

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
NEWNAN DIVISION**

UNITED STATES OF AMERICA	:	
	:	CRIMINAL CASE NO.
v.	:	3:23-cr-00018-LMM-RGV
	:	
SEAN CARR,	:	

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Defendant Sean Carr (“Carr”), who is charged along with twenty-two co-defendants in a twelve-count criminal indictment, see [Doc. 1],¹ has filed a motion to sever, [Doc. 417], which the government opposes, [Doc. 525]. For the reasons that follow, it is **RECOMMENDED** that Carr’s motion to sever, [Doc. 417], be **DENIED**.

I. INTRODUCTION

On October 25, 2023, a federal grand jury in the Northern District of Georgia returned an indictment against twenty-three defendants, alleged to be members and associates of a criminal enterprise known as Sex Money Murder (“SMM”), a “set” of a “larger gang called ‘The Bloods,’”² charging fifteen defendants,

¹ The listed document and page numbers in citations to the record refer to the document and page numbers shown on the Adobe file reader linked to the Court’s electronic filing database, CM/ECF.

² According to the indictment, SMM “is governed by a common set of rules, codes, laws, and oaths”; that “[m]embers are required to pay monetary dues,” which “are

including Carr, with conspiracy to violate the Racketeer Influenced and Corrupt Organizations (“RICO”) Act, in violation of 18 U.S.C. § 1962(d), in Count 1; nineteen defendants, including Carr, with conspiracy to possess with the intent to distribute controlled substances, in violation of 21 U.S.C. § 846, in Count 2; one defendant with aiding and abetting the possession of methamphetamine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, in Counts 3 and 4; two defendants with attempting to possess methamphetamine with the intent to distribute, in violation of 21 U.S.C. § 846 and 18 U.S.C. § 2, in Count 5; five defendants with possession of a controlled substance with the intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, in Count 6; five defendants with possession of methamphetamine with the intent to distribute, in

used to pay for items used in criminal activities, including guns, to aid other gang members, or to enrich leaders, members, and associates”; and that the purposes of the SMM enterprise include: (1) enriching the leaders, members, and associates of the enterprise through “drug trafficking, wire fraud, and bank fraud, and introducing contraband, including drugs and cellphones, into prisons and jails”; (2) preserving and protecting the “power, reputation, territory, operations, and proceeds of the enterprise through the use of threats, intimidation, and violence, including, but not limited to, acts involving murder and other acts of violence”; (3) keeping “victims and witnesses of the enterprise’s crimes in fear of the enterprise and its leaders, members, and associates through threats of violence and actual violence, including acts involving murder, assault, and arson”; and (4) providing “financial aid and assistance, including, but not limited to, posting bonds and funding commissary accounts, to members of the enterprise charged with or incarcerated for gang-related activities.” [Doc. 1 ¶¶ 6, 8].

violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 2, in Counts 7, 10, and 12; two defendants with carrying a firearm during and in relation to a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1)(A)(i), in Counts 8 and 11; and one defendant with possession of a firearm by a prohibited person, in violation of 18 U.S.C. § 922(g)(1), in Count 9. [Doc. 1].

In particular, Count 1 of the indictment charges that Carr, along with fourteen co-defendants, participated in a RICO conspiracy through their association with SMM, “starting no later than in or around 2013, and continuing to at least the date of [the i]ndictment[.]” [Id. ¶¶ 7, 9]. The indictment alleges that each of the defendants charged in this count was a “person employed by and associated with SMM,” with Carr having risen “to prominence in the gang,”³ and that they conspired “to conduct and participate, directly and indirectly, in the conduct of the affairs of [SMM] through a pattern of racketeering activity,” which

³ The indictment alleges that the “structure of SMM is hierarchical in nature”; that “SMM rank structure often includes a delineation between incarcerated members (‘behind the wall’) and non-incarcerated members (‘on the streets’),” and that “[i]n many instances, leadership ‘behind the wall’ also exerts control over membership ‘on the streets[.]’”; and that “‘Royal Flush’” indicates “a founding member of SMM with nationwide control[.]” [Doc. 1 ¶¶ 3, 5]. The government asserts that Carr was a member of the “Royal Flush” and that he “was previously indicted for RICO conspiracy in the Southern District of New York in 2001 for his leadership in SMM [and convicted in 2003],” and that his currently scheduled release date is March 11, 2038. [Doc. 525 at 4 & n.2 (citation omitted)].

included multiple threats and acts of murder and arson, multiple offenses of drug trafficking, and multiple acts indictable under federal wire fraud and financial institution fraud statutes. [Id. ¶¶ 2, 9].

