

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 02-3264

UNITED STATES OF AMERICA,

v.

JOSEPH WENZEL,

Appellant

Appeal from the United States District Court
For the Western District of Pennsylvania
D.C. No.: 99-cr-33E

District Judge: Honorable Sean J. McLaughlin

Submitted Under Third Circuit LAR 34.1(a) July 15, 2003

Before: McKEE, BARRY, and ROSENN, Circuit Judges.

(Opinion Filed July 31, 2003)

ORDER AMENDING OPINION

The opinion in the above case is hereby amended as follows:

1. On page 9, delete the first full paragraph beginning “Wenzel’s argument that Maden’s testimony” and ending “corroboratory support to Maden’s testimony.” Retain the footnote (8), which is placed at the end of the inserted text below. Substitute the following language:

Wenzel’s argument that Maden’s testimony – that Wenzel solicited Maden to kill both Wenzel’s brother and the federal prosecutor in Wenzel’s case – was uncorroborated also fails. The District Court pointed out that Greg Muldrew,

Scott Murosky, and Larry Elder testified to Wenzel's expressed intent to harm or kill the prosecutor. Also, in a tape-recorded conversation, Wenzel described to Muldrew the location of the prosecutor's residence. Finally, evidence was presented regarding Wenzel's intent to harm or kill other individuals involved in his case. Defendant's interpretation of corroborating evidence is too narrow. Corroborating evidence means "[e]vidence supplementary to that already given and tending to strengthen or confirm it. Additional evidence of a different character to the same point." Black's Law Dictionary 344-45 (6th ed. 1990). Wenzel argues that Maden's testimony was uncorroborated because no other witness testified (1) that Wenzel tried to hire Maden to kill Wenzel's brother and the prosecutor or (2) that Wenzel tried to hire him or her to kill Wenzel's brother or the prosecutor. We agree with the District Court that Muldrew, Murosky and Elder's testimony with regard to the prosecutor, the tape-recorded conversation regarding the prosecutor and the evidence that Wenzel intended to harm or kill other individuals involved in his case provided corroboratory support to Maden's testimony.⁸

BY THE COURT:

/s/Max Rosen
Circuit Judge

Dated: August 11, 2003