

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA,

v.

ALEX LUNA, et al.

Case No. 3:05cr58 (SRU)

RULING ON DEFENDANTS' MOTIONS FOR BILL OF PARTICULARS

Warren Hawkins, Arcadio Ramirez, and Jose Luis Rodriguez have each been charged with conspiracy to possess with intent to distribute and conspiracy to distribute cocaine and cocaine base. Each defendant has filed a motion for a bill of particulars. The government has filed an objection to the motions, arguing largely that the defendants have received extensive discovery materials that adequately fulfill the government's obligations.

Under Rule 7(f) of the Federal Rules of Criminal Procedure, a defendant may seek a bill of particulars "in order to identify with sufficient particularity the nature of the charge pending against him, thereby enabling [the] defendant to prepare for trial, to prevent surprise, and to interpose a plea of double jeopardy should he be prosecuted a second time for the same offense." *United States v. Bortnovsky*, 820 F.2d 572, 574 (2d Cir. 1987). It is within the sound discretion of the district court to decide whether or not to grant a motion for a bill of particulars. *Id.* Generally, no bill of particulars is required if the information sought by the defendant is provided in the indictment or in some other acceptable form. *Id.* "[I]t is of no consequence that the requested information [would require] the disclosure of evidence or the theory of the prosecution." *United States v. Barnes*, 158 F.3d 662, 665 (2d Cir. 1998).

In their motions, Ramirez and Rodriguez have made broad requests for details regarding their alleged criminal conduct. Hawkins has limited his motion to two requests: (1) "a list of the

names of all persons whom the [g]overnment claims or will claim were co-conspirators . . . including those referred to in the Superseding Indictment as ‘others known . . . to the Grand Jury,’” and (2) a list of each drug transaction in which the government claims Hawkins was involved, including the names of the other involved parties, the nature and amount of the drug, and the date and location of such transactions.

Certain items are properly disclosed to a defendant accused of participation in a narcotics conspiracy. *United States v. White*, 753 F. Supp. 432, 433-34 (D. Conn. 1990). Those items include the names of persons the government will claim to have been co-conspirators and the location of acts engaged in by the principals. *Id.* at 434. A court deciding whether to order a bill of particulars must determine to what extent the information sought has already been provided. *Id.*

Although the government has provided voluminous discovery, it is not apparent that the materials turned over to the defendants adequately apprise them of the information necessary to prepare their defense and to avoid prejudicial surprise at trial. The conspiracy charge in Count One of the Superseding Indictment names twenty-three co-defendants and refers to a time frame “sometime in or about 1998. . . up to and including on or about March 4, 2005.” That count is so general that it does not advise each defendant of the specific acts of which he is accused. *See United States v. Torres*, 901 F.2d 205, 235 (2d Cir. 1990).

Therefore, I grant the defendants’ motions for a bill of particulars with respect to the two items set forth in Hawkins’ motion: (1) the names of individuals the government claims are co-conspirators with respect to each defendant, including those referred to as “others known . . . to the Grand Jury” in the Superseding Indictment, and (2) a list of the drug transactions in which the

individual defendant was allegedly involved, including the names of the other parties involved, the nature and the amount of the drug, and the approximate date and location of such transactions.

Hawkins' motion for a bill of particulars (**doc. # 416**) is GRANTED. Ramirez's motion for a bill of particulars and Rodriguez's motion for a bill of particulars are GRANTED IN PART. The government shall promptly provide to each defendant a bill of particulars, setting forth the two pieces of information described above.

It is so ordered.

Dated at Bridgeport, Connecticut, this 9th day of May 2006.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge