

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

v.

JORDAN RAWLS

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CR-89-2017

**Motion to Compel Response
to the Bill of Particulars**

OPINION AND ORDER

On November 16, 2017, original Counsel for Defendant, Jordan Rawls filed a Motion for a Court Order Directing the District Attorney to File Comprehensive Response to Request for Bill of Particulars. This request was based on Defendant’s contention that the Commonwealth’s response was “woefully inadequate.” A conference to “address the adequacy” of the Commonwealth’s response was held on December 12, 2017. Original counsel passed away suddenly and counsel was appointed to continue representing Defendant.

On April 2, 2018, new Counsel for Defendant filed a Motion to Compel a Response to the Request for Bill of Particulars or to Preclude Production of Evidence for Failure to File an Adequate Response. A hearing on the Motion was held on April, 28, 2018 and the Court set a briefing schedule.

Background

Defendant is charged with two counts of Murder of the First Degree¹, two counts of Murder of the Second Degree², and two counts of Murder of the Third Degree³. Defendant is alleged to have engaged in the felonies of robbery, burglary, aggravated assault, and

¹ 18 Pa.C.S.A. § 2502(a)
² 18 Pa.C.S.A. § 2502(b)
³ 18 Pa.C.S.A. § 2502(c)

criminal trespass with respect to the charges of Murder of the Second Degree. Defendant is also charged with one count of Criminal Conspiracy⁴. It is alleged that he and two others conspired to and killed Kristine Kibler and her son, Shane Wright in their home in the City of Williamsport.

Discussion

Defendant's Motion to Compel states that the Commonwealth's Response to the Request for Bill of Particulars is "woefully inadequate" with regard to the multiple answers which state "See discovery."

The purpose of a bill of particulars is to "give notice to the accused of the offenses charged in the indictment so that he may prepare a defense, avoid surprise, or intelligently raise pleas of double jeopardy and the statute of limitations." *Commonwealth v. Dreibelbis*, 426 A.2d 1111, 1114 (1981). The Commonwealth is restricted at trial to proving what it has set forth in the bill of particulars. *Commonwealth v. Simone*, 291 A.2d 764, 767 (1972).

Under Rule 304(d) of the Rules of Criminal Procedure, the trial court has "broad discretion to 'make such order as it deems necessary in the interests of justice.'" *Commonwealth v. Champney*, 832 A.2d 403, 412 (2003). However, Defendant is entitled to any evidence that is material to either guilt or punishment under Rule 573(b) (1) of the Rules of Criminal Procedure. This would include acts that the Commonwealth alleges Defendant took in furtherance of a conspiracy. If the Commonwealth did not divulge the alleged acts in discovery, then Defendant's request to compel the Commonwealth to respond should be granted in order for Defendant to prepare an adequate defense and prevent any surprise.

A request for a bill of particulars should be granted whenever an indictment or information fails to provide factual or legal information which significantly impairs the

⁴ 18 Pa.C.S.A. § 2502(a)

defendant's ability to prepare his defense or is likely to lead to prejudicial surprise at trial. *United States v. Rosa*, 891 F.2d 1063 (3d Cir. 1989). However, denial of the requested relief is proper when no evidence exists that the Commonwealth withheld exculpatory evidence or evidence otherwise favorable to the defendant. *Commonwealth v. Mercado*, 649 A.2d 946, 960 (1994). Additionally, it is appropriate for the Court to deny the request when the information requested is set forth in probable cause statement, complaint, information, discovery, and habeas proceeding, and the Commonwealth does not appear to have violated discovery obligations. *Id.* A defendant's request for a bill of particulars may be denied when, even in absence of requested information, Defendant has access to transcripts and extensive discovery material. *Commonwealth v. Orlowski*, 481 A.2d 952, 970 (1984).

Additionally, a bill of particulars is not a substitute for discovery and it is improper to direct a bill of particulars to the Commonwealth's evidence. *Commonwealth v. Chambers*, 599 A.2d 630, 641 (1991). It is also improper for a discovery request to be disguised as the request for a bill of particulars; in such cases Defendant's request should not be granted and the Commonwealth need not reply. *Champney, supra*, at 412. 832 A.2d 403 (Pa. 2003) (reasoning that defendant's motive for killing was an improper subject for a bill of particulars and Defendant had more than adequate notice of the charges against him through discovery). Subsequently, a petition for a bill of particulars which requests "virtually all of the evidence gathered by the Commonwealth" but contains no showing of exceptional circumstances which justify such extensive requests may be denied. *Commonwealth v. Brown*, 342 A.2d 84, 88 (1975). Additionally, statements made by a defendant are not within purview of a bill of particulars. *Commonwealth v. Davis*, 368 A.2d 260, 261 (Pa. 1977).

The particulars which Defendant seeks in Defendant's Request for a Bill of Particulars encompass virtually all of the Commonwealth's evidence. In Defendant's Request, paragraphs 1-3 and 5 were provided to Defendant in the Criminal Information, thus

further giving Defendant notice of the charges. Paragraphs 4 and 6 request that the Commonwealth divulge Defendant's state of mind which it will attempt to prove at trial; the mental states required by 18 Pa.C.S. § 2502 are stated in the statute, which Defendant has access to. Moreover, Defendant requests that the Commonwealth provide the "exact manner and means" that Defendant is alleged to have utilized in the homicides; however this information has already been provided to Defendant in the affidavit. Additionally, the acts which Defendant is alleged to have taken are ascertainable in the interviews of Defendant and Casey Wilson, which are available to Defendant. Further, in the remaining particulars in which Defendant moves the Court to compel a response, it appears as though Defendant is asking the Commonwealth to divulge each element of the charges, which is far too detailed and an improper use of a bill of particulars.

Here, there is no evidence presented by Defense Counsel which suggests that the Commonwealth has withheld exculpatory or otherwise favorable evidence from Defendant. Additionally, the Commonwealth contends that the requested information has been provided to Defendant through discovery, thereby making Defendant's request for response improper. Much, if not all, of the information which Defendant requests can be found in the discovery documents. Therefore, Defendant has adequate notice of the charges and the Court is confident that, based upon the conversation between counsel at the court hearings, Defendant has ample access to materials of Discovery by which to prepare an adequate defense.

Defendant has also not alleged any extraordinary circumstances or compelling reasons to justify the extensive nature of the request. Consequently, Defendant's Request for a Bill of Particulars appears, rather, to be a discovery request inappropriately aimed at the Commonwealth's evidence and theory of the case. Therefore, the Court finds that Defendant's Request for a Bill of Particulars is improper.

ORDER

AND NOW, this _____ day of June, 2018, after hearing and reviewing briefs submitted by Counsel, the Court finds that Defendant has adequate notice of the offenses charged in the Information and that Defendant's Request for a Bill of Particulars is improperly directed at the Commonwealth's evidence. Therefore, Defendant's Motion to Compel Response is DENIED.

By The Court,

Nancy L. Butts, President Judge

Cc: Martin L. Wade, Esq. First Assistant District Attorney
Edward J. Rymysza, Esq. Defense Counsel