

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

ATLANTA DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	Case No. 1:22-cr-00171-MLB-RDC
	)	Second Superseding
CARL DELANO TORJAGBO,	)	
a/k/a	)	
KARL LUCIUS DELANO.	)	
	)	
_____	)	

SUPPLEMENT TO DEFENDANT'S
REPLY TO GOVERNMENT'S NOTICE OF INTENT TO USE
FED. R. EVID. 404(b) EVIDENCE

COMES NOW the Defendant, KARL LUCIUS DELANO, a/k/a CARL DELANO TORJAGBO, by and through counsel, and files this updated supplement to his reply (Doc. 204) to the government's notice of intent to introduce evidence under Federal Rule of Evidence 404(b). (Doc. 196). In supplemental reply and in further opposition to the government's motion to introduce extrinsic evidence of other crimes, Mr. Delano shows as follows:

The government filed a 404(b) notice suggesting it just learned the Defendant has two different social security numbers, associated with two different dates of birth. (Doc. 196-p.2). The government submits the new revelation, two different SSNs associated with two different birth dates, demonstrates the

Defendant must have obtained one of his SSNs with false or fraudulent information. (Doc. 196-p.3). Mr. Delano filed opposition to the government's notice. (Doc. 204).

Defendant's Corrections and Clarifications.

The government recently produced additional discovery to Mr. Delano¹. Having reviewed these materials, he now makes the following corrections:

a) The two dates of birth at issue are 9/8/1975 and 9/10/1979. Defendant previously wrote the birth dates had the same month and day, just a different year. (Doc. 204-2). This was incorrect. The month is the same. The day is two days different. The year is four years different. This correction does not change the relief sought or required by Defendant in opposition to the government's notice.

b) The Defendant also wrote the dates of birth were not included on the filed tax returns. (Doc. 204-pp.2,3, 4). Review of the recent materials suggests the birth dates were not used or included on the actual returns, however dates of birth do appear on supplemental forms used to generate the returns, forms which read: "Federal Information Worksheet. Keep for your records." The defense does not believe the dates of birth were submitted to the IRS by the filer in the filing process, however this matter can be clarified by an evidentiary hearing or perhaps

¹500 plus pages on July 8, 2025, and 129 pages on July 10, 2025.

by proffer from the government. This correction does not change the relief sought or required by Defendant in opposition to the government's notice.

Additional Grounds to Exclude the Evidence.

The government also seeks to introduce evidence that Mr. Delano used a different date of birth and SSN in obtaining driver's licenses in Florida and Texas:

The Government also anticipates showing that Defendant *used* both of these identities. Specifically, based on queries of law enforcement databases, Defendant obtained driver's licenses in Florida and Texas using the 1975 birthdate; however, he obtained a driver's license in Georgia using the 1979 birthdate. The law enforcement queries associate photographs of Defendant with the Florida and Texas driver's licenses and the 1975 birthdate, and with the Georgia driver's license and the 1979 birthdate. The Government has requested certified copies of these driver's license records.

(Doc. 196-p.3).

There is no need for the government to introduce evidence regarding obtaining or use of the Florida and Texas driver's licenses other than to create undue and unfair prejudice. The obtaining or use of the Florida and Texas driver's licenses are not inextricably intertwined with the evidence regarding the charged wire fraud offenses. *United States v. Ramsdale*, 61 F.3d 825, 829 (11th Cir. 1995). They are not necessary to explain the chain of events or context. They do not explain or prove motive or set-up of the crime. This evidence should not be admitted as it is not "linked in time and circumstances with the charged crime[s], [and does not form] an integral and natural part of an account of the crime, or is

necessary to complete the story of the crime for the jury.” *United States v. Williford*, 764 F.2d 1493, 1499 (11th Cir. 1985).

This evidence does not prove “motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.” Fed. R. Evid. 404(b)(2). “Evidence of any other crime, wrong, or act is not admissible to prove a person’s character in order to show that on a particular occasion the person acted in accordance with the character.” Fed. R. Evid. 404(b)(1). Even if the proposed extrinsic evidence did meet the requirements of Rule 404(b), which it does not, it is more unfairly prejudicial than probative, and must be excluded under the balancing test of Rule 403.

WHEREFORE, for the reasons stated above, Mr. Delano requests that the Court exclude the evidence identified in the government’s notice, including the obtaining and use of Florida and Texas driver’s licenses, and requests a hearing on the government’s notice of intent to use 404(b) evidence and his

motion to exclude the same.

Dated: This 13th day of July, 2025.

Respectfully submitted,
s/ **L. Burton Finlayson**
L. BURTON FINLAYSON
Attorney for Defendant
Georgia Bar Number: 261460

LAW OFFICE OF
L. BURTON FINLAYSON, LLC
685 Linwood Avenue, NE, Suite 200A
Atlanta, Georgia 30306
(404) 872-0560
lbfcourts@aol.com

CERTIFICATE OF SERVICE

This is to certify that I have this day electronically filed this Supplement with the Clerk of Court using the CM/ECF system which will automatically send email notifications of such filing upon all counsel of record including the following:

Ms. Kelly Connors, and
Mr. Nicholas Evert
Assistant United States Attorneys
600 U.S. Courthouse
75 Ted Turner Drive, S. W.
Atlanta, Georgia 30303

DATED: This 13th day of July, 2025.

s/ L. Burton Finlayson

L. BURTON FINLAYSON
ATTORNEY FOR DEFENDANT
Georgia Bar Number: 261460

LAW OFFICE OF
L. BURTON FINLAYSON, LLC
685 Linwood Avenue, NE, Suite 200A
Atlanta, Georgia 30306
(404) 872-0560
lbfcourts@aol.com