

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
GAINESVILLE DIVISION

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL INDICTMENT
	:	NO.: 2:25-CR-39-SCJ-AWH
FRANK BRODERICK,	:	
	:	
Defendant.	:	

ORDER and REPORT AND RECOMMENDATION

This matter has come before the Court for consideration of Defendant's Motion To Quash Or Dismiss Indictment, Doc. 15, Motion For Early Disclosure Of Grand Jury Proceedings, Jencks Act Material, And List Of Witnesses, Doc. 16, and Motion For Bill Of Particulars, Doc. 17. For the reasons discussed below, it is **RECOMMENDED** that Defendant's motion to dismiss or quash the indictment be **DENIED**, and it is **ORDERED** that Defendant's other motions be **DENIED**.

Procedural Background

An indictment filed on July 8, 2025 charges Defendant as follows:

On or about July 17, 2022, in the special maritime and territorial jurisdiction of the United States, as set forth in 18 U.S.C. § 7(8), in that the offense occurred by an against a national of the United States on a foreign vessel having a scheduled departure from and arrival in the United States, and pursuant to 18 U.S.C. § 3238, with Forsyth County, in the Northern District of Georgia, being the district in which the offender was last known to reside, the defendant, FRANK BRODERICK, did knowingly engage in sexual contact, as defined under 18 U.S.C. § 2246(3), with a child, Minor Victim 1, whose identity

is known to the Grand Jury, and who had attained the age of 12 years but had not attained the age of 16 years and was at least four years younger than the defendant.

All in violation of 18, United States Code, Section 2244(a)(3).

Doc. 1. Defendant moved to quash or dismiss the indictment, Doc. 15, for early disclosure of grand jury proceedings, Jencks Act material, and list of the Government's witnesses, Doc. 16, and for a bill of particulars, Doc. 17. Briefing is now complete on Defendant's motions, and the undersigned considers their merits.

Discussion

I. Motion To Quash Or Dismiss Indictment

Defendant moves to quash or dismiss the indictment "on the grounds that it is fatally defective; it fails to notify [him] of any act he allegedly committed to violate a criminal statute; it is utilized in violation of due process; and it fails to allege essential facts constituting the offense charged." Doc. 15 at 1. Defendant also argues that the indictment should be quashed or dismissed "because the Government unnecessarily delayed nearly three (3) years before presenting evidence to a grand jury that resulted in the indictment." Id.

A. Sufficiency Of Indictment

Defendant contends that the indictment is unconstitutionally vague under the Fifth Amendment's Due Process Clause and fails to allege "essential facts," including the identity of the alleged victim and the specific sexual contact he is

accused of making with the minor referenced in the indictment. Doc. 15 at 3–8; see also Doc. 24 at 1–4.

1. Applicable Standards

Federal Rule of Criminal Procedure 7(c) provides in relevant part:

The indictment . . . must be a plain, concise, and definite written statement of the essential facts constituting the offense charged and must be signed by an attorney for the government. It need not contain a formal introduction or conclusion. A count may incorporate by reference an allegation made in another count. A count may allege that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. For each count, the indictment . . . must give the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated.

Fed. R. Crim. P. 7(c). “An indictment is considered legally sufficient if it: ‘(1) presents the essential elements of the charged offense, (2) notifies the accused of the charge to be defended against, and (3) enables the accused to rely upon a judgment under the indictment as a bar against double jeopardy for any subsequent prosecution for the same offense.’ ” United States v. Jordan, 582 F.3d 1239, 1245 (11th Cir. 2009) (quoting United States v. Woodruff, 296 F.3d 1041, 1046 (11th Cir. 2002)). “These requirements satisfy the Sixth Amendment’s guarantee of notice to the accused of the nature and cause of the accusation, and the Fifth Amendment’s assurance that a grand jury will return an indictment only when it finds probable cause for all elements of the crime.” United States v. Wayerski, 624 F.3d 1342, 1349 (11th Cir. 2010). “ ‘If an indictment specifically refers to the

statute on which the charge was based, the reference to the statutory language adequately informs the defendant of the charge.’ ” Id. at 1349–50 (quoting United States v. Fern, 155 F.3d 1318, 1325 (1998)). “ ‘Moreover, the constitutional standard is fulfilled by an indictment that tracks the wording of the statute, as long as the language sets forth the essential elements of the crime.’ ” Id. at 1350 (quoting United States v. Ndiaye, 434 F.3d 1270, 1299 (11th Cir. 2006)). “When the facts alleged in the indictment permit an inference that the grand jury found probable cause, the indictment satisfied the Fifth Amendment.” Id. (citing Fern, 155 F.3d at 1325). “In ‘analyzing challenges to the sufficiency of an indictment, courts give the indictment a common sense construction, and its validity is to be determined by practical, not technical considerations.’ ” Id. at 1349 (quoting United States v. Poirier, 321 F.3d 1024, 1029 (11th Cir. 2003)).

