

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

|                          |   |                         |
|--------------------------|---|-------------------------|
| UNITED STATES OF AMERICA | ) |                         |
|                          | ) |                         |
| v.                       | ) | CASE NUMBER: 4:22-CR-84 |
|                          | ) |                         |
| BERNARD OKOJIE,          | ) |                         |
| Defendant                | ) |                         |
|                          | ) |                         |

**DEFENDANT BERNARD OKOJIE’S  
MOTION IN LIMINE**

COMES NOW, BERNARD OKOJIE, Defendant in the above-styled action, by and through his undersigned counsel of record, and moves this Court, pursuant to Rule 404b of the Federal Rules of Evidence and Rule 16.2 of the Southern District of Georgia’s Local Rules, and the *in limine* doctrine, to enter an order excluding from the evidence at trial any mention by the government of a criminal conspiracy between Mr. Okojie and Brandon Richardson or any acts alleged to be part of such other crime.

Count One of the Indictment charges Mr. Okojie with conspiracy to commit wire and bank fraud in violation of 18 U.S.C. § 1349. Count Three of the Indictment charges him with money laundering conspiracy in violation of 18 U.S.C. § 1956(h), as it relates to the conspiracy as alleged in Count One.

The government previously filed a 404b motion (Document 24), which has been the subject of another hearing in this matter. No mention of any alleged crimes or acts involving Brandon Richardson were listed in that notice.

A government disclosure dated December 20, 2022 contained information regarding Brandon Richardson and included: a copy of an NCIC search report of Brandon Richardson; a

copy of a SBA PPP Loan #44627880-04 for a corporation named Credit Achieved LLC; a copy of a SBA Rapid Finance Intake Application Details - Application #3310079040 for a corporation named Credit Achieved LLC; a copy of a spreadsheet entitled “Related Deals Export - Deals”, which lists approximately 118 loan applications, notably none of these reference Mr. Okojie or any of the other persons identified as being involved in the Okojie Indictment; and an agent’s investigative report containing a summary of his recollections of a statement of Bernard Okojie’s proffer with respect to Brandon Richardson.

On February 24, 2023, the government produced an additional disclosure that contained, among other things, a spreadsheet represented to be additional PPP and EDIL applications involving Brandon Richardson, which lists approximately 243 loan applications. There is no information provided linking Mr. Okojie to any of the applications listed in the new spreadsheet.

It is the position of the defense that if there is any basis to connect Mr. Okojie to any of these spreadsheet applications apparently filed by Brandon Richardson, such would allege a different conspiracy from the one alleged in the present Indictment. No information concerning the underlying facts related to the spreadsheet applications, which Mr. Okojie would probably use to show those transactions are unrelated to the present charges, has been produced or otherwise made available to the defense.

No information has been included in the discovery disclosures as to any connection or involvement of any of the applications listed in the two Brandon Richardson application spreadsheets to the transactions contained in the Indictment. Further, no information is included about whether any of the approximate 361 total applications referenced in the two Brandon Richardson transaction spreadsheets are even alleged to involve fraudulent activity. Any criminal

conspiracy involving Brandon Richardson and Mr. Okojie that may exist would be a separate offense from the one charged and has not been identified in the government's 404b notice.

None of these spreadsheet applications are mentioned in the Manner and Means allegations of the Indictment in paragraph 26, which specifically concern Mr. Okojie and his controlled entities. Nor are any of Brandon Richardson's activities mentioned in paragraph 27 of the Indictment about the EIDL applications by Mr. Okojie for other individuals. Paragraph 28 of the Indictment is completely absent of any mention involving Brandon Richardson concerning payments received by Mr. Okojie related to the applications. Additionally, paragraph 29 of the Indictment, as well as Count Two and Count Three, are completely devoid of any reference to Brandon Richardson. Simply put, Brandon Richardson is not mentioned or referenced in the Indictment, nor was he mentioned during the grand jury testimony leading to this Indictment.

During the grand jury testimony, there are specific references to transactions described in the Indictment as "the crux of the conspiracy that we're talking about in count one", without reference to either transactions or agreements involving Brandon Richardson with Mr. Okojie.

Paragraph 24 of the Indictment alleges that Mr. Okojie and others unlawfully obtained "EIDL and PPP proceeds under false and fraudulent pretenses, including by making false statements about OKOJIE's and his coconspirators' companies gross revenue." However, nowhere in the Indictment is there mention of Brandon Richardson or any company in which Brandon Richardson has an interest or control, which would meet that definition of a co-conspirator's company.

During the Motion to Dismiss hearing, the Court focused on the identifying information in paragraphs 27 and 28 as pointing to the co-conspirators. This information does not reference Brandon Richardson nor is there any reference to him in the “kickback allegation” in the Indictment.

“The Court: Well, I want to focus you first to the ones in the middle, Paragraph 27 and 28, where you have individuals identified, application dates, identifying information related to the applications and specific alleged kickback schemes . . . Here we’ve got quite a bit of identifying information that would put you and Mr. Okojie on the path as to who those conspirators would be. Would you not concede that at least for those allegations that what’s in the indictment is enough to point to the coconspirators?”  
*(Motion to Dismiss Hearing Transcript, November 2, 2022, page 8, lines 7-19)*

The government took the position in its response to Mr. Okojie’s Motion to Dismiss that the factual allegations contained in the Indictment, which do not mention Brandon Richardson, are what supported the validity of the Indictment.

“Mr. Porter: ... The grand jury alleged specific instances where acts in furtherance of the conspiracy occurred, and I think what Mr. Ossick is saying is that the thing he’s struggling with is the grand jury identify in the indictment individuals rather than labeling them as conspirators or non-conspirators, but that by itself doesn’t make the indictment insufficient to put the defendant on notice of what he’s being charged with.

The indictment is crystal clear of what conduct he’s been charged with, and that’s the whole point of this is to ensure that the defendant knows the conduct that’s being alleged and knows that if he’s indicted in wherever, Mississippi, for the same conduct that he can point to the indictment and say, “Your Honor, I’ve already been charged with this; I went to trial and I was” whatever “on this same conduct,” so I don’t think that’s, by alleging additional facts, that somehow makes the indictment insufficient and I think the case law that we cited in our brief is more than sufficient to make that point.”  
*(Motion to Dismiss Hearing Transcript, November 2, 2022, page 15, line 18-25, page 16, 1-9)*

Any alleged conspiracy with Mr. Okojie and Brandon Richardson is separate and distinct from the one alleged in the present Indictment and that was presented to the grand jury. As a consequence, in order to be admissible at trial this separate crime would need to have been included in the government's required 404b notice. Based on the foregoing, Mr. Okojie requests that the Court enter an order excluding from the evidence at trial any mention of a criminal conspiracy between Mr. Okojie and Brandon Richardson or any acts alleged to be part of such other crime.

Respectfully submitted, this 3<sup>rd</sup> day of March, 2023.

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**CERTIFICATE OF SERVICE**

This is to certify that I have this day served all parties in this case in accordance with the directives from the Court Notice of Electronic Filing (“NEF”), which was generated as a result of electronic filing.

This 3<sup>rd</sup> day of March, 2023.

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