

Ineffectiveness of the Counsel

The Sixth Amendment guarantee of the counsel's assistance necessary to justify reliance on the outcome of proceeding. The United States Supreme Court held that when an attorney's deficient performance cost defendant an appeal that the defendant would have otherwise pursued, Prejudice to the defendant should be presumed with no further showing from the defendant of the merit of his underlying claims. The presumption of Prejudice also applies to the failure of the defense counsel to carry out the defendant's requests to appeal regardless of whether the defendant has signed an appeal waiver - *Garza v. Idaho*, 139 S. Ct. 738, 203 L. Ed. 2d 77 (2019).

The Petitioner do not have Constitutional right to hybrid representation - *United States v. Ogbonna*, 184 F.3d 447 n.1 (5th Cir. 1999) that the Petitioner would have otherwise pursue or explore a successful defense motions. The counsel's deficient performance has cost the Petitioner an appeal or motion that the Petitioner would have otherwise pursued.

DENIAL OF ACCESS - TO - COURT

Supreme Court in Bounds v. Smith held Prisoners have Constitutional right of access to the Court. In Lewis v. Casey, the Supreme Court restricted the access-to-courts right in two important ways. First, an incarcerated person alleging a denial of access-to-courts must show "actual injury", meaning the incarcerated person must "demonstrate that the shortcomings in legal assistance hindered his effort to pursue legal claim". Second, only certain types of claim - direct or collateral attacks on a sentence and challenging conditions of confinement - can support an access-to-courts injury.

The Petitioner notified the counsel of his decommission and the court on January 29th, 2024. The counsel refused to withdraw and the court denied the Petitioner's request to dismiss counsel and represent himself - Dkt # 185. The court denied the Petitioner's request to dismiss counsel without hearing. The Petitioner's writ was also denied without notice - Dkt # 182.

The act of the counsel and the trial court hindered the petitioner from pursue legal claims, and denied petitioner of access-to-court under the first and fourteenth amendment, Prejudice and in violation of the Sixth amendment and an injury to the petitioner.

IMMUNITY

The Petitioner is a Technology Solution Architect, Software Developer, Process Automation Developer, Network Automation Developer, Creator and/or Developer of Information provided through the Internet or any other interactive computer services.
47 U.S.C § 230(f)(3)

Section 230 of the Communications Decency Act "immunizes providers of interactive computer services against liability arising from content created by third party" - Fair Hous. Council of San Fernando Valley v. Roomates.com, LLC, 521 f. 3d 1157, 1162, 1162 (9th Cir. 2008).

Petitioner is immunize from the use of testimonies, as well as from the use of any evidence derive from the testimonies and discovery as a result of interactive computer services.

~~REDACTED~~

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PRETRIAL DETENTION PUNISHMENT

"[I]n our society liberty is the norm, and detention prior to trial is the carefully limited exception" - United States v. Salemo, 481 U.S. 739, 755, 107 Ct. 2095, 95 L. Ed. 2d 697 (1987). That exception is to be invoked "only for the strongest of reasons" - Sellers v. United States, 895 F.2d 36, 38, 21 L. Ed. 2d 64 (1989). (Black, J., in chambers)

Courts have succinctly observed "[P]ersons are sent to prison as punishment, not for punishment" - Gorden v. Faber, 800 F. Supp. 797, 800 (N.D. Iowa 1992) (quotation omitted) aff'd, 973 F.2d 686 (8th Cir. 1992). "Being violently assaulted in prison is simply not part of the penalty that criminal offenders pay for their offenses against society" - Farmer v. Brennan, 511 U.S. 825, 834, 114 S. 1970 128 L. Ed. 2d 811 (1994)

The Petitioner's pretrial release was revoked for no contact violation pretrial release condition, a public comment and in violation of the first amendment. On April 1st, 2024 after been continuously detained for over six months in violation of 70-days and 90-days speedy trial ACT, between the hours of 00:00 AM and 03:00 AM while housed in Pod B7 in the Fannin County Detention Center Sherman Texas, the Petitioner was in bed when he was assaulted and escaped murder attempt by another inmate. The Petitioner sustained injury and was deprived of personal items after

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assault by another inmate and the deprived of personal items among which are the Petitioner's prescription glasses, food, cloths, is in violation of due process

USCS SEC. 2254 CASES R 4 VIOLATION

The { Petitioner| Appealant| Applicant| Defendant| Movant} Writ of Habeas Corpus entered on 01/26/2024 Dkt. #182 was denied on 02/14/2024 Dkt. #196. In violation of USCS Sec. 2254 Cases R 4, preliminary review; serving the { Petitioner| Appealant| Applicant| Defendant| Movant} and order, the United State District Court, Eastern District did not direct the ~~clerk~~ to notify the { Petitioner| Appealant| Applicant| Defendant| Movant} nor the { Petitioner| Appealant| Applicant| Defendant| Movant} was notified.

