey’s hearsay statements at trial below raises none of the concerns  
4 addressed by the rule of completeness. The government introduced Ramsey’s admission from  
5 the January 28, 2020 interview that she provided Gaines information on accessing the Metro Sta-  
6 tion remittance safe. Ramsey’s allegations of Gaines’s threatening behavior, while made during  
7 the same interview, were not necessary to explain or understand the meaning of Ramsey’s straight-  
8 forward admission that she passed along information crucial to carrying out the theft. Nor were  
9 the excluded hearsay statements necessary to place the admitted portions into context. State-  
10 ments alleging that Gaines’s threatening behavior prompted Ramsey to share information might  
11 have helped place Ramsey’s confession in context if she had made the necessary factual showing  
12 to present a duress defense. *See United States v. Paul*, 110 F.3d 869, 871 (2d Cir. 1997) (explain-  
13 ing a defendant is not entitled to present a duress defense if the “evidence is insufficient as a matter  
14 of law to establish the defense”). But Ramsey did not argue to the district court that she intended  
15 to present such a defense. As the district court observed, Ramsey had “not clarified whether she  
16 intends to introduce a duress defense or otherwise argue that she was pressured by [Gaines] into  
17 committing criminal acts,” and in fact there was “no evidence that Ms. Ramsey acted under du-  
18 ress.” *United States v. Ramsey*, No. 21-CR-495, 2023 WL 2523193, at \*5 (E.D.N.Y. Mar. 15,  
19 2023). Because Ramsey did not attempt to establish, and likely could not have established, the  
20 elements of a duress defense, the district court did not abuse its discretion in excluding Ramsey’s  
21 allegations as context for the admitted statements.

22 While Ramsey argues that her statements regarding Gaines’s threatening behavior provide  
23 necessary context to understand her “intent” in providing information crucial to accessing the

1 remittance safe, her argument conflates intent with motive. *See generally Havens v. James*, 76  
2 F.4th 103, 114 n.12 (2d Cir. 2023) (“It is well established that the ‘motives’ that prompt one’s  
3 conduct are not the same as the mental state associated with that conduct.”). The Supreme Court  
4 has explained that the “intent to undertake some act is . . . perfectly consistent with the motive of  
5 avoiding adverse consequences which would otherwise occur.” *Rosemond v. United States*, 572  
6 U.S. 65, 81 n.10 (2014). We have therefore held that a defendant’s “conscious participation” in  
7 a crime, “with full knowledge that [the] conduct was illegal, would not be any less intentional or  
8 willful for purposes of criminal law if his conduct was motivated by threats as opposed to a desire  
9 for profit.” *United States v. Pitterson*, No. 20-2994, 2022 WL 779256, at \*2 (2d Cir. Mar. 15,  
10 2022) (summary order).

11         The evidence presented to the jury created a strong inference that Ramsey intended for  
12 Gaines to commit the theft. Ramsey provided Gaines with information to access the remittance  
13 safe, traveled with him to Metro Station, waited nearby while he committed the theft, and pur-  
14 chased money orders with the stolen funds. That Ramsey might have been motivated by Gaines’s  
15 threatening behavior does not negate her intent to bring about the theft of the remittance funds.  
16 This is consistent with the Court’s holding that threats sufficient to establish a duress defense “do[]  
17 not negate a defendant’s criminal state of mind” but rather allow a defendant to avoid criminal  
18 liability “because the coercive conditions . . . negate[] a conclusion of guilt.” *Dixon v. United*  
19 *States*, 548 U.S. 1, 7 (2006). Thus, Ramsey’s hearsay statements cannot be construed as neces-  
20 sary to contextualize her intent in committing acts that aided in the theft of the remittance funds,  
21 and the rule of completeness does not require their admission.

1           **II.           Sufficiency of the Evidence**

2           “We review preserved claims of insufficiency of the evidence *de novo*.” *United States v.*  
3 *Capers*, 20 F.4th 105, 113 (2d. Cir. 2021) (quoting *United States v. Atilla*, 966 F.3d 118, 128 (2d  
4 Cir. 2020)).<sup>2</sup> “Even on de novo review, however, . . . we must sustain the jury’s verdict if,  
5 ‘credit[ing] every inference that could have been drawn in the government’s favor’ and ‘viewing  
6 the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have  
7 found the essential elements of the crime beyond a reasonable doubt.’” *Id.* (quoting *United States*  
8 *v. Ho*, 984 F.3d 191, 199 (2d Cir. 2020)) (alteration in original). This Court “may enter a judg-  
9 ment of acquittal only if the evidence that the defendant committed the crime alleged is nonexistent  
10 or so meager that no reasonable jury could find guilt beyond a reasonable doubt.” *United States*  
11 *v. Ranieri*, 55 F.4th 354, 364 (2d Cir. 2022) (quoting *Capers*, 20 F.4th at 113).

12           Here, the government presented sufficient evidence for a reasonable jury to find that Ram-  
13 sey “falsely stated she entered the vault at the Post Office . . . only to return a key” when she “knew  
14 and believed she entered the vault . . . to check on the contents of a safe drawer inside the vault at  
15 the Post Office.” This finding is supported by Agent Strasser’s testimony that when he asked  
16 Ramsey why she had been in the vault, she initially told him that she had to return the keys. But  
17 upon further questioning, she changed her story several times before admitting she had lied in two  
18 interviews with multiple postal inspectors. Agent McInerney also testified that after questioning  
19 regarding Ramsey’s reasons for entering the vault during the earlier interview, Ramsey admitted  
20 she had no reason to be in there. Taken together, this testimony provides sufficient evidence for

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<sup>2</sup> Ramsey moved for acquittal as to all elements of all three counts on the basis that the evidence was insufficient to sustain a conviction, pursuant to Federal Rule of Criminal Procedure 29. The district court denied this motion. Thus, Ramsey has preserved this claim for review on appeal.

1 a reasonable jury to infer that when Ramsey stated that she entered the vault to return the keys,  
2 without providing any other reasons for doing so, she lied and concealed her true reason for enter-  
3 ing the vault. *See United States v. Sampson*, 898 F.3d 287, 306 (2d Cir. 2018) (explaining that  
4 the completeness and accuracy of “a responsive statement must be judged according to common  
5 sense standards”).

6 Ramsey argues that the government adduced no evidence that she specifically stated that  
7 she entered the vault “*only* to return the key.” But while the defense puts this statement in quo-  
8 tation marks, the indictment does not, and the government was not required to prove that Ramsey  
9 made this statement verbatim. The government provided testimony that when initially asked why  
10 she entered the vault, Ramsey gave only the explanation of returning the key. And further, the  
11 government offered evidence that by providing only this reason, Ramsey concealed her true reason  
12 for entering the vault. This is not a case in which a defendant was “convicted on a charge the  
13 grand jury never made against him.” *Stirone v. United States*, 361 U.S. 212, 219 (1960). Ra-  
14 ther, Ramsey is advocating one narrow reading of the indictment, while the jury permissibly  
15 adopted another. Thus, we sustain the jury’s verdict on appeal.

16 \* \* \*

17 We have considered Ramsey’s remaining arguments and find them to be without merit.  
18 Accordingly, we **AFFIRM** the judgment of the district court.

19 FOR THE COURT:  
20 Catherine O’Hagan Wolfe, Clerk of Court