2. Analysis

Here, the indictment charges:

On or about July 17, 2022, in the special maritime and territorial jurisdiction of the United States, as set forth in 18 U.S.C. § 7(8), in that the offense occurred by an against a national of the United States on a foreign vessel having a scheduled departure from and arrival in the United States, and pursuant to 18 U.S.C. § 3238, with Forsyth County, in the Northern District of Georgia, being the district in which the offender was last known to reside, the defendant, FRANK BRODERICK, did knowingly engage in sexual contact, as defined under 18 U.S.C. § 2246(3), with a child, Minor Victim 1, whose identity is known to the Grand Jury, and who had attained the age of 12 years but had not attained the age of 16 years and was at least four years younger than the defendant.

All in violation of 18, United States Code, Section 2244(a)(3).

Doc. 1. The statute Defendant is charged with violating, 18 U.S.C. § 2244(a)(3), provides that “[w]hoever, in the special maritime and territorial jurisdiction of the United States . . . knowingly engages in or causes sexual contact with or by another person, if so to do would violate . . . (3) subsection (a) of section 2243 had the sexual contact been a sexual act, shall be fined under this title, imprisoned not more than two years; or both[.]” The statute referenced in § 2244(a)(3), 18 U.S.C. § 2243(a), provides:

Whoever, in the special maritime and territorial jurisdiction of the United States . . . knowingly engages in a sexual act with another person who—

(1) has attained the age of 12 years but has not attained the age of 16 years; and

(2) is at least four years younger than the person so engaging; or attempts to do so, shall be fined under this title, imprisoned not more than 15 years, or both.

18 U.S.C. § 2243(a). 18 U.S.C. § 2246(3) defines “sexual contact” as “the intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, degrade, or arouse or gratify the sexual desire of any person.”

The Government argues that the indictment is sufficient because it “set[s] forth the time and place of the crime, specifically refer[s] to the statute on which the charge is based, and track[s] the wording of the statute.” Doc. 19 at 2. The undersigned agrees with the Government and finds that the indictment is sufficient

as it “(1) presents the essential elements of the charged offense, (2) notifies the accused of the charge to be defended against, and (3) enables the accused to rely upon a judgment under the indictment as a bar against double jeopardy for any subsequent prosecution for the same offense.” Jordan, 582 F.3d at 1245. The indictment tracks the statutory language that Defendant is charged with violating, sets forth the essential elements of the crime, and states the time and location in approximate terms of the alleged offense.

The fact that the indictment does not contain the information Defendant asserts is lacking—i.e., the identity of the alleged victim and the specific sexual contact it alleges Defendant engaged in—does not render it insufficient.

“Ordinarily, ‘an indictment need do little more than to track the language of the statute charged and state the time and place (in approximate terms) of the alleged crime.’ ” United States v. Jenkins, No. 20-13831, 2022 U.S. App. LEXIS 4278, at *7 (11th Cir. Feb. 16, 2022) (quoting United States v. Stavroulakis, 952 F.2d 686, 693 (11th Cir. 1992)). “ ‘It is not necessary for an indictment . . . to allege in detail the factual proof that will be relied upon to support the charges.’ ” Id. at *7 (quoting United States v. Sharpe, 438 F.3d 1257, 1263 n.3 (11th Cir. 2006)).

“Rather, more detailed information, ‘if essential to the defense, can be obtained by a motion for a bill or particulars’ or through pretrial discovery.” Id. at *7–8 (quoting Sharpe, 438 at 1263 n.3 and citing Stavroulakis, 952 F.2d at 693). As

Defendant represents in his motion to quash or dismiss and as discussed below in addressing Defendant's bill of particulars, Defendant has received discovery from the Government that indicates that the minor victim is his teenage granddaughter, he has received materials concerning the investigation into her allegations, including a summary of the alleged victim's statements, and Defendant will receive from the Government, if he has not already received it, a copy of a videotaped interview with the alleged victim. See Doc. 15 at 2 and n.1; Doc. 18 at 2–3.