LACK OF JURISDICTION

The force statutory construction and language of the charge in this indictment is not an offense under the law and under the particular statute charged in this indictment.

It is unconstitutional for the prosecutor to forcefully amend [statute] with intentional omission and charge the { Petitioner| Appealant| Applicant| Defendant| Movant} of the crime under the forced amended unconstitutional [statute], as it defeted the intent of the congress as shown in this indictment.

This indictment charges "did knowingly and willfully conspire and agree to violate 18 U.S.C §1343, wire, that is to [transmit and cause to be transmitted] by [wire communication] in [interstate and foreign commerce] any [writings, signs, signals, pictures, and sounds for the purpose of executing the [scheme and artifice] to [defraud and for obtaining money and property] by means of [false and fraudulent pretenses, representation, and promises]]", the statutory language and clause is not an offense under the federal law.

The congress statutory language "did knowingly and willfully conspire and agree to violate 18 U.S.C §1343, wire, that is to [transmit] OR [cause to be transmitted] by [wire communication] in [interstate] OR [foreign commerce] any [writings, signs, signals, PICTURES] OR [writings, signs, signals, SOUNDS] for the purpose of executing the [scheme] OR [artifice] to [defraud] OR [for obtaining money] OR [for obtaining property] by means of [false] OR [fraudulent pretenses, REPRESENTATION] OR [fraudulent pretenses, PROMISES]", which is an offense under the federal law.

Therefore, "...to transmit AND cause to be transmitted by means of wire communication in interstate AND foreign commerce any writings, signs, signals, pictures, AND sounds for the purpose of executing a scheme AND artifice to defraud AND for obtaining money AND property by means of false AND fraudulent pretenses representation, AND promises" is not an offense under the law and under the particular statute.

The "AND" clause in this indictment is not the intent of the congress, a duplicity, and a force construction and manupulation of the statutory construction and language of 18 U.S.C §1343 raised a subject-matter jurisdiction-18 U.S.C §3231.

The alleged conduct of { Petitioner| Appealant| Applicant| Defendant| Movant} in this indictment did not violate the particular status under which they are charged, this indictment fail to allege a federal offense-United Stated V. Steward Case 2-88-26-26, 727 F supp. 1068(5th Cir. 1989).

When a jury charge allows the jury "to convict on an alternative basis permitted by the statute but not charged in the indictment", there has been an unconstitutional constructive amendment to the indictment-

United States V. Brocednaax, 601 F. 3d 336,340(5th Cir. 2010) as it imply to this indictment, the { Petitioner| []Appealant| []Applicant| []Defendant| []Movant} can only be convicted of a charge for which he was indicted, this indictment fail to allege a federal offense.

The district courts of the United States do not have jurisdiction over the charged offense in the count one of the indictment, because "The district courts of the United States shall have original jurisdiction, exclusive of the courts of the states, of all offenses against the laws of the United States. Nothing in this title shall be held to take away or impair the jurisdiction of the courts of several states under the laws thereof"-18 U.S.C §3231, the offense charge in this indictment is not the laws of the United States and not a federal offense.

The Federal courts of the United States do not have jurisdiction over the charged offense in the count one of this indictment, because the Federal courts are courts of limited jurisdiction. They posses only that power authorized by constitution and statute, which is not to be expanded by judicial decree. It is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rest upon the party asserting jurisdiction"-Kokkonen V. Guardian life ins. Co. of AM., 511 U.S. 375, 377, 114 S. Ct. 1673, 128,L.Ed. 2d 391,(1994)
(citations omitted).

