

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

ATLANTA DIVISION

UNITED STATES OF AMERICA	)	
	)	
vs.	)	CRIMINAL ACTION
	)	NO. 1:22-CR-171-MLB-RDC
<u>CARL DELANO TORJAGBO</u>	)	

MOTION FOR BILL OF PARTICULARS

COMES NOW the Defendant, CARL DELANO TORJAGBO, by and through his undersigned counsel, and files this motion for bill of particulars. In support thereof, Mr. Torjagbo states the following:

(1)

Count Two of the superseding indictment charges that:

[o]n or about February 16, 2021 in the Northern District of Georgia and elsewhere, the Defendant, Carl Delano Torjagbo, a/k/a Karl Lucius Delano, aided and abetted by others unknown to the Grand Jury, knowingly possessed and used, without lawful authority, a means of identification of another person, that person being M.S., during and in relation to the bank fraud scheme charged in Count 1 of the Superseding Indictment[,] [a]ll in violation of Title 18, United States Code, Section 1028A(a)(1) and Section 2.

The indictment does not specify the means of identification of M.S. that Mr. Torjagbo allegedly possessed and used.

(2)

A defendant is entitled to know sufficient specifics of the offense with which

he is charged in order to prepare a defense. Pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure, the District Court may direct the government to file a bill of particulars so that the defendant may be sufficiently apprised of the nature and scope of the offense with which he is charged, that he may avoid and minimize the danger of surprise at trial, and that he may be protected from the possibility of being charged with the same offense a second time. See United States v. Mackey, 551 F.2d 967, 970 (5th Cir. 1977); United States v. Martinez, 466 F.2d 679, 686 (5th Cir. 1972). “A bill of particulars amplifies the indictment by providing additional information.” United States v. Johnson, 575 F.2d 1347, 1356 (5th Cir. 1978). It adds sufficient precision to the charge and provides the defendant with information necessary for trial preparation. See United States v. Anderson, 799 F.2d 1438, 1441 (11th Cir. 1986); United States v. Adams, Unpublished, 2012 WL 12620849, *2 (N.D. Ga. July 24, 2012). Whether to order a bill of particulars is a separate question from legal sufficiency of the indictment. United States v. Cheatham, 500 F.Supp. 528, 532 (W.D. Pa. 2007).

(3)

Whether to grant a motion for bill of particulars is vested to the sound discretion of the trial court. Adams, supra at *2. However, if the information is essential to the defense, failure to grant the motion for bill of particulars may be

reversible error. United States v. Sharpe, 438 F.3d 1257, 1263 (11th Cir. 2006).

(4)

To allow for adequate trial preparation, to prevent undue surprise, and to protect himself from subsequent prosecution for alleged offense conduct that is covered by the instant indictment, Mr. Torjagbo seeks additional information regarding the particulars of Count Two. Mr. Torjagbo asks that the Government be directed to identify the particulars means of identification of M.S. that he is alleged to have possessed and used in furtherance of the bank fraud scheme charged in Count One of the superseding indictment.

WHEREFORE, Mr. Torjagbo requests that this motion be granted.

Dated: This 6th day of December, 2024.

Respectfully submitted,

S/ Kendal D. Silas

KENDAL SILAS

State Bar No. 645959

Attorney for CARL TORJAGBO

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion for Bill of Particulars was formatted in Times New Roman 14pt., in accordance with Local Rule 5.1C, and was electronically filed this day with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following:

John Russell Phillips, Esq.
Assistant United States Attorney
Northern District of Georgia
600 Richard B. Russell Building
75 Ted Turner Drive, S.W.
Atlanta, GA 30303

Dated: This 6th day of December, 2024.

s/ Kendal Silas

KENDAL SILAS, Esq.
Attorney for CARL TORJAGBO

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion for Bill of Particulars was electronically filed this day with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following:

John Russell Phillips, Esq.
Assistant United States Attorney
Northern District of Georgia
Federal Courthouse, Ste. 600
75 Ted Turner Drive, S.W.
Atlanta, GA 30303

Dated: This 6th day of December, 2024.

s/ Kendal D. Silas

KENDAL D. SILAS, Esq.
Attorney for CARL TORJAGBO