The undersigned finds that the indictment is legally sufficient because it referred to and tracked the language on which it was based, it provided notice to Defendant of the charge to be defended, and it alleged the time and place of the offenses. See, e.g., Wayerski, 624 F.3d at 1349-50 (finding that an indictment that stated the dates of the offenses in the Northern District of Florida and tracked the language of the child exploitation statute, 18 U.S.C. 2252A(g), was sufficient as it was “adequate to apprise the defendants of the charges and to plead double jeopardy in any further prosecution for the same offense”); see also Jenkins, 2022 U.S. App. LEXIS 4278, at *8–9 (finding that the child pornography indictment “though spare, was legally sufficient” even though “indictment did not describe Jenkins's conduct in detail or identify the particular images at issue” because the indictment “alleged the essential elements of either a child pornography production

or distribution offense, the date or date range when the offense allegedly occurred, and the initials of the minor victim involved,” and the government identified “the particular images at issue and the means of production” in response to a bill of particulars). The undersigned therefore **RECOMMENDS** that Defendant’s motion to quash or dismiss the indictment based on alleged insufficiency be **DENIED**.

B. Delay In Presentation To Grand Jury

Defendant also moves to dismiss the indictment pursuant to Federal Rule of Criminal Procedure 48 and the Fifth Amendment’s Due Process Clause for prejudicial delay in presenting the charge to the grand jury almost three years after the alleged offense. Doc. 15 at 8–11.

1. Applicable Standards

Federal Rule of Criminal Procedure 48(b) provides that “[t]he court may dismiss an indictment . . . if unnecessary delay occurs in: (1) presenting a charge to a grand jury.” Fed. R. Crim. P. 48(b)(1). Rule 48(b) “ ‘vests much discretion in the trial court, and dismissal is mandatory only if the defendant’s constitutional rights have been violated.’ ” United States v. Knight, 562 F.3d 1314, 1324 (11th Cir. 2009) (quoting United States v. Dunn, 345 F.3d 1285, 1297 (11th Cir. 2003)). “The limit on pre-indictment delay is usually set by the statute of limitations. But, the Due Process Clause can bar an indictment even when the indictment is brought within the limitations period.” United States v. Foxman, 87 F.3d 1220, 1222 (11th

Cir. 1996) (citing United States v. Marion, 404 U.S. 307, 323–27 (1971) and United States v. Lovasco, 431 U.S. 783, 788–91 (1977)). “Under Lovasco and Marion and [the Eleventh Circuit’s] applications of these cases,” the defendant must show “that pre-indictment delay caused him actual substantial prejudice and that the delay was the product of a deliberative act by the government designed to gain a tactical advantage.” Foxman, 87 F.3d at 1222; see also United States v. Witchard, 646 F. App’x 793, 795 (11th Cir. 2016) (“The [Due Process] Clause requires dismissal of an indictment if the accused can show that pre-indictment delay (1) caused actual prejudice to the conduct of his defense, and (2) was the product of deliberate action by the government designed to gain a tactical advantage.”). “[I]n order to obtain dismissal based on pre-indictment delay, a defendant must show both deliberate delay to gain a tactical advantage and actual prejudice.” Jackson v. Benton, 315 F. App’x 788, 791 (11th Cir. 2009) (citing Stoner v. Graddick, 751 F.2d 1535, 1542–43 (11th Cir. 1985)); see also United States v. Sanders, No. 3:15-cr-00010-TCB-RGV, 2015 U.S. Dist. LEXIS 147006, at *21 n.15 (N.D. Ga. Oct. 2, 2015) (“ ‘Both prongs of [the] test must be satisfied to make relief available to a defendant[.]’ ” (quoting United States v. Hawes, No. 5:14-CR-397-RDP-TMP, 2015 U.S. Dist. LEXIS 85296, at *5 (N.D. Ala. July 1, 2015))), adopted by 2015 U.S. Dist. LEXIS 146889 (N.D. Ga. Oct. 29, 2015).

As to the first prong, i.e., actual prejudice, “[a] stringent standard is used when examining prejudice; the accused must show that the prejudice impaired the fairness of the trial.” Witchard, 646 F. App’x at 795–96. And a defendant seeking dismissal of an indictment due to pre-indictment delay “ ‘must demonstrate *actual* prejudice and not merely the real possibility of prejudice inherent in any extended delay.’ ” Sanders, 2015 U.S. Dist. LEXIS 147006, at *22 (quoting United States v. Heard, No. 1:12-cr-40 (WLS), 2013 U.S. Dist. LEXIS 66757, at *9 (M.D. Ga. May 10, 2013) (internal quotations omitted)). “Prejudice is demonstrated when the defendant has been ‘meaningfully impaired in his ability to defend against the state’s charges to such an extent that the disposition of the criminal proceeding was likely affected.’ ” United States v. McKoy, 129 F. App’x 815, 819 (11th Cir. 2005) (quoting Jones v. Angelone, 94 F.3d 900, 907 (4th Cir. 1996)). “For the defendant to carry the heavy burden of proving actual prejudice from pre-indictment delay, concrete proof is required; mere speculation and bare allegations will not suffice.” United States v. McCoy, 977 F.2d 706, 711 (11th Cir. 1992).