The indictment also sets forth the “manner and means by which the members and associates of [SMM] conducted and participated in the conduct of the affairs of SMM,” [id. ¶ 11], and it details various overt acts in furtherance of the conspiracy, including in relevant part that: (1) between October 19 and October 20, 2013, Carr, along with two co-defendants, “facilitated the distribution of heroin to [another] defendant [], who at the time was an inmate at a federal prison located in Wayne County, Pennsylvania”; (2) from “an unknown date, but no later than in or around June 2020, and continuing through at least in or around January 2021,” Carr, along with ten co-defendants, “attempted and conspired to obtain unemployment benefits to which they were not entitled and did fraudulently obtain approximately \$140,000 of those benefits”; and (3) on November 14, 2022, Carr “sent a memo to SSM membership decreeing that [one of the co-defendants] was no longer a member because of rules violations, including his failing to contribute financially to the gang despite his lucrative drug business,” [id. ¶ 12].

Count 1 of the indictment alleges that “each defendant agreed a conspirator would commit at least two acts of racketeering activity in conducting the affairs of [SMM],” and that “[a]s part of their agreement to conduct and participate in the

conduct of the affairs of the SMM enterprise through a pattern of racketeering activity in the Northern District of Georgia and elsewhere,” Carr, along with six co-defendants, “did agree to knowingly, intentionally, and unlawfully possess with intent to distribute and distribute at least 500 grams of . . . methamphetamine,” beginning “on a date unknown, but starting no later than in or around 2013,” all in violation of 18 U.S.C. § 1962(d). [*Id.* ¶¶ 10, 15]. In addition, Count 2 of the indictment charges Carr, along with eighteen co-defendants, with knowingly and willfully conspiring to possess controlled substances with an intent to distribute, in violation of 21 U.S.C. § 846. [*Id.* at 19-21].

Carr has filed a motion to sever, [Doc. 417], which the government opposes, [Doc. 525]. Carr has not filed a reply, and the pending motion, [Doc. 417], is now ripe for ruling.

II. DISCUSSION

Carr has moved for a severance, seeking a separate trial from his co-defendants. [Doc. 417]. In particular, Carr argues that severance is warranted to avoid potential issues under Bruton v. United States, 391 U.S. 123 (1968); because a joint trial in this case would be unfair due to the danger of the spillover effect; and because of his right to a speedy trial. [*Id.* at 2-5]. In response, [Doc. 525], the government contends that Carr “does not assert improper joinder” in this case and that the defendants “are properly joined under Fed. R. Crim. P. 8(b); that he

“cannot demonstrate that he would suffer specific and compelling prejudice from a joint trial”; that he has “failed to identify a *Bruton* issue, and any such argument is purely speculative”; that Carr’s “right to a speedy trial does not, in and of itself, demonstrate specific and compelling prejudice”; and that a joint trial in this case promotes judicial administration and economy, [*id.* at 1, 5-6, 9, 11, 13 (citations omitted)]. For the reasons that follow, the Court agrees with the government and finds that severance is not warranted in this case.

“When multiple defendants are indicted, joined offenses must be reviewed initially under the standard set forth under Fed.R.Crim.P. 8(b).” United States v. Jones, No. CR 109-073, 2009 WL 2920894, at *1 (S.D. Ga. Sept. 11, 2009) (footnote and citation omitted). “Once Rule 8(b) has been satisfied by the allegations in the indictment, severance is governed entirely by Fed.R.Crim.P. 14, which recognizes that even proper joinder under Rule 8(b) may prejudice a defendant or the government.” *Id.* at *2 (citing United States v. Lane, 474 U.S. 438, 447 (1986)); see also United States v. Hersh, 297 F.3d 1233, 1241 (11th Cir. 2002). After consideration of the pleadings, the Court finds that joinder of the defendants in the indictment was proper under Rule 8, and severance is not merited under Rule 14 on the present record.

