

STATE OF MARYLAND

VS

HELEN L. HOLTON

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CIRCUIT COURT
CIRCUIT COURT
BALTIMORE CITY
FOR
CRIMINAL DIVISION
BALTIMORE CITY
Case No.: 109209024

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STATE'S ANSWER TO DEFENDANT'S DEMAND FOR A BILL OF PARTICULARS

Now comes the State of Maryland by Robert A. Rohrbaugh, State Prosecutor, Thomas M. McDonough, Deputy State Prosecutor, Shelly S. Glenn, Senior Assistant State Prosecutor, and Tamara M. Gustave, Assistant State Prosecutor, and in answer to Defendant's Demand for a Bill of Particulars, states that the Defendant is not entitled to the particulars sought for the following reasons:

1. The indictment in this case is not a "short form" indictment that is permitted under the Maryland law. To the contrary, in addition to the specification of the nature of the charges against her in each enumerated count, the indictment in this matter contains 20 paragraphs on four pages informing the defendant in great detail of the essential facts and the Defendant's alleged actions.
2. A Demand for a Bill of Particulars is not the equivalent of a set of interrogatories in a civil case. A Bill of Particulars should not be used to force the State to elect a theory or a particular interpretation of the evidence with might be introduced at trial solely so that the Defendant can gain some tactical advantage.
3. While one purpose of a Bill of Particulars is to enable the Defendant to prepare for trial, the Defendant is being afforded access to all of the State's evidence

through the appropriate discovery process. Defendant's Demand for a Bill of Particulars improperly seeks legal and factual conclusions and inferences which may be drawn from the evidence. Certainly, this type of information is what the trier of fact is to consider. Unlike a motion for summary judgment in a civil case where the court can consider evidence based upon sworn affidavits, the Defendant is not entitled under the guise of a Demand for a Bill of Particulars to force the State to set forth its theory of the inferences to be drawn from the evidence or its theory of how the evidence provided in discovery applies to the allegations in the indictment.

4. The statements and grand jury testimony of the State's witnesses have been provided to the defendant, and copies of the documents pertinent to this matter in the State's possession have been provided to the defendant or are available for the defendant to review.

5. The dates of the events alleged in the indictment are stated with reasonable particularity under the circumstances.

6. The defendant has been furnished with or given the opportunity to review all of the State's evidence concerning the dates of the events alleged in the indictment.

7. The State has no recordings of the conversations alleged in the indictment.

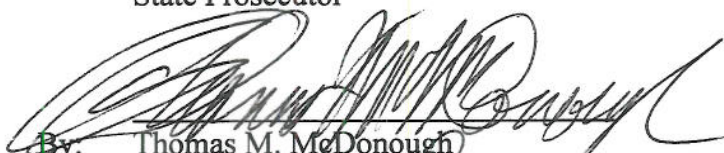
8. All of evidence known to the State concerning the conversations alleged in the indictment alleged in the indictment has been furnished to the defendant.


9. In support of this response, the State attaches hereto and incorporates herein its Memorandum in Support of the State's Answer to the Demand for a Bill of Particulars.


WHEREFORE, for the foregoing reasons, the State respectfully requests that this Honorable Court deny the Defendant's Demand for a Bill of Particulars.

Respectfully submitted,

ROBERT A. ROHRBAUGH
State Prosecutor


By: Thomas M. McDonough
Deputy State Prosecutor


Shelly S. Glenn
Senior Assistant State Prosecutor


Tamara M. Gustave
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Points and Authorities

Maryland Rule 4-241

Ross v. State, 308 Md. 337, 519 A.2d 735(1987)

Jones v. State, 303 Md. 323, 493 A.2d 1062 (1985)

Spector v. State, 289 Md. 407, 425 A.2d 197 (1981)

Hadder v. State, 238 Md. 341, 209 A.2d 70 (1965)

Veney v. State, 251 Md.159, 246 A.2d 608 (1968)

Grant v. State, 55 Md. App. 1, 461 A.2d 524 (1983)

Claybrooks v. State, 36 Md. App. 295, 374 A.2d 365, cert. Denied 281 Md. 735 (1977)

Polisher v. State, 11 Md. App. 555, 276 A.2d 102, cert denied, 262 Md. 749, 404 U.S. 984(1971)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of September, 2009 a copy of the foregoing **STATE'S ANSWER TO DEFENDANT'S DEMAND FOR A BILL OF PARTICULARS** was mailed, postage prepaid, to Joshua R. Treem, Esq. and Richard C.B. Woods, Esq. , Attorneys for Defendant, at Schulman, Treem, Kaminkow and Gilden, P.A., Suite 1800, The World Trade Center, 401 East Pratt Street, Baltimore, Maryland 21202.

I FURTHER CERTIFY that I am more than eighteen (18) years of age.