As to the second prong, “the Government does not bear the burden of justifying a delay, and courts will not find that it intentionally delayed an indictment for tactical advantage unless a defendant shows with particularity that it did so.” United States v. Randolph, Criminal Action File No. 4:11–CR–17–RLV–WEJ, 2011 U.S. Dist. LEXIS 136981, at *10 (N.D. Ga. Nov. 2, 2011) (citing

United States v. Thomas, 62 F.3d 1332, 1339 (11th Cir. 1995)), adopted by 2011 U.S. Dist. LEXIS 136565 (N.D. Ga. Nov. 21, 2011). While a defendant need not show that the Government acted in bad faith, he must show that “it made a judgment about how best to proceed with litigation that resulted in the indictment’s delay.” Id. (citing Foxman, 87 F.3d at 1223 n.2). “However, mere ‘inaction in bringing the case is insufficient . . . to establish that the government’s actions were motivated by an attempt to gain a tactical advantage.’ ” Id. (quoting United States v. Butler, 792 F.2d 792 1528, 1534 (11th Cir. 1986)). “Additionally, in the event that ‘the record shows no reason for the delay (or where the delay is due to simple negligence), no due process violation exists.’ ” Id. at *10–11 (quoting Foxman, 87 F.3d at 1223 n.2). “[S]hould a defendant fail to show deliberate delay for tactical advantage, a court need only ‘note that [the defendant] ha[s] failed to carry that burden.’ ” Id. (quoting Thomas, 62 F.3d at 1339).

2. Analysis

Defendant asserts that “[i]t is impossible to fully anticipate the prejudicial impact of the delay,” i.e., the 35 months between the alleged offense and the indictment, during which time Defendant “had no reason to employ counsel, to identify or question witnesses, to secure relevant documents, or to investigate the Government’s case.” Doc. 15 at 10. He asserts that because he did not have a preliminary hearing, “any testimony at trial will be substantially based on the

current memories of potential witnesses who cannot reasonably recall the details of critical events.” Id. Defendant urges the Court to “presume that the memory of any material witness will fade after 35 months without any investigation by defense counsel or prior testimony to refresh a witness’ recollection.” Id. Defendant also asserts that “[a]t this point, it will be extremely difficult to identify and locate former teachers, therapists, counselors, classmates, and friends of the Minor with relevant knowledge that may prove critical to the defense” and “extremely difficulty to identify any comparable allegation that the Minor may have made against another person.” Id. at 11. He also contends that it “will be extremely difficult to identify when, how, and why” the Minor’s allegations “evolved during the 35 months prior to indictment.” Id.

Defendant’s contentions are insufficient to carry his heavy burden of demonstrating actual prejudice from the 35-month delay. Defendant essentially asks the Court to presume prejudice caused by the delay, but “ ‘the law in this circuit is that prejudice will not be presumed because of a lengthy delay.’ ”¹ Sanders, 2015 U.S. Dist. LEXIS 147006, at *21 n.15 (quoting United States v. Williams, No. 1:110CR-547-ODE-ECS, 2012 U.S. Dist. LEXIS 165617, at *4–5 (N.D. Ga. Nov. 16, 2012) (internal quotation omitted)). In spite of Defendant’s

¹ The undersigned makes no finding on whether three years between the offense and the indictment constitutes a “lengthy delay.”

assertions of anticipated difficulties in preparing his defense, locating witnesses, etc., Defendant has made no showing that he has not been able to prepare for trial due to the delay or that the fairness of his trial will be impaired. His concerns about potential prejudice caused by the delay and assertions of presumptive prejudice are insufficient to satisfy the actual prejudice prong. “[A]ctual prejudice and not merely the real possibility of prejudice inherent in any extended delay . . . is a necessary element which must be shown before the restraints of the due process clause will be applied to bar a prosecution because of a delay.” United States v. Willis, 583 F.2d 203, 208 (5th Cir. 1978) (quoting United States v. McGough, 510 F.2d 598, 604 (5th Cir. 1975)).²

Accordingly, the undersigned finds that Defendant has not demonstrated that the pre-indictment delay in this case caused actual prejudice to his defense. See e.g., Sanders, 2015 U.S. Dist. LEXIS 147006, at *22–25 (finding that the defendant’s conclusory assertions that the pre-indictment delay had caused witnesses to become unavailable and allowed co-defendants and witnesses to change their stories were not sufficient to show actual prejudice); United States v. Thomas, No. 1:12-cr-188-TWT/AJB, 2012 U.S. Dist. LEXIS 185403, at *16 (N.D. Ga. Dec. 31, 2012) (finding that the defendants had “not asserted a single fact

² Decisions of the Fifth Circuit handed down before Oct. 1, 1981 are binding precedent in the Eleventh Circuit. Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc).

beyond their conclusory allegations in support of their contention that any delay cause them to suffer prejudice”), adopted by 2013 U.S. Dist. LEXIS 12275 (N.D. Ga. Jan. 30, 2013).

