

JUN 22 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MOHAMAD RUHUL AMIN,

Defendant - Appellant.

No. 08-10341

D.C. No. 1:08-CR-00002

MEMORANDUM*

Appeal from the United States District Court
for the District of the Northern Mariana Islands
Alex R. Munson, District Judge, Presiding

Argued and Submitted May 12, 2009
Honolulu, Hawaii

Before: **KOZINSKI**, Chief Judge, **BYBEE** and **CALLAHAN**, Circuit
Judges.

Under federal law, it is a false statement to claim to be married if the
marriage is fraudulent, even if the marriage is otherwise valid under state or
foreign law. Lutwak v. United States, 344 U.S. 604 (1953); see also United States

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

v. Camper, 384 F.3d 1073, 1076 (9th Cir. 2004) (a defendant has committed perjury if the “defendant understood [an ambiguous] question as the government did and, so understanding, answered falsely”). Lutwak’s holding is not limited to federal immigration offenses; the defendants in Lutwak were convicted of making false statements and conspiring to defraud the United States. 344 U.S. at 607.

There was ample evidence that Amin’s marriage to Rose Reyes, even assuming it was not void under the laws of the Commonwealth of the Northern Mariana Islands, was fraudulent and that Amin conspired with Reyes to fill out a passport application representing that they were married.

Therefore, Amin’s convictions for making a false statement in an application for a passport, 18 U.S.C. § 1542, subornation of perjury, 18 U.S.C. § 1622, and conspiracy to commit those offenses, 18 U.S.C. § 371, are proper. Even if certain of the jury instructions were erroneous, they were harmless.

AFFIRMED.