1. *Joinder is proper under Rule 8*

“Joinder of parties and defendants under Rule 8 is designed to promote judicial economy and efficiency.” United States v. Weaver, 905 F.2d 1466, 1476 (11th Cir. 1990). “Rule 8 ‘is broadly construed in favor of the initial joinder.’” Id. (citation omitted); see also Zafiro v. United States, 506 U.S. 534, 537 (1993) (“There is a preference in the federal system for joint trials of defendants who are indicted together.”); Hersh, 297 F.3d at 1241; United States v. Touchet, No. 3:07-cr-90-J-33HTS, 2008 WL 2025322, at *7 (M.D. Fla. May 9, 2008); United States v. Cameron, No. 06-20753-CR, 2007 WL 1696022, at *3 (S.D. Fla. June 12, 2007) (quoting United States v. Dominguez, 226 F.3d 1235, 1238 (11th Cir. 2000)), adopted at *1, aff’d in part sub nom. United States v. King, 285 F. App’x 649 (11th Cir. 2008) (per curiam) (unpublished). Indeed, Rule 8(b) “permits the joinder of [d]efendants in the same indictment if they are alleged to have participated in the same act or transaction, and the general rule is that [d]efendants indicted together should be tried together, especially in conspiracy cases.”⁴ United States v. Chavez, 584 F.3d 1354, 1359-60 (11th Cir. 2009) (citations and internal marks omitted).

⁴ “To meet the ‘same series of acts or transaction’ requirement of Rule 8(b), the government must demonstrate that the acts alleged are united by substantial identity of facts or participants; however, there is no requirement that each participant participate in all acts or even know the other participants’ roles in the alleged activities.” United States v. Mobely, CRIMINAL ACTION FILE NO. 1:16-

Carr has not specifically argued that joinder under Rule 8(b) is improper in this case, see generally [Doc. 417], and the Court finds that he was properly joined because the offenses charged in the indictment involve a series of acts or transactions pursuant to a common scheme and conspiracy, shares common co-conspirators alleged to have jointly committed the acts or transactions, and proof of the offenses will include testimony from some of the same witnesses, see United States v. Brooks, 270 F. App'x 847, 849 (11th Cir. 2008) (per curiam) (unpublished) (finding district court properly denied defendants' motions to sever where they were jointly indicted for the same conspiracy); Jones, 2009 WL 2920894, at *1 (joinder of defendants proper where defendants alleged to have participated in the same series of acts or transactions); United States v. Bujduveanu, No. 08-20612-CR, 2008 WL 4558696, at *1 (S.D. Fla. Oct. 10, 2008) (finding joinder under Rule 8(b) proper where defendants were jointly charged in the indictment of a single conspiracy). In short, "the indictment alleges that [Carr] was a member of [SMM] . . . , and that he was involved in offenses in furtherance of [] racketeering [and controlled substances] conspirac[ies]," and therefore, "the Court concludes that [Carr] has been properly joined as a defendant in this case." Mobely, 2017 WL 10574358, at *18 (footnote omitted).

CR-145-TWT-JKL-6, 2017 WL 10574358, at *18 (N.D. Ga. Oct. 26, 2017) (citation omitted), adopted by 2018 WL 5077755, at *1 (N.D. Ga. Oct. 18, 2018).

2. *Severance is not warranted under Rule 14*

Although joinder is appropriate under Rule 8, the Court still has discretion under Rule 14(a) of the Federal Rules of Criminal Procedure to sever Carr and order a separate trial if it appears that consolidation of the charges would be prejudicial. Fed. R. Crim. P. 14(a); United States v. Kopituk, 690 F.2d 1289, 1314-15 (11th Cir. 1982). “In deciding a motion for severance, the Court must balance the right of a defendant to a fair trial against the public’s interest in efficient and economic administration of justice.” United States v. Denmark, No. 205CR71FTM33DNF, 2005 WL 2755987, at *2 (M.D. Fla. Oct. 25, 2005) (citation and internal marks omitted). “More specifically, the Eleventh Circuit has interpreted Rule 14 to require a [d]efendant seeking severance to demonstrate specific and compelling prejudice arising from a joint trial.” Id. (citing United States v. Leavitt, 878 F.2d 1329, 1340 (11th Cir. 1989)). That is, the “prejudice standard envisioned by [R]ule 14 [] requires a showing of actual prejudice, not merely a showing that a defendant may have a better chance of acquittal in separate trials.” United States v. DeLeon, No. CR 15-4268 JB, 2017 WL 3054511, at *83 (D.N.M. June 30, 2017) (citation and internal marks omitted), aff’d sub nom. United States v. Garcia, 74 F.4th 1073 (10th Cir. 2023). Carr has not satisfied the standard to obtain severance under Rule 14.