Moreover, even if Defendant had shown actual prejudice by the pre-indictment delay—which he has not—he failed to meet his burden of showing that the Government deliberately delayed seeking the indictment in order to gain a tactical advantage. Defendant conclusorily asserts that “[t]he Government is solely responsible for a 35-month delay in securing the indictment” and that the indictment should be quashed or dismissed “based on deliberate acts of the Government in causing the pre-indictment delay and the resulting prejudice to the defendant.” Doc. 15 at 12. Defendant’s assertions, unsupported by any factual showing to support them, are insufficient to meet his burden. As explained above, “the Government does not bear the burden of justifying a delay, and courts will not find that it intentionally delayed an indictment for tactical advantage unless a defendant shows with particularity that it did so.” Randolph, 2011 U.S. Dist. LEXIS 136981, at *10. “[M]ere ‘inaction in bringing the case is insufficient . . . to establish that the government’s actions were motivated by an attempt to gain a tactical advantage.’ ” Id. (quoting Butler, 792 F.2d at 1534). Because Defendant failed to meet his burden of showing both that the pre-indictment delay has caused actual prejudice to him and that the Government deliberately caused the delay in

order to gain a tactical advantage, it is **RECOMMENDED** that Defendant's motion to quash or dismiss the indictment due to pre-indictment delay be **DENIED**.

II. Motion For Early Disclosures

Defendant moves for an order pursuant to Federal Rule of Criminal Procedure 6(e), the Jencks Act, and the Due Process Clause of the Fifth Amendment directing the Government "to immediately produce a list of known material witnesses" and to "produce the testimony of all grand jury witnesses; all Jencks Act material; and an updated list of Government witnesses at least 10 days prior to trial." Doc. 16 at 1. The Government objects to these requests. Doc. 20.

A. Jencks Act

The Jencks Act provides:

After a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement (as hereinafter defined) of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified. If the entire contents of any such statement relate to the subject matter of the testimony of the witness, the court shall order it to be delivered directly to the defendant for his examination and use.

18 U.S.C. § 3500(b). The term "statement" in that section means:

- (1) a written statement made by said witness and signed or otherwise adopted or approved by him;
- (2) a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral

statement made by said witness and recorded contemporaneously with the making of such oral statement; and
 (3) a statement, however taken or recorded, or a transcription thereof, if any, made by such witness to a grand jury.

18 U.S.C. § 3500(e)(1)-(3). “Rule 16(a)(2) also states that Rule 16 does not ‘authorize the discovery or inspection of statements made by government witnesses or prospective government witnesses, except as provided in 18 U.S.C. § 3500.’ Section 3500, known as the Jencks Act, the substance of which was incorporated into Fed. R. Crim. P. 26.2 in 1979, provides that no statement of a government witness shall be the subject of discovery until said witness has testified on direct examination in the trial of the case.” United States v. Jordan, 316 F.3d 1215, 1227 n.17 (11th Cir. 2003).

B. Grand Jury Testimony

Defendant moves for the pretrial production of all “transcripts of the sworn testimony of each witness who testified before the grand jury about Broderick of his role in the alleged offense,” not just the witnesses whom the Government will call at trial. Doc. 16 at 4. Defendant contends that “the grand jury testimony of witnesses whom the Government does not intend to call at trial is just as valuable to Broderick as grand jury testimony of those who will testify for the Government at trial,” and he should receive those transcripts prior to trial because: (1) witnesses who testified before the grand jury “may have presented demonstrably false, exculpatory, or contradictory testimony,” but the Government “cannot reasonably

recognize or assess the false, exculpatory, or contradictory nature” of that testimony; (2) Defendant “may be unable to gather evidence to disprove certain evidence against him and/or to impeach witnesses against him if he does not receive grand jury testimony sufficiently in advance of trial to prepare his defense”; (3) to prepare for trial, Defendant “must determine when and from whom the Government obtained additional and conflicting information and grand jury testimony” because “[t]he allegations in the indictment . . . are extremely broad, since he is only charged with participating in unspecified ‘sexual contact’ ”; and (4) the Government might not call to testify at trial certain witnesses who testified before the grand jury. Doc. 16 at 3–4.