Federal Rule of Civil procedure 12(b)(1) permits a court to dismiss a claim for "lack of subject-matter-jurisdiction" such as the count one of this indictment. Federal Rule of Civil Procedure 12(b)(1),Federal Rule of Civil Procedure 12(b)(6) permits dismissal for "failure to state a claim upon which relief can be granted" such as the count one of this indictment, Federal Rule of Civil Procedure 12(b)(6) A district court's dismissal for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) is proper if there is a lack of a cognizable legal theory or the absence of sufficient facts alleged under a cognizable legal theory such as the count one of this indictment-*Conservation force V Salazar*,646 f. 3d 1240,1242(9th Cir.2011)(quoting *Balisteri V. Pacifica Police Dep't*,901 f. 2d 696,699(9th Cir. 1988)).

Fig USC001-18 U.S.C §1343 Congress Version flow chart, Fig USC002-18 U.S.C §1343 this indictment Amended Version Flow chart, Fig USC003-18 U.S.C §1343 Congress version graphical view and Fig USC004-18 U.S.C §1343 this indictment Amended version graphical view, ~~clearly~~ clearly distinguished the differences and the failure to pursue the intent of the congress in this indictment, Duplicity, Multiplicity, Double Jeoperdy, Failure to state essential element, and lack of jurisdiction.

The graphical view of the forced amended procedural misconduct and unconstitutional statute of 18 U.S.C §1343-Fig USC001-18 U.S.C §1343 Congress Version flow chart, Fig USC002-18 U.S.C §1343 this indictment

Amended Version Flow chart, Fig USC003-18 U.S.C §1343 Congress version graphical view and Fig USC004-18 U.S.C §1343 this indictment Amended version graphical view, charged in this indictment does not signify the intention of the congress neither anywhere closer, but rather raise a subject-matter-jurisdiction and ~~and~~ the charge in this indictment is not under the particular status charged under the Federal law nor state a claim upon which relief can be granted.

Paragraph 22 of this indictment alleged that, "Base on these material misrepresentation, the SBA, and other financial institutions on behalf of the SBA, approved and issued loan to the defendants".

"if the 18 U.S.C §1343 violation affected financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years or both."

This indictment penalty for conspiracy to commit wire fraud by "did knowingly and willfully conspire and agree to violate 18 U.S.C §1343" penalty on page 22 of the indictment, state that "A fine of \$250,000, or twice the pecuniary gain to the

{ Petitioner| []Appealant| []Applicant| []Defendant| []Movant} or loss of the victim(s), whichever is greater; imprisonment for not more than 20 years; and a term of supervised released of not more than 3 years"

This indictment penalty on page 22 , raised a subject matter jurisdiction-18 U.S.C §3231 which can be raise at anytime, and it can not be waived by the

{ Petitioner| []Appealant| []Applicant| []Defendant| []Movant}-Fed R. Crim. P.12(b)(2). The penalty does not address financial institution.

In considering jurisdiction over the alleged offense, this indictment failed to state the statutory claim or penalty and this indictment fails to allege a Federal Offense-18 U.S.C §3231 because Paragraph 22 of this indictment allegation clamied the violation affected financial institution, and the penalty is for non financial institution.

The alleged manner and Means by which the defendants and the { Petitioner| []Appealant| []Applicant| []Defendant| []Movant} south to accomplish the purpose of the conspiracy stated on paragraph 24 of the indictment do not state that the

{ Petitioner| []Appealant| []Applicant| []Defendant| []Movant} "did knowingly and willfully conspire and agree to violate 18 U.S.C §1343" which is the essential element of the offense charged, this raised a subject matter jurisdiction-18 U.S.C §3231 which can be raise at anytime, and it can not be waived by the

{ Petitioner| []Appealant| []Applicant| []Defendant| []Movant}-Fed R. Crim. P.12(b)(2).

This paragraph stated the alleged manner and means each defendant sought and not conspired or agree to seek as a "group" and not an act of conspiracy.

or separately

Each defendant can at any time singly ~~or~~ seek the manner and means without involving another party as a single entity element as suppose to conspiracy or agreement which requires two or more people.

The manner and means did not state the defendants and { Petitioner| Appealant| Applicant| Defendant| Movant} joint venture as "did *knowingly and willfully conspire and agree*".

In considering jurisdiction over the alleged offense, the court should be mindful of the supreme court's admonition that conferring criminal jurisdiction on the United States courts should not be given a strained or force construction.

This indictment does not alleged an offense Under Federal Law and consequently lacks subject matter jurisdiction to trial-Thos V. United States, 554 F. 2d, 759, 762 (5th Cir. 1977).

