

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
V.	:	CRIMINAL NUMBER 15-171-1
	:	
KEONNA THOMAS	:	

**MOTION FOR A BILL OF PARTICULARS PURSUANT TO
RULE 7(f) OF THE FEDERAL RULES OF CRIMINAL PROCEDURE**

Defendant Keonna Thomas, by and through her counsel, and pursuant to Federal Rule of Criminal Procedure 7(f), respectfully moves the Court to issue an Order directing the Government to file a Bill of Particulars containing the information and particulars concerning the offense alleged in the Indictment as follows:

1. The indictment in the instant case tracks the language of 18 U.S.C. § 2339B and simply charges that Ms. Thomas attempted to “provide material support and resources ... including THOMAS herself as personnel” to the Islamic State of Iraq and the Levant (ISIL), a foreign terrorist organization.

2. In order to prepare her defense, Ms. Thomas needs to know: (a) what specific actions the Government maintains constitute the attempted provision of herself as personnel; (b) when those actions were allegedly taken; (c) whether Ms. Thomas is accused of attempting to participate in any ISIL-sponsored attacks or operations; (d) whether the Government intends to prove that Ms. Thomas had concrete plans to travel from Barcelona, Spain, to Istanbul, Turkey; (e) how the Government intends to prove that co-conspirators 1 and 3 were members of the Somalian terrorist organization “al-Shabab” and ISIL, respectively; and (f) whether the Government intends to prove anything more than Ms. Thomas’s alleged desire to marry a

purported ISIL member and her alleged attempt to relocate to Raqqa, Syria.

3. Ms. Thomas also needs this information in order to be able to plead this case as a bar to double jeopardy. As matters now stand, the Government could simply bring another indictment alleging “material support,” and seek to avoid the double jeopardy bar by claiming that the subsequent indictment involved different activities and/or different persons. Ms. Thomas would be unable to disprove this by referring to the indictment at bar because it is so vague and nonspecific.

WHEREFORE, the defendant, Keonna Thomas, respectfully requests that the Court order the Government to provide the requested particulars so that Ms. Thomas may effectively defend herself against the charges stated in the Indictment and for the reasons set forth in the accompanying Memorandum of Law.

Respectfully submitted,

/s/Kathleen M. Gaughan

KATHLEEN M. GAUGHAN

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
 :
V. : **CRIMINAL NUMBER 15-171-1**
 :
KEONNA THOMAS :

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT’S MOTION
FOR A BILL OF PARTICULARS**

DISCUSSION

**Keonna Thomas Is Entitled To A Bill Of Particulars Providing
Her With Details About The Government’s Charges So That
She May Adequately Prepare For Trial.**

Keonna Thomas is charged in a grand jury indictment with one-count of attempting to provide material support to a foreign terrorist organization, to wit the Islamic State of Iraq and the Levant (ISIL). Ms. Thomas has made a very narrow and modest request for particulars regarding the charges against her so that she may adequately prepare a defense, avoid surprise at trial, and protect herself from future prosecutions for the same offense.

Where the definition of an offense includes “general terms, it is not sufficient that the indictment shall charge the offense in the same generic terms as in the definition, but it must state the species, it must descend to particulars.” *Russell v. United States*, 369 U.S. 749, 765 (1967). Under Federal Rule of Criminal Procedure 7(f), a court may direct the Government to provide an accused with a bill of particulars when necessary to clarify allegations contained in the charging instrument. The function of a bill of particulars is to supplement an indictment by providing a criminal defendant with information about the details of the Government’s charges, thereby enabling her to adequately prepare her defense, avoid unfair surprise at trial, and protect

herself against a second prosecution for an inadequately described offense. *United States v. Roman*, 728 F.2d 846, 856 (7th Cir. 1984). *See also United States v. Canino*, 949 F.2d 928, 949 (7th Cir. 1991) (“The standard is whether the government’s indictment sufficiently apprises the defendant of the charges to enable [her] to prepare for trial”); *United States v. Kendall*, 655 F.2d 126, 134 (7th Cir. 1981) (holding that a court may order a bill of particulars if the indictment fails to provide sufficient notice of the charges to allow the defendant to prepare for trial).