Under the Jencks Act, Defendant will be entitled to the grand jury testimony of the Government’s witnesses who testify at trial, after they testify. See 18 U.S.C. §§ 3500(b), (e)(3); United States v. Asberry, No. 1:16-CR-427-AT-JKL-9, 2019 U.S. Dist. LEXIS 232259, at *35 (N.D. Ga. Aug. 1, 2019) (“Under the Jencks Act, Asberry will be entitled to the grand jury testimony of confidential informants who testify at trial.”), adopted by 2020 U.S. Dist. LEXIS 121318 (N.D. Ga. July 10, 2020). Defendant has not cited any authority showing that, under the Jencks Act, he is entitled to pretrial disclosure of grand jury transcripts of testifying witnesses or that he is entitled to the pretrial disclosure of grand jury transcripts of all witnesses, regardless of whether or not the Government calls them at trial.

Defendant nevertheless contends that “[t]his Court has ‘substantial discretion’ to order the Government to provide pretrial disclosure of grand jury proceedings related to this indictment.” Doc. 16 at 6.

“Federal Rule of Criminal Procedure 6(e) codifies the traditional rule of grand jury secrecy.” Asberry, 2019 U.S. Dist. LEXIS 232259, at *35 (N.D. Ga. Aug. 1, 2019) (citing United States v. Aisenberg, 358 F.3d 1327, 1346–47 (11th Cir. 2004)). “In limited circumstances, however, the Court may order disclosure of grand jury materials.” Id. (citing Fed. R. Crim. P. 6(e)(3); Aisenberg, 358 F.3d at 1347–48). Courts “ ‘ are not empowered to act outside of Rule 6(e) in other than exceptional circumstances consonant with the rule’s policy and spirit.’ ”

Aisenberg, 358 F.3d at 1347 (quoting Petition to Inspect and Copy Grand Jury Materials, 735 F.2d 1261, 1269 (11th Cir. 1984)). “Thus, while district courts have inherent authority to act outside Rule 6(e)(3), any inherent authority is exceedingly narrow and exists only in exceptional circumstances.” Id. Regardless of whether a party seeks grand jury disclosure under Rule 6(e)(3) or the Court’s inherent authority, “parties seeking disclosure must show:

- (1) that the material they seek is needed to avoid a possible injustice in another judicial proceeding;
- (2) that the need for disclosure is greater than the need for continued secrecy; and
- (3) that their request is structured to cover only material so needed.

Id. at 1347–48 (internal quotation omitted). “In order to carry this burden, the party seeking disclosure of grand jury material must show a compelling and particularized need for disclosure.” Id. at 1348.

“The Court may order disclosure of grand jury materials, *inter alia*, preliminary to or in connection with a judicial proceeding, but only where the party seeking disclosure shows a ‘particularized need’ for the material.” Asberry, 2019 U.S. Dist. LEXIS 232259, at *35 (citing Aisenberg, 358 F.3d at 1348 and United States v. Abusaid, 256 F. App’x 289, 290 (11th Cir. 2007)); see also Fed. R. Crim. P. 6(e)(3)(E)(i) (“The court may authorize disclosure—at a time, in a manner, and subject to any other conditions that it directs—of a grand-jury matter: (i) preliminarily to or in connection with a judicial proceeding[.]”). “A blanket request for all grand jury materials does not satisfy the ‘particularized need’ requirement.” Id. (citing Aisenberg, 358 F.3d at 1348–49 (explaining that ‘particularized need’ may be shown by circumstances creating difficulties ‘peculiar to this case, which could be alleviated by access to *specific* grand jury materials, without doing disproportionate harm to the salutary purpose of secrecy embodied in the grand jury process”)).

The Government contends that Defendant “has provided no more than unsubstantiated claims and bare allegations to support his request” and “has made no showing of particularized need for any portions of the grand jury transcripts,

shown no difficulties peculiar to his case, nor has he tailored his request to cover overly the material needed.” Doc. 20 at 3. The undersigned agrees. Defendant’s request for the grand jury testimony for all witnesses is “the sort of blanket request that does not satisfy the ‘particularized need’ requirement for the disclosure of grand jury testimony. Rather, Defendant wishes to sift through the grand jury testimony at large to see what may be useful to his defense.” Asberry, 2019 U.S. Dist. LEXIS 232259, at *36 (rejecting the defendant’s request for “the grand jury testimony of every confidential information so that he can attack the witnesses’ credibility and consider whether to assert an entrapment defense”).