The conduct of the { Petitioner| Appealant| Applicant| Defendant| Movant} and the defendants did not violate the particular status under which they are charged, this indictment fails to allege a Federal Offense-18 U.S.C §3231.

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PUERTO RICO LAW-UNJUST ENRICHMENT

The { Petitioner| Appealant| Applicant| Defendant| Movant}, did not execute any agreement with any of the Co-defendant in his personal capacity.

"[I]t is well-settled under Puerto Rico Law that governs the dispute at issue"-Montaivo V. LTs Benjamin Reas, Inc. 56 F. Supp. 3d 121 137 (D.P.R. 2014)(citing Puerto Rico Tel. Co. V. SprintCom, Inc., 662 F. 3d 74, 97(1st Cir. 2011).

To prove unjust enrichment under Puerto Rico Law, the government must prove "(1) existance of enrichment; (2) a correlative loss; (3) nexus between loss and enrichment; (4) lack of cause for enrichment; and (5) absence of legal precept excluding application of enrichment without cause"-Montalvo, 56 F. Supp. 3d at 136(citing Hatton V. Municipality of Ponce, 134 D.P.R 1001,1010,1994 Juris P.R. 2(1994).

In this indictment, the government enrichment claim fails because another legal precept applies-the Agreement-Puntalima, LLC V. Punta Lima Dev. Co, 440 F. Supp. 3d 130, 151(D.P.R. 2020).("As is evident in the doctrine's Fifth element, a contract governing the dispute as issue renders the unjust enrichment doctrine inapplicable").

Further, the agreement governs the issues in dispute, including the Bank and Cashier Checks payments to corporation with the memo detailing the purpose of the payment as a mutual contract between two businesses.

Therefore "the doctrine of unjust enrichment does not apply because the existance of a contract is intended to govern the dispute at hand"-Winnie V. Hilton Worldwide Holdings Inc., No. CV19-1859,2020 U.S. Dist. LEXIS 192498,2020 WL 6021537, at *6(D.P.R. Aug. 12 2020).

Moreover, the government pleads no specific facts above the speculative level indicating that the { Petitioner| Appealant| Applicant| Defendant| Movant} was unjustly enriched in his individual capacity. Specifically, the government claimed only that the Co-defendants paid bello Company and bello is being unjustly enriched; but nothing in the government allegation specifically allege that the { Petitioner| Appealant| Applicant| Defendant| Movant} himself was unjustly enriched. Instead, the fifth clause in the agreement on the payments specifies that [t]he payments was made to and in the name of [corporation].

Therefore, the government fails to prove that an enrichment existed toward the { Petitioner| Appealant| Applicant| Defendant| Movant} personally.

Finally, to allow the government to proceed in the unjust enrichment claim would effectively provide the government with a backdoor to

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pierce the corporate veil and frustrate the principles regarding limited liability and corporation.

While the { Petitioner| Appealant| Applicant| Defendant| Movant} has not cited any precedent from the state courts of the commonwealth of Puerto Rico addressing this matter specifically, other courts have persuasively held that an unjust enrichment claim should not be used to circumvent the corporate veil, especially when the government has failed to prove that it conferred a benefit on the owner personally---- QVC, Inc. V. OurHouseworks LLC, 649 F. App'x 223, 228 (3rd Cir. 2016).

("[Plaintiff] cannot use the equitable remedy to unjust enrichment to circumvent state veil ^{protecting} requirements and recover [damages] that it would otherwise be forced to seek from [company] in standard breach-of-contract action")-Methameccanica del Tieberina V. Kelleher, No. 04-2567, 2005 U.S. App. LEXIS 23946, 2005 WL 29018994, at *4 (4th Cir. Nov. 4. 2005) (holding that the plaintiff may levy an unjust enrichment claim against a company but not its owner without first piecing the corporate veil (emphasis added)); equitas Disability Advocs., LLC V. Bryant 134 F. Supp. 3d 209, 222 (D.D.C. 2015). ("D.C. courts have agreed the theory of unjust enrichment should not be expanded to serve as a roundabout way of disregarding the principles of limited liability"- Hettinger V. Kleinman, 733 F. Supp. 2d 421, 445 (S.D.N.Y. 2010) ("Because Plaintiff do not allege that the Corporate veil should be ~~pieced~~ ^{pieced} with respect to the [company] there is no basis to conclude that [Plaintiff]...conferred a Personal benefit on the [owner]. [Plaintiff] cannot therefore, recover from [owner] under unjust enrichment theory".

