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

UNITED STATES OF AMERICA *v.* CARL DELANO TORJAGBO A/K/A KARL LUCIUS DELANO	Criminal Action No. 1:22-CR-171-MLB-RDC

Response in Opposition to Defendant's Motion for Bill of Particulars

The United States of America, by Theodore S. Hertzberg, United States Attorney, and Kelly K. Connors and Nicholas L. Evert, Assistant United States Attorneys for the Northern District of Georgia, files this Response in Opposition to Defendant's Motion for Bill of Particulars (Doc. 189).

Defendant seeks a bill of particulars explaining how M.S.'s identity was used or possessed in furtherance of the bank fraud charged in Count 1. However, since he has access to all of the information in discovery that he needs to prepare a defense, he is not entitled to the roadmap of the Government's case that he seeks. Accordingly, the Motion for Bill of Particulars should be denied.

ARGUMENT AND AUTHORITY

Rule 7 of the Federal Rules of Criminal Procedure provides that an indictment "must be a plain, concise, and definite written statement of the essential facts constituting the offense charged." Fed. R. Crim. P. 7(c)(1). The same rule authorizes a court to direct the government to file a bill of particulars. Fed. R. Crim. P. 7(f). The purpose of a bill of particulars is "'to inform the defendant of the charge against him with sufficient precision to allow him to prepare his defense, to minimize surprise at trial, and to enable him to plead double jeopardy in the event of a later prosecution for the same offense.'" *United States v. Anderson*, 799 F.2d 1438, 1441 (11th Cir. 1986) (quoting *United States v. Cole*, 755 F.2d 748, 760 (11th Cir. 1985)).

As other courts in this district have stated, "[b]ills of particulars are not routinely granted." *United States v. Leiva-Portillo*, No. 1:06-CR-350-WSD-LTW, 2007 WL 1706351, at *14 (N.D. Ga. June 12, 2007). They are meant to "supplement[] an indictment by providing the defendant with information *necessary* for trial preparation." *Anderson*, 799 F.2d at 1441 (emphasis added); *see also United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985) (affirming denial of bill of particulars request when defendants "failed to show that they were *unable* to prepare a defense without the requested information" (emphasis added)). Thus, "a defendant is not entitled to a bill of particulars with respect to information which is already available through other sources," *United States v. Martell*, 906 F.2d 555, 558 (11th Cir. 1990) (citation and internal quotation marks omitted), including through the indictment and discovery materials. *Leiva-Portillo*, 2007 WL 1706351, at *14.

Bills of particulars are also not intended "to give the defense a road map to the government's case." *Id.* (citation omitted). Nor are they "'designed to compel the government to [provide a] detailed exposition of its evidence or to explain the legal theories upon which it intends to rely at trial.'" *United States v. Roberts*, 174 F. App'x 475, 477 (11th Cir. 2006) (quoting *United States v. Burgin*, 621 F.2d 1352, 1359 (5th Cir. 1980)).[1]

Here, Defendant does not appear to seriously contend that he is unable to prepare for trial on the aggravated identity theft count. Nor could he. The operative 18-page speaking indictment explains in detail how Defendant submitted an application for a Paycheck Protection Program (PPP) loan that contained false information, including that his company had 493 employees. Doc. 180 ¶ 9. In support of this, he submitted phony payroll records purporting to show that the company indeed had 493 employees. *Id.* ¶ 11. The Indictment then alleges that Defendant used a means of identification of M.S. during and in relation to the PPP fraud. *Id.* ¶ 15. In discovery, Defendant has been provided with his application for the PPP loan, the phony payroll records he submitted, and a report regarding an interview of M.S. by the Federal Bureau of Investigation.

Defendant evidently disagrees with the Government that his use of M.S.'s identity constitutes aggravated identity theft, but he is not unable to prepare a defense to the aggravated identity theft charge without a bill of particulars. Indeed, he has filed multiple motions attacking the aggravated identity theft count, which demonstrate that he is sufficiently informed of the charge. Rather, Defendant appears to want a "detailed exposition of [the Government's] evidence" and an explanation of "the legal theories upon which it intends to rely

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[1] Fifth Circuit decisions rendered prior to October 1, 1981 are precedential authority in this Circuit. *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981).

at trial." *See Roberts*, 174 F. App'x at 477. Because he is entitled to neither, the Motion for Bill of Particulars should be denied.

Conclusion

For the reasons presented here, the United States respectfully requests that the Court deny Defendant's Motion for Bill of Particulars (Doc. 189).

Respectfully submitted,

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June 12, 2025

/s/ NICHOLAS L. EVERT
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