Carr first contends that severance is warranted due to prejudicial spillover, since the “conduct alleged against other defendants in this case is so egregious,” especially considering the “span of the alleged conduct is ten years” and that he “was incarcerated for that entire period.” [Doc. 417 at 2]. Carr points out that “[w]hile he was incarcerated, alleged [SMM] members . . . were out terrorizing various communities” and that of the “forty-seven overt acts listed in th[e] indictment,” he “is mentioned in just two, a non violent, low-level drug offense . . . and attempt to receive fraudulent benefits,” but that “[t]hirteen of the overt acts involve violent crimes, including multiple murders and the death of a nine month old child,” yet there “is no evidence to suggest Carr was a party to any of these violent crimes or even that he was aware of them.” [*Id.* at 2-3]. Thus, Carr maintains that the “presentation of all this evidence to a jury for which he must sit would undoubtedly prejudice [him].” [*Id.* at 3].

“[S]everance is not required if some evidence is admissible against some defendants and not others and a defendant is not entitled to severance because the proof is greater against a co-defendant.” United States v. Jones, No. 1:06-CR-140, 2007 WL 712420, at *4 (E.D. Tenn. Mar. 6, 2007) (citations and internal marks omitted); see also United States v. Locascio, 6 F.3d 924, 947 (2d Cir. 1993) (citations omitted) (“[J]oint trials involving defendants who are only marginally involved alongside those heavily involved are constitutionally permissible.”); United States

v. Chung, CRIMINAL ACTION FILE NO. 1:13-cr-379-TCB-AJB, 2016 WL 11432472, at *11 (N.D. Ga. Sept. 12, 2016) (citations and internal marks omitted) (explaining that a “defendant does not suffer compelling prejudice simply because much of the evidence at trial is applicable only to his codefendants”), adopted by 2016 WL 6440128, at *5 (N.D. Ga. Oct. 28, 2016); United States v. Abbell, 926 F. Supp. 1545, 1552 (S.D. Fla. 1996) (citation omitted) (explaining that the “Eleventh Circuit [has] displayed great reluctance in granting severance based on *de minimus* evidence arguments” and that “[p]rejudice is not established because a defendant claims to be a minor figure and argues that much of the evidence at trial may apply only to co-defendants”). “The Eleventh Circuit has explained that [s]everance . . . is warranted only when a defendant demonstrates that a joint trial will result in ‘specific and compelling prejudice’ to his defense,” and “[c]ompelling prejudice occurs when the jury is unable to separately appraise the evidence as to each defendant and render a fair and impartial verdict.” United States v. Pasby, CRIMINAL ACTION FILE NO. 1:16-CR-145-TWT-JKL-22, 2017 WL 10402560, at *9 (N.D. Ga. Oct. 4, 2017) (first and second alterations in original) (citations and internal marks omitted), adopted by 2018 WL 4953235, at *1 (N.D. Ga. Oct. 12, 2018). “Cautionary instructions to the jury are presumed to adequately safeguard against prejudice.” Id. (citation omitted).

The Court “is not persuaded that the nature of [Carr’s] involvement in the alleged conspiracy warrants severance under Rule 14.” Mobely, 2017 WL 10574358, at *19. As the government points out, “[s]everance is not mandated even where a defendant did not know his fellow actors and was unaware of the details of their actions directed at putting forward the aims of the criminal enterprise, nor where a defendant participated in only a single aspect of a complex criminal undertaking,” and “[s]imply demonstrating that a defendant did not participate in every phase of a scheme or conspiracy” or that the “evidence is stronger against a co-defendant” is not “a showing sufficient to justify severance.” [Doc. 525 at 6 (citations and internal marks omitted)]. That is, although, as Carr “point[s] out, serious and violent offenses are charged in the indictment against many but not all gang members, the Constitution does not guarantee freedom from the prejudice that inevitably accompanies any charge of heinous group crime; it demands only that the potential for transference of guilt be minimized to the extent possible under the circumstances,” United States v. Prudente, CRIMINAL ACTION FILE 1:05-CR-324-CAP, 2006 WL 8440223, at *4 (N.D. Ga. July 19, 2006) (citations and internal marks omitted), adopted by 2006 WL 8440220, at *1 (N.D. Ga. Aug. 28, 2006), and the “fact one or more defendants may have a better chance at acquittal if tried separately does not alone entitle him to a severance,” United States v. Aiken, 76 F. Supp. 2d 1346, 1352 (S.D. Fla. 1999) (citation omitted).

