

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,		
v.		CRIMINAL CASE
JULIUS HOUSTON,		NO. 1:25-cr-267-SEG-JSA
Defendant.		

**REPORT AND RECOMMENDATION ON MOTION
TO DISMISS FOR PRE-INDICTMENT DELAY**

Defendant allegedly committed two offenses by attempting to enter the secure checkpoint at Atlanta’s Hartsfield-Jackson International Airport (“ATL”) with a concealed firearm. These events occurred on November 8, 2022. Yet this Indictment was not returned for approximately two and half years later, on July 11, 2025. It is undisputed that this Indictment was timely under the applicable statute of limitations, but Defendant moves to dismiss based on the theory that such a lengthy pre-indictment delay violated his Due Process rights under the Fifth Amendment. *See* Amended Motion to Dismiss for Pre-Indictment Delay [19]. The Court **RECOMMENDS** that the Motion [19] be **DENIED**.

I. DISCUSSION

“To establish a violation of a defendant’s Fifth Amendment rights, the defendant must show that ‘pre-indictment delay caused him actual substantial

prejudice and that the delay was the product of a deliberate act by the government designed to gain a tactical advantage.’” *United States v. Gayden*, 977 F.3d 1146, 1150 (11th Cir. 2020) (quoting *United States v. Foxman*, 87 F.3d 1220, 1222 (11th Cir. 1996)). The Eleventh Circuit has described a defendant’s burden to show such circumstances as “very heavy....” *See Stoner v. Graddick*, 751 F.2d 1535, 1540 (11th Cir. 1985).

Defendant originally filed a conclusory preliminary motion that alleged no facts to suggest either substantial prejudice from the delay or deliberate governmental manipulation for tactical advantage. *See* Preliminary Motion [12]. Thus, the Court allowed Defendant additional time to file a perfected motion with additional facts. *See* Minute Entry [17]. Defendant then filed the Amended Motion [19]]. In that Motion, Defendant identified the prejudice that he has faced from pre-indictment delay as follows:

Mr. Houston has been prejudiced by the delay in bringing the indictment. As an example, Mr. Houston has experienced exacerbated housing instability from the bringing of the indictment. Mr. Houston was arrested at a facility at which he was residing when he was arrested on the warrant associated with the indictment. Mr. Houston was residing there through a certain program. Mr. Houston could have sought an extension of his stay at the program, but he was not allowed to remain there when his term there he expired. It is likely that his arrest there on the instant indictment factored into why he was not allowed to remain.

Mr. Houston has also been prejudiced mentally and emotionally by the lengthy delay in indicting this case. To face criminal prosecution after such lengthy delay coupled with having been

released at the airport and even told that he could retrieve the gun now causes exacerbated mental stress, anxiety, and trauma for Mr. Houston.

[19] at 5-6. Defendant alleged no particular facts to suggest a tactical decision by the Government to delay bringing this one particular gun case, but Defendant's motion asked for a hearing to conduct discovery. *See id.* ("Through a hearing on this motion, the Court may explore the reasons for the delay in bringing the indictment and whether the delay was designed to promote a tactical advantage of the Government.")

Defendant's factual allegations as to prejudice, even assuming they are true, do not meet his "heavy burden" to warrant a constitutional violation. Disruptions in his housing, while unfortunate, are not uncommon collateral consequences of a criminal charge and arrest. These and similar issues (including, sometimes, employment disruptions) are often faced by defendants as a generalized matter and do not appear to be specific to Defendant or the circumstances of this case.¹

Moreover, Defendant does not suggest that losing his housing was tied to any *delay*. Rather, he alleges that he lost his eligibility to remain in a

¹ For purposes of this Motion the Court assumes that the housing disruptions to be ongoing. However, the Court notes that the Government represents in its response brief that it understands the Defendant to have found alternative housing and the Defendant files no reply brief to dispute this statement.

residential program because of the charge itself and his arrest at the facility. Nothing about this explanation suggests that the passage of time added any prejudice. There is no reason to believe, in other words, that the Defendant would not have faced the same problems had he been arrested at the same facility more promptly.

