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**FOR PUBLICATION**

**IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,**

**Plaintiff,**

**vs.**

**ADONIS SANTOS,**

**Defendant.**

**Criminal Action No. 05-0283E**

**ORDER DENYING DEFENDANT’S  
MOTION FOR BILL OF  
PARTICULARS**

**I. INTRODUCTION**

THIS MATTER came for hearing on December 6, 2005. Counsel Danilo Aguilar appeared for Defendant Adonis Santos (“Defendant”). Assistant Attorney General Ian Catlett appeared for the Commonwealth of the Northern Mariana Islands (the “Commonwealth”).

**II. FACTS**

On October 14, 2005, the Commonwealth filed an information charging Defendant with four counts of Employment of Illegal Aliens in violation of 3 CMC § 4361(e), each count bearing the name of the alien, who Defendant allegedly hired. The first count appears as follows:

**COUNT I: EMPLOYMENT OF ILLEGAL ALIENS**

On or about January 3, 2005 to February 14, 2005, on Saipan, Commonwealth of the Northern Mariana Islands, the defendant, Adonis Santos, did knowingly employ an alien, Rolando Senoran, within the Commonwealth, while knowing that the alien does not have lawful documentation and authority to be so employed, in violation of 3 CMC § 4361(e), and made punishable by 3 CMC § 4361.

On September 26, 2005, Defendant was arraigned and entered a not guilty plea as to each of the counts of the information. On September 28, 2005, Defendant filed a motion seeking an order of the Court compelling the Commonwealth to provide counsel for Defendant with a written bill of particulars

1 elaborating the factual basis of each count in the information.

### 2 **III. DISCUSSION**

3 Rule 7(f) of the Commonwealth Rules of Criminal Procedure allows the Court to direct the  
4 Commonwealth to file a bill of particulars to supplement the factual basis for an Information:

5 The court may direct the filing of a bill of particulars. A motion for a bill of particulars  
6 may be made before the arraignment or within ten (10) days after arraignment or at such  
7 later time as the court may permit. A bill of particulars may be amended at any time  
8 subject to such conditions as justice requires.

9 Com. R. Crim. P. 7(f). The decision on whether to direct such a filing is within the trial court's  
10 discretion. *United States v. Mitchell*, 744 F.2d 701, 705 (9th Cir. 1984). Rule 7(c)(1) of the  
11 Commonwealth Rules outlines the requirements incumbent upon the Commonwealth when filing an  
12 information:

13 The information shall be a plain, concise and definite written statement of essential facts  
14 constituting the offense charged. It shall be signed by the attorney for the government.  
15 It need not contain a formal commencement, a formal conclusion, or any other matter  
16 not necessary to such statement. Allegations made in one count may be incorporated  
17 by reference into another count. It may be alleged in a single count the means by which  
18 the defendant committed the offense are unknown or that he committed it by one or  
19 more specified means. The information shall state for each count the citation of the  
20 statute, rule, regulation or other provision of law which the defendant is alleged to have  
21 violated.

22 Com. R. Crim. P. 7(c)(1).

23 Defendant claims that each count in the information fails to provide him with an adequate  
24 description of the charge within the requirements of Rule 7(c)(1) of the Commonwealth Rules of  
25 criminal procedure, and consequently fails to provide Defendant with sufficient information to prepare  
26 an adequate defense. Specifically, Defendant claims that each count of the information fails to "explain  
27 what acts were committed by Defendant" which constituted "employment" for the purposes of violating  
28 3 CMC § 4361(e) and that such a failure impairs Defendant's ability to adequately investigate and  
prepare for trial. The Government submits that the information is sufficient on its face to adequately  
notify Defendant of the charges against him.

The Commonwealth Rules of Criminal Procedure closely parallel their federal counterparts and  
therefore interpretations of the federal rules are instructive. *Commonwealth v. Ramangmau*, 4 N.M.I.  
227, 233 (1995). The Ninth Circuit has found the purpose of a bill of particulars to be threefold: (1)  
to reduce surprise; (2) to enable adequate trial preparation; and (c) to protect the defendant against

1 being placed in double jeopardy. *United States v. Long*, 706 F.2d 1044, 1054 (9th Cir. 1983) (citation  
2 omitted); *United States v. Giese*, 597 F.2d 1170, 1180-81 (9th Cir.) (defendant not entitled to “the  
3 ‘when, where, and how’ of every act in furtherance of a conspiracy charge”) (citation omitted), *cert.*  
4 *denied*, 444 U.S. 979 (1979). Moreover, full discovery of the case will “obviate the need for a bill of  
5 particulars.” *Giese* 597 F.2d at 1180. On its face, Rule 7(c)(1) requires little more than a “plain  
6 statement... of essential facts constituting the offense.” Thus, the Commonwealth need only to provide  
7 Defendant with those facts that satisfy the essential elements of the underlying offense. Here, by  
8 statute, a person is guilty of unlawfully employing an alien if he (1) knowingly employs an alien; (2)  
9 within the Commonwealth, and (3) while knowing that the alien does not have lawful documentation  
10 and authority to be so employed. The information in this case has provided those required essential  
11 facts in its description which specifically lists who was illegally employed, where the employment took  
12 place, and approximately when the employment took place.

13 Defendant nevertheless demands that a more specific statement regarding the facts underlying  
14 the second and third elements listed *supra*. However, the Commonwealth, by Rule, need not bare their  
15 entire theory of the case for the defense at the outset of trial. As noted above, further discovery  
16 exchanges will help to ameliorate any problems arising from the factual gaps in the Information.

17 **III. CONCLUSION**

18 In conclusion, the Commonwealth has provided Defendants with a sufficient notice of the  
19 charges to prepare an adequate defense and further discovery will likely obviate any need for a Bill of  
20 Particulars. For the foregoing reasons, Defendant’s Motion for a Bill of Particulars is DENIED.

21  
22 So ORDERED this 17th day of January 2006.

23  
24 /s/  
David A. Wiseman, Associate Judge