“Even if a defendant can show some prejudice, a defendant is entitled to severance only if that prejudice flowing from a joint trial is clearly beyond the curative powers of precautionary instruction.” Chung, 2016 WL 11432472, at *11 (citations and internal marks omitted). Thus, “the prejudice must be of a type which the trial court is unable to afford protection.” Aiken, 76 F. Supp. 2d at 1355 (citation omitted).

Carr’s “concern that a jury will be unable to sift through the evidence at trial and make an individual determination of guilt as to him is a concern in virtually any multi-defendant conspiracy case where the participants have disparate levels of participation,” but “[w]hatever risk there may be can likely be cured through limiting instructions to the jury.” Mobely, 2017 WL 10574358, at *19 (citation omitted); see also United States v. Sadiki-Yisrael, CRIMINAL ACTION FILE NO. 1:16-CR-145-TWT-JKL-3, 2018 WL 5091632, at *7 (N.D. Ga. Jan. 18, 2018), adopted by 2018 WL 5083882, at *1 (N.D. Ga. Oct. 18, 2018). Additionally, Carr has not “persuaded the court that the potential prejudice [he] reference[s] outweighs the [g]overnment’s interest in judicial economy” or that it “should vary from the normal rule that defendants indicted together should be tried together.” United States v. USPlabs, LLC, Criminal No. 3:15-CR-496-L, 2018 WL 5831478, at *15 (N.D. Tex. Nov. 7, 2018) (citations omitted). In short, the Court simply “disagrees that the risk of spill-over is too great” and “to the extent that any evidence is not

pertinent to this particular [d]efendant, an appropriate limiting instruction to the jury can ameliorate any potential prejudice.” United States v. Pavlenko, No. 11-20279-CR, 2012 WL 222928, at *2 (S.D. Fla. Jan. 25, 2012) (citation omitted); see also United States v. Alvarez, 755 F.2d 830, 857-58 (11th Cir. 1985) (footnote and internal marks omitted) (explaining that while the Eleventh Circuit could not “say with certainty that the two appellants suffered no prejudice from the district court’s refusal to grant a severance,” it could conclude that “they did not suffer compelling prejudice and that their rights to a fair trial were not infringed” where they were charged with cocaine distribution and tried with codefendants who were also charged with the murder of a federal agent); United States v. Greenhill, CRIMINAL CASE NO. 1:18-CR-00108-MHC-JFK, 2018 WL 5659933, at *7 (N.D. Ga. Sept. 20, 2018), adopted by 2018 WL 5649898, at *1 (N.D. Ga. Oct. 31, 2018).

Next, Carr contends that “a severance i[s] appropriate for [him] due to his right to a speedy trial,” alleging that “[g]iven the amount of discovery, number of defendants and amount of anticipated litigation- trying [him] with all of the named defendants would mean that he will not receive his day in court for a very long time” and that he “would be at the mercy of a slow played case without any recourse.” [Doc. 417 at 4-5]. In response, the government asserts that the Speedy Trial Act proscribes “several instances when a period of delay is excludable from the speedy trial calculation,” including a “reasonable period of delay when the

defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted,” as well as a “delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion,” and “this case is not scheduled for trial and Carr has not requested a trial date,” and he “currently has pending pretrial motions before the court,” but “even if Carr were to demand a speedy trial, it does not serve as a basis for the Court to sever Carr from trial with his co-defendants,” since “[m]any of the witnesses who will testify against Carr’s co-defendants will also testify against Carr,” and thus, “[a]ny prejudice to Carr is outweighed by the Court’s need to ensure the safety of those who appear before it.” [Doc. 525 at 10-13 (citations and internal marks omitted) (citing 18 U.S.C. § 3161(h)(1)(D), (6))]. The government also maintains that a “separate trial . . . would result in a significant duplication and unnecessary drain on resources,” and that Carr “has not demonstrated a need for severance which counterbalances the strong precedent for joint trials in this circuit[.]” [Id. at 13].

The Speedy Trial Act provides that a defendant’s trial must “commence within seventy days from the filing date (and making public) of the . . . indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs,” except that certain periods of time may be excluded from the seventy-day calculation, including any

“delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion”; a “reasonable period of delay when the defendant is joined for trial with a codefendant as to whom the time for trial has not run and no motion for severance has been granted”; and “[a]ny period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel or at the request of the attorney for the [g]overnment.” 18 U.S.C. § 3161(c), (h). Carr does not allege that the Speedy Trial Act has been violated, but rather, his motion to sever is premised on a prospective Speedy Trial Act violation if severance is not granted. See United States v. Rakestraw, CR 18-01695-TUC-JAS (EJM), 2021 WL 3668316, at *6 (D. Ariz. June 16, 2021), adopted by 2021 WL 3046905, at *3 (D. Ariz. July 20, 2021); see also [Doc. 417 at 4]. Carr, however, has not demonstrated that severance is necessary to protect his right to a speedy trial under the Speedy Trial Act.