Because Defendant has not shown a particularized need for the disclosure of grand jury transcripts for all witnesses, regardless of whether the Government will call them at trial, Defendant’s request for pretrial disclosure of grand jury transcripts is **DENIED**. See, e.g., United States v. Taylor, No. 1:16-CR-145-TWT-JKL, 2018 U.S. Dist. LEXIS 179282, at *17 (N.D. Ga. March 23, 2018) (denying defendant’s request for pretrial disclosure of grand jury proceedings because the defendant had not shown a particularized need for grand jury transcripts: “Taylor merely speculates that the grand jury materials will assist him in cross-examination or in preparing his defense because there are many defendants and many sources of evidence in this case,” but “[t]he same could be said for any defendant facing a

multi-defendant indictment, so he cannot show that the circumstances of this case have created particular or unusual difficulties”).

To the extent that Plaintiff requests the grand jury transcripts of the Government’s testifying witnesses prior to trial, “[t]he Jencks Act provides no authority for the Court to grant an early release or disclosure of that material.” Taylor, 2018 U.S. Dist. LEXIS 179282, at *14 (collecting cases). The Court notes that the Government states in response to Defendant’s motion that “the government will abide by its policy to disclose Jencks material sufficiently early to allow the defense time to prepare for that witness. That time frame is generally considered to be about 14 days before the witness testifies.” Doc. 20 at 6 n.2. Based on the Government’s representation that it will provide Jencks material, which would include grand jury testimony of any witness the Government calls at trial, 14 days before the witness testifies, “the Court considers this matter resolved,” Taylor, 2018 U.S. Dist. LEXIS 179282, at *14, but Defendant may raise the issue with the trial judge if the Government fails to abide by its policy.

C. Early Jencks Act Material

To the extent that Defendant requests other Jencks Act materials prior to trial, that motion is also **DENIED** because “[t]he Jencks Act provides no authority for the Court to grant an early release or disclosure of that material.” Taylor, 2018 U.S. Dist. LEXIS 179282, at *14; see also Jordan, 316 F.3d at 1227 n.17. As stated

above, the Government represents that it will “abide by its policy to disclose Jencks material sufficiently early to allow the defense time to prepare for that witness. That time frame is generally considered to be about 14 days before the witness testifies.” Doc. 20 at 6 n.2.

D. Government’s Witness List

Defendant requests that the Court order the Government to produce an “immediate list of known witnesses” and updated witness list at least 10 days before trial. Doc. 16 at 1–2. Defendant “contends that an immediate list of known witnesses is justified by the specific facts without creating any hardship or burden on the Government.” Id. at 2. He asserts that his counsel “intends to question prospective jurors regarding their association with, or knowledge of, every Government witness in this case,” so he “is entitled to know and ascertain this information in selecting a jury.” Id. at 13. He also contends that he needs the witness list because “the criminal records of all Government witnesses are discoverable under Brady,” and “[a]ny potentially impeaching evidence must be disclosed sufficiently before trial to assure that the defendant has an opportunity to utilize the information.” Id.

“It is well-settled that a criminal defendant has no constitutional right to witness lists or witness statements before trial.” Taylor, 2018 U.S. Dist. LEXIS 179282, at *18 (citing Weatherford v. Bursey, 429 U.S. 545, 559 (1977)). “Nor

does Federal Rule of Criminal Procedure 16 require the disclosure of the identities of government witnesses.” Id. “The Court nonetheless has discretion to require the production of witness lists in advance of trial.” Id.

In this Court’s Pretrial Scheduling Order, the Court ordered, “No party is required to provide a list of its witnesses in advance of trial unless otherwise compelled by law or ordered by the Court. The Court will entertain a motion for a witness list only if it particularized to the facts of this case.” Doc. 9 at 11. The undersigned finds that Defendant’s request for pretrial production of the Government’s witness list is not “particularized to the facts of this case.” See, e.g., Taylor, 2018 U.S. Dist. LEXIS 179282, at *17–20 (rejecting the defendant’s argument that “he is entitled to government’s witness list 10 days before trial so that he may adequately investigate the witnesses and determine whether any potential jurors know the government’s witnesses” because defendant’s “desire to prepare for the testimony that the government’s witnesses may offer . . . does not entitle him to a list of the government’s witnesses”). The Court notes that Defendant “will receive information about the government’s witnesses through the government’s Jencks Act disclosure,” Taylor, 2018 U.S. Dist. LEXIS 179282, at *20, which the Government represents will be made 14 days before the witnesses testify, see Doc. 20 at 6 n. 2. Defendant’s motion for pretrial disclosure of the Government’s witness list is therefore **DENIED**.

III. Motion For Bill Of Particulars

Defendant lastly moves the Court “to require the Government to provide a bill of particulars as to the allegations in the indictment.” Doc. 17 at 1. Defendant asserts that “[t]he indictment alleges that [he] engaged in unspecified, broadly defined ‘sexual contact’ with an unidentified minor child” and that Defendant “needs and is entitled to more information about each overt act that he allegedly committed to adequately prepare his defense.” *Id.* Defendant contends that the Government should be required to provide “additional information about the evidence in this case and the allegations as to how he allegedly committed the offense” by identifying “any specific overt acts attributed to him by the Government through a bill of particulars.” Doc. 17 at 4.

