

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PA

: No. CR-1509-2018

vs.

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:  
:

EDWARD HECK,  
Defendant

: Motion to Compel Motion  
: for Bill of Particulars

**OPINION AND ORDER**

Defendant is charged with criminal homicide and related counts. Defendant is alleged to have solicited and paid another individual to kill his then wife, Sonja Heck. The Commonwealth is seeking the death penalty.

On October 2, 2018, Defendant filed a Request for Bill of Particulars. The Commonwealth failed to file a timely answer and on November 1, 2018, Defendant filed a Motion to Compel. The Commonwealth eventually filed an Answer on November 21, 2018.

By argument held on December 13, 2018, however, Defendant contends that the Commonwealth's Answer fails to comply with the Request and that the Commonwealth should be required to specifically answer the Request.

Pursuant to Rule 572 of the Pennsylvania Rules of Criminal Procedure, a defendant may request a bill of particulars, setting forth the specific particulars sought and the reasons why the particulars are requested. Rule 572 (A), (B). Upon failure to furnish the particulars, the court may make such an order as it deems necessary in the interests of justice. Rule 57 (C), (D).

The traditional function of a bill of particulars is to clarify the pleadings and to limit the evidence which can be offered to support the information. Rule 572, comment.

While a bill of particulars has been labeled by the courts as anachronism of past procedural rules, it still serves a purpose, albeit a narrow one. Specifically, it is “intended to give notice to the accused of the offenses charged so that the accused may prepare a defense, avoid surprise, or intelligently raise pleas of double jeopardy and the statute of limitations.” *Commonwealth v. Champney*, 832 A.2d 403, 412 (Pa. 2003)(quoting *Commonwealth v. Chambers*, 599 A.2d 630, 641 (Pa. 1991)). “It is not[, however,] a substitute for discovery and the Commonwealth’s evidence is not a proper subject to which a bill of particulars may be directed.” *Id.*

In answer to Defendant’s request, the Commonwealth submitted and/or argued that the particulars were previously furnished, unknown, not subject to a bill of particulars, peculiarly within the knowledge of the defendant, were adduced at the preliminary hearing, or already furnished through discovery.

Defendant’s first request is for the names and addresses of any and all alleged co-conspirators. The information charges Defendant with conspiracy to commit criminal homicide. The co-conspirator’s name is listed as Kenneth Smith. The Commonwealth shall file a specific answer to this request indicating the last known address of Mr. Smith and the name and address of any other alleged co-conspirators. This is being ordered to assist Defendant in preparing an appropriate defense and avoiding surprise.

Defendant’s second request is for the “exact” dates, time, and duration of the alleged conspiracy. The information lists the date of the crimes as on or about August 16, 2018. The Commonwealth has complied with Rule 560(B)(3) of the Pennsylvania Rules of Criminal Procedure by setting forth the date as on or about a specified date. However,

Defendant is entitled to the approximate dates of the alleged conspiracy in order that he can prepare a defense and avoid surprise. A conspiracy is an inchoate crime which may exist over a substantial period of time and which may be proven by numerous different facts. Knowing its date and duration is critical to any defense.

Defendant's third request is for the "exact dates and time [of] the alleged homicide." This request shall be granted to the extent the Commonwealth is able to answer such. This is clearly imperative to any defense with respect to any charge.

Defendant's last request is for the conduct specifically and personally committed by Defendant. This request shall be denied. This reads like a discovery request in a civil case and requests that the Commonwealth essentially provide a detailed summary of Defendant's alleged conduct and the Commonwealth's evidence. Under the circumstance of this case, this is not a proper subject to which a bill of particulars may be directed.

### **ORDER**

**AND NOW**, this 18<sup>th</sup> day of December 2018, it is hereby ordered and directed as follows:

- (1) The Commonwealth shall provide a supplemental written answer to Defendant's Bill of Particulars setting forth the last known address of co-conspirator Smith as well as a name and address of any other alleged co-conspirators. If there are no other alleged co-conspirators, the Commonwealth shall note such.
- (2) The Commonwealth shall file a supplemental answer to Defendant's request for Bill of Particulars setting forth the approximate dates, time and duration of the alleged conspiracy with any and all alleged conspirators.

- (3) The Commonwealth shall file a written supplemental answer to Defendant's request for bill of particulars setting forth the approximate date and timeframe of the alleged homicide.
- (4) No written answer is required in connection with Defendant's request for the conduct specifically and personally committed by Defendant. This request of the Commonwealth is DENIED.

By The Court,

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Marc F. Lovecchio, Judge

cc: Michael J. Rudinski, Esquire  
Edward J. Rymysza, Esquire  
Kenneth Osokow, Esquire, DA  
Work file  
Gary Weber, Esquire (Lycoming Reporter)