

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:22-CR-20290-BLOOM/OTAZO-REYES

UNITED STATES OF AMERICA

v.

ERIC DEAN SHEPPARD,

Defendant.

**DEFENDANT'S UNOPPOSED MOTION FOR LEAVE TO
FILE A BILL OF PARTICULARS**

The Defendant Eric Dean Sheppard, by and through his undersigned counsel, and pursuant to Fed. R. Crim. P. 7, respectfully moves this Honorable Court for leave to file a bill of particulars and states:

1. The Indictment charges Mr. Sheppard with six counts of wire fraud, one count each for each of the six different government loan applications he allegedly applied for through two different government loan programs involving three different companies.

2. According to the Indictment, Mr. Sheppard and unidentified accomplices made materially false representations in each application and that he allegedly misused and diverted the loan proceeds. Yet, the Indictment fails to identify a single alleged false statement in any of the six applications that are the basis for the six criminal charges. Nor does the Indictment identify a single instance of alleged misuse of the proceeds of a single dollar of any of the six charged loans, or in what way(s) such use of funds is criminal.

3. For these and other reasons, a Bill of Particulars is necessary to protect Mr. Sheppard's constitutional rights, to put Mr. Sheppard on notice of the crimes for which he is charged and to be able to properly defend himself against such charges.

4. The fourteen-day window provided by Rule 7(f) is not an absolute bar. Instead, “the defendant may move for a bill of particulars before or within 14 days after arraignment or at a later time if the court permits.”

5. Southern District of Florida Local Rule 88.9(c) further states that “motions in criminal cases shall be filed within twenty-eight (28) days from the arraignment of the defendant to whom the motion applies, except that motions arising from a post-arraignment event shall be filed within a reasonable time after the event.”

6. Due to the volume of discovery and complexity of the charges, the defense did not have adequate time to review the materials to determine whether a motion for bill of particulars was needed.

7. The defense needed additional time to review the discovery, and ensure that the information now sought wasn’t evident from the volume of discovery produced.

8. Besides the volume of discovery, undersigned lead counsel (Jayne Weintraub) has undergone unexpected emergency back fusion surgery that has substantially impacted the undersigned’s ability to work.

9. The undersigned counsel conferred with Assistant United States Attorney Marty Fulgueira Elfenbein regarding the relief sought in this Unopposed Motion. AUSA Elfenbein does not object to Mr. Sheppard’s Motion for Leave to File a Bill of Particulars, but does object to the Motion for a Bill of Particulars.

WHEREFORE, Defendant, Eric Dean Sheppard, respectfully requests that this Court grant this Motion for Leave to File a Bill of Particulars, and for such other and further relief as may be just and proper.

Dated: December 5, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 5, 2022 the foregoing document was filed via the Court's CM/ECF system to all counsel of record.

/s/ Jayne C. Weintraub

Jayne C. Weintraub