Rule 7(f) provides that “[t]he court may direct the government to file a bill of particulars.” *See* Fed. R. Crim. P. 7(f). In United States v. Anderson, 799 F.2d 1438, 1441 (11th Cir. 1986), the Eleventh Circuit explained the purpose of a bill of particulars:

The purpose of a true bill of particulars is threefold: to inform the defendant of the charge against him with sufficient precision to allow him to prepare his defense, to minimize surprise at trial, and to enable him to plead double jeopardy in the event of a later prosecution for the same offense.

(internal quotation omitted). “A bill of particulars is not required where the information sought has already been provided by other sources, such as the

indictment and discovery, and it is not designed to compel the government to detailed exposition of its evidence or to explain the legal theories upon which it intends to rely at trial.” United States v. Roberts, 174 F. App’x 475, 477 (11th Cir. 2006) (internal citation and quotation omitted); see also United States v. Brandt, No. 3:23-cr-00018-LMM-RGV, 2025 U.S. Dist. LEXIS 129411, at *15–16 (N.D. Ga. June 13, 2025) (explaining that “[g]eneralized discovery is not a valid reason for seeking a bill of particulars,” and “defendants are not entitled to a bill of particulars describing information which is already evident from other sources, such as elsewhere in the indictment or in discovery”).

The Government asserts that the Court should deny Defendant’s motion for a bill of particulars because the indictment and discovery provided to Defendant satisfy the purposes of a bill of particulars, i.e., to apprise him of the specific charge against him to aid in ability to prepare his defense, to minimize danger of surprise at trial, and to plead double jeopardy in the event of a new prosecution. Doc. 18 at 3. The Court agrees.

The indictment charges:

On or about July 17, 2022, in the special maritime and territorial jurisdiction of the United States, as set forth in 18 U.S.C. § 7(8), in that the offense occurred by an against a national of the United States on a foreign vessel having a scheduled departure from and arrival in the United States, and pursuant to 18 U.S.C. § 3238, with Forsyth County, in the Northern District of Georgia, being the district in which the offender was last known to reside, the defendant, FRANK BRODERICK, did knowingly engage in sexual contact, as defined

under 18 U.S.C. § 2246(3), with a child, Minor Victim 1, whose identity is known to the Grand Jury, and who had attained the age of 12 years but had not attained the age of 16 years and was at least four years younger than the defendant.

Doc. 1. The Government represents that it has provided Defendant with discovery, including “a summary of the victim’s statements about the sexual contact that occurred,” and it represents that it “is also producing a copy of the videotaped interview of the victim where she describes the sexual contact.” Doc. 18 at 3. Defendant admits in his motion to quash or dismiss that he has received discovery from the Government that contains materials related to the investigation of the alleged victim’s allegations. Doc. 15 at 2 & n.1. As the Government contends, the indictment and discovery provided to Defendant sufficiently inform Defendant “of the charge against him with sufficient precision to allow him to prepare his defense, to minimize surprise at trial, and to enable him to plead double jeopardy in the event of a later prosecution for the same offense.” Anderson, 799 F.2d at 1441. Defendant’s motion for a bill of particulars is therefore **DENIED**. In light of the Government’s representation that it was providing Defendant with a copy of a videotaped interview of the alleged victim, Doc. 18 at 3, the Government is **DIRECTED** to provide that videotape to Defendant, if it has not already done so, **NO LATER THAN 10 DAYS FROM THE DATE OF ENTRY OF THIS ORDER**.


Summary

It is **RECOMMENDED** that Defendant's Motion To Quash Or Dismiss Indictment, Doc. 15, be **DENIED**.

It is **ORDERED** that Defendant's Motion For Early Disclosure Of Grand Jury Proceedings, Jencks Act Material, And List Of Witnesses, Doc. 16, and Motion For Bill Of Particulars, Doc. 17 are **DENIED**. If the Government has not already done so, the Government is **DIRECTED** to provide Defendant with a copy of the videotaped interview of the alleged victim referenced in its motion for bill of particulars response, see Doc. 18 at 3, **NO LATER THAN 10 DAYS FROM THE DATE OF ENTRY OF THIS ORDER**.

IT IS FURTHER ORDERED that, subject to a ruling by the District Judge on any objections to orders or recommendations of the undersigned Magistrate Judge, this case is **CERTIFIED READY FOR TRIAL**.

IT IS SO ORDERED, REPORTED AND RECOMMENDED this 19th day of November, 2025.



Anna W. Howard
United States Magistrate Judge