Because “any reasonable period of delay excludable as to one defendant is excludable as to his . . . codefendants,” the “Speedy Trial Act thus contemplates joint trials and does not require severance based solely on a defendant’s assertion of his speedy trial rights.” United States v. Castillo, No. Cr. 15-0205 JH, 2015 WL 13659235, at *9 (D.N.M. Aug. 6, 2015) (citations and internal marks omitted). And in this case, “the efficiencies of holding a joint trial . . . and avoiding the duplication

of witnesses, expense, and consumption of court time weigh in favor of a joint trial.” Id.; see also United States v. Obie, CRIMINAL CASE NO. 1:18-CR-007-ODE-JKL, 2018 WL 5045630, at *4 (N.D. Ga. Oct. 17, 2018) (citations omitted) (finding severance would not best serve the interests of justice, since “severance would require the Court to conduct two separate trials, thereby using more judicial resources and decreasing efficiency,” and there “would also likely be extensive duplication of evidence,” while also explaining that “federal law allows for reasonable delay to a defendant’s trial where a codefendant has been joined”); United States v. Acosta, 807 F. Supp. 2d 1154, 1270 (N.D. Ga. 2011) (citation omitted) (rejecting defendant’s argument that severance was warranted because the “delay in preparing [the] multi-[d]efendant, multi-count case for trial may violate his Sixth Amendment right to a speedy trial,” especially considering that defendant had filed several motions that “necessitated a delay in certifying the case ready for trial”). In sum, Carr “has not met his heavy burden of showing real prejudice to his case to overcome the presumption of a joint trial,” and the “strong interests of judicial economy outweigh any risk of prejudice that may occur in this case,” and severance on this basis is not warranted. Castillo, 2015 WL 13659235, at *10; see also United States v. Noriega, 746 F. Supp. 1548, 1552, 1561-62 (S.D. Fla. 1990).

Finally, Carr asserts that “[w]hile there are currently no disclosed statements presenting a confrontation issue at trial,” if “conflicting statements are produced, a severance would be proper under *Bruton* . . .” [Doc. 417 at 2]. “In *Bruton v. United States*, the Supreme Court held that a defendant’s Confrontation Clause rights might be violated if, in a joint trial, a codefendant’s statement or confession is admitted into evidence against the co-defendant, but the codefendant does not take the stand to permit the defendant’s cross-examination.” Jones, 2007 WL 712420, at *3 (citing Bruton, 391 U.S. at 123). Severance, therefore, “might be appropriate if the [g]overnment intends to introduce into evidence a codefendant . . . statement, if such statement expressly implicates [d]efendant and if such co-defendant does not take the stand to permit cross-examination.” Id. Because Carr has not “identified any specific statement or testimony that might be offered at trial that would create a problem under *Bruton*, nor has he identified any co-defendant who made a statement or whether such defendant is going to trial,” at this time, “the Court is unable to evaluate the motion and the appropriateness of any remedial efforts that could be taken at trial to avoid a *Bruton* problem,” and his motion to sever based on Bruton is due to be denied at this time. Pasby, 2017 WL 10402560, at *9; see also United States v. Wilson, No. 10-60102-CR, 2010 WL 2609429, at *8 (S.D. Fla. June 5, 2010), adopted by 2010 WL 2612341, at *1 (S.D. Fla. June 25, 2010). Carr has simply failed to establish compelling prejudice such that

the Court should exercise its discretion and grant a severance. Accordingly, Carr's motion to sever is due to be denied, without prejudice to renew, should any actual Bruton issue arise.

III. CONCLUSION

For the foregoing reasons, it is **RECOMMENDED** that Carr's motion to sever, [Doc. 417], be **DENIED**.⁵

IT IS SO RECOMMENDED this 13th day of June, 2025.


RUSSELL G. VINEYARD
UNITED STATES MAGISTRATE JUDGE

⁵ Other motions filed by Carr and his co-defendants remain pending and will be addressed in separate Orders and Reports and Recommendations, and this case will be certified as Ready for Trial once all the pretrial motions have been addressed.