The same considerations apply to Defendant's claims of stress and mental anguish. As with impacts on housing or employment, stress, anxiety and mental distress are common impacts of a criminal charge and are not specific to this case or the Government's actions here. Defendant somehow argues that his stress has been "exacerbated" by the *leniency* of the police during the 2022 incident, that is, because he was relatively quickly released, not arrested, "and even told that he could retrieve his gun...." Def. Mot. [19] at 6. Defendant appears to suggest that this milder approach led him to assume that he was off the hook for criminal purposes, which assumption led him to feel more surprised and upset at being charged over two years later. The Court cannot find actual prejudice under the Fifth Amendment on this basis.

Again, virtually everyone is upset and distressed at being arrested, and many individuals may also feel surprised. While the police did not initially arrest or threaten to arrest Defendant, for trying to conceal a firearm through

an airport security checkpoint inside a gaming station, that restraint hardly could be seen as a promise or guarantee of immunity. This case was brought well before the expiration of the statute of limitations. Any assumption before that juncture that charges would never be brought was simply wishful thinking, and not the basis of a constitutional violation. At a minimum, any heightened distress felt by Defendant as compared to others arrested for crimes has not interfered with his ability to defend himself or otherwise obtain Due Process.

As for whether the Government delayed for tactical reasons, Defendant posits no facts at all on this point. There are no allegations pointing to any advantage gained by delay. All Defendant states is that “[w]e may presume” that a delay of such a duration was for some unexplained tactical purposes. The Court cannot agree with this generalized speculation. Defendant cites no authority for the notion that an otherwise timely indictment can be “presumed,” based on no other facts, to have been the result of a decision to delay for tactical reasons or otherwise.

Indeed, nothing about this case suggests any need or motive to seek tactical advantage by delay. There is no allusion to any dissipated evidence. To the contrary, it appears that the gun and its packaging along with the x-ray images and the recording of police encounter with Defendant have all been retained. And

Defendant's defenses based on the lack of a cylinder are as viable now as they were on November 9, 2022. Most fundamentally, there is no reason to presume that any federal law enforcement or prosecution agency was even involved in this investigation back in 2022.²

As for Defendant's suggestion that he "may explore the reasons for delay" in an evidentiary hearing, the Defendant must show more than a desire for a fishing expedition to obtain an evidentiary hearing especially on a matter in which he bears the burden of proof. *See United States v. Cooper*, 203 F.3d 1279, 1285 (11th Cir. 2000). In other words, "where a defendant in a motion to suppress fails to allege facts that if proved would require the grant of relief, the law does not require that the district court hold a hearing independent of the trial to receive evidence on any issue necessary to the determination of the motion." *United States v. Sneed*, 732 F.2d 886, 888 (11th Cir. 1984). Rather, "[a] motion to suppress must in every critical respect be sufficiently definite, specific, detailed, and nonconjectural to enable the court to conclude that a substantial claim is presented. . . . A court need not act upon general or conclusory assertions. . . ." *United States v. Richardson*, 764 F.2d 1514, 1527 (11th Cir. 1985) (internal citations omitted)).

² That non-law enforcement baggage screeners from the Transportation Safety Administration, as well as local Atlanta Police Department officers, may have encountered Defendant and his baggage on November 8, 2022, does not by itself suggest an ongoing active federal criminal investigation or prosecution decision.

As noted above, the Court gave Defendant additional time to amend his Motion for the specific purpose of adding more particularized facts. Yet all that remains are conclusory and generalized allegations. These allegations are insufficient to justify relief or to open the door to a hearing on the issue.

II. CONCLUSION

As explained above, the Court **RECOMMENDS** that Defendant's Motion to Dismiss for Pre-Indictment Delay [19] be **DENIED**.

IT IS SO RECOMMENDED this 5th day of May, 2026.



JUSTIN S. ANAND
UNITED STATES MAGISTRATE JUDGE