Although a defendant is not entitled to wholesale discovery of the Government’s case, if a defendant seeks legitimate information, a court may not deny her request for a bill of particulars simply because providing the information would divulge certain details of the Government’s evidence. *Canino*, 949 F.2d at 949 (explaining that “a bill of particulars is not required when information necessary for a defendant’s defense can be obtained through ‘some other satisfactory form,’” but that “[t]he defendant needs to know *what the government intends to prove*”) (internal citation omitted) (emphasis added). In this regard, the granting of bills of particulars is particularly appropriate given that Rule 7(f) was specifically amended to “encourage a more liberal attitude by courts towards bills of particulars.” Fed. R. Crim. P. 7(f) Advisory Committee’s Note to 1966 amendment; *United States v. Hedman*, 458 F. Supp. 1384, 1385 (N.D. Ill. 1978) (“In exercising that discretion, the judge must remember that the governing Rule 7(f) ... was altered to encourage a more liberal attitude by the courts toward bills of particulars”). *See also United States v. Bortnovsky*, 820 F.2d 572, 575 (2d Cir. 1987) (holding that district court erred in refusing to grant bill of particulars which was vital to defendants’ understanding of charges against them and to the preparation of a defense); *United States v. Davidoff*, 845 F.2d 1151, 1154 (2d Cir. 1988) (reversing conviction where the Government failed to provide defendant with particulars of charged offense); *United States v. Bailey*, 689 F. Supp.

1463, 1473—74 (N.D. Ill. 1987) (granting bill of particulars so defendant would not “waste valuable time and money preparing for a defense to a number of different methods of proof available to the government”); *Hedman*, 458 F. Supp. At 1386 (granting bill of particulars where information would “substantially assist the defendants in preparing their defense”).

The information that Ms. Thomas requests is essential to the preparation of her defense. An allegation of providing herself as “personnel” to ISIL, without more specificity, could encompass a myriad of different activities, especially since 18 U.S.C. § 2339B does not proscribe “mere *membership* in a designated foreign terrorist organization.” *Holder v. Humanitarian Law Project*, 561 U.S. 1, 18 (2010) (emphasis added). Given the Supreme Court’s clarification that “[i]ndependently advocating for a cause is different from the prohibited act of providing a *service* ‘to a foreign terrorist organization,’” Ms. Thomas is absolutely entitled to know what services the Government alleges she attempted to provide ISIL. *Id.* at 4 (emphasis added). Put differently, no person may be prosecuted under § 2339B in connection with the term “personnel” unless that person has knowingly provided, attempted to provide, or conspired to provide herself or another “to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization.” *Id.* at 13. Accordingly, the Government must inform Ms. Thomas how she is alleged to have attempted to work under ISIL’s direction or control, or how she attempted to organize, manage, supervise, or otherwise direct ISIL’s operations. Without such information, Ms. Thomas cannot prepare a defense or plead this case as a bar to double jeopardy, especially since the indictment, as it currently stands, accuses Ms. Thomas of, at most, attempting to wed a purported ISIL fighter and desiring to live in ISIL-controlled territory – actions that clearly fall outside of § 2339B’s scope. *See United States v. Keonna Thomas*, E.D. Pa. Docket No. 15-171, Pacer Entry 32 (Defense

Motion to Dismiss).

The Government has no legitimate basis for refusing to disclose the specific actions that constitute Ms. Thomas's alleged attempted provision of herself as personnel, which carries a specific definition and meaning under § 2339B. Accordingly, this Court should grant Ms. Thomas's motion.

WHEREFORE, Keonna Thomas respectfully requests that the Court order the Government to issue the Bill of Particulars sought for all of the above stated reasons, and any other reason that this Court deems just.

Respectfully submitted,

/s/ Kathleen M. Gaughan

KATHLEEN M. GAUGHAN
Assistant Federal Defender

/s/ Elizabeth L. Toplin

ELIZABETH L. TOPLIN
Assistant Chief, Trial Unit

CERTIFICATE OF SERVICE

I, Kathleen M. Gaughan, Assistant Federal Defender, Federal Community Defender Office for the Eastern District of Pennsylvania, hereby certify that I have served a copy of the Defendant's Motion for a Bill of Particulars Pursuant to Rule 7(f) of the Federal Rules of Criminal Procedure thereof, upon Jennifer A. Williams, Assistant United States Attorney, United States Attorney's Office, Suite 1250, 615 Chestnut Street, Philadelphia, Pennsylvania 19106.

/s/ Kathleen M. Gaughan

KATHLEEN M. GAUGHAN
Assistant Federal Defender

DATE: April 1, 2016