Accordingly, the government has failed to state an unjust enrichment claim against the { Petitioner| Appealant| Applicant| Defendant| Movant}, and therefore this claim should be dismissed with prejudice.

UNLAWFULLY AND UNJUSTLY ENRICH ALLEGATION ~~DISMISSAL~~

Paragraph 21 alleged the

{[&Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} to unlawfully and unjustly enrich themselves by obtaining PPP and EIDL loan proceed. La. C. C. Art. 2298 provides a cause of action against "[a] person who has been enriched without cause at the expense of another person" when the law provides no other remedy or does not declare a contrary rule. Cases interpreting Art. 2298 enumerate five elements that the government must prove by a preponderance of the evidence: (1) an enrichment; (2) an impoverishment; (3) a connection between the enrichment[2022 U.S. Dist. LEXIS 11] and the impoverishment; (4) an absence of cause or justification for the enrichment and impoverishment; and (5) no other remedy at law-USA Disaster Recovery, Inc. v. St. Tammany Parish Government, 145 So. 3d 235, n. 1 (La. 2013) (citing Edwards v. Conforto, 636 So. 2d 901 (La. 1993)), Minyard v. Curtis Products, Inc., 251 LA. 624, 205 So. 2d 422 (La. 1967).

Courts have agreed the theory of unjust enrichment should not expanded to serve as a roundabout way of disregarding the principles of limited liability-Hettinger V. Kleinman, 733 F. Sup. 2d 421,445(S.D.N.Y 2010).

The {[&Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} seeks dismissal of the government's unjust enrichment allegation based on the availability of other remedies at law.

The {[&Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant}'s asks this Court to take judicial notice of HOA's status with the Louisiana Secretary of State's business registry, in which HOA is listed as a "nonprofit corporation." La. R.S. 12:226(A) charges officers and directors of nonprofit corporations with a fiduciary duty to the corporation and its members, instructing that such officers and directors "discharge the duties of their respective positions in good faith, and with that diligence, care, judgment and skill which ordinarily prudent men would exercise under similar circumstances in like positions." Section 226(A) provides a cause of action against an officer or director of a nonprofit corporation for breach of fiduciary duty. Mary v. Lupin Foundation, 609 So. 2d 184, 188 (La. 1992). Accordingly, at least one other remedy is provided under the law.

This Court should notes that Louisiana law is settled in its view that the fact that the government does not successfully pursue another available remedy does not make such remedy "unavailable" as it relates to unjust enrichment. Walters v. MedSouth Record Mgmt., LLC, 38 So. 3d 243, 244 (La. 2010).

Paragraph 32 of the indictment-".would not have been possible", the fact that the corpoation does not successfully pursue another available remedy does not make such remedy "unavailable"

DISGORGEMENT

Disgorgement, "is a method of forcing a ~~defendant~~ to give up the amount by which he was unjustly enriched"-SEC V. Commonwealth Chem. Secs., Inc., 574 f.2d 90,102 (2d Cir. 1978). In seeking disgorgement, the government must provide the court with evidence of specific profit subject to disgorgement-Sec S.E.C.V. Jones, 476 f. Supp. 2d 374,386 (S.D.N.Y. 2007). "The principle issue...in determining the amount of disgorgement to be ordered is the amount of gain received by the {~~N~~Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} from the fraud"-S.E.C.V Inorganic recycling Corp., No. 99 Civ. 10159 (GEL), 2002 U.S. Dist. LEXIS 15817, 2002 WL 1968341, at *2 (S.D.N.Y. Aug. 23, 2002). "The SEC bears the ultimate burden of persuasion that its disgorgement figure reasonable approximates the amount of unjust enrichment"-S.E.C.V Opulentical, LLC. 479 f. Supp. 2d 319,330 (S.D.N.Y. 2007).

The indictment clearly states that the purpose of the conspiracy was for the {~~N~~Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} to unlawfully and unjustly enrich himself. Paragraph 39 clarifies the following:

- a. "...made payable to Bello's company...", "...cashier's check payable to Ajide..."-paragraph 36.
- b. "...check to Ajide..."-Paragraph 39(a), (c), (d), (e), (g), (i), (j).
- c. "...check to Bello's wife..."-Paragraph 39(b),
- d. "...payable to Smooth Multi-Platform..."-Paragraph 39 (f).
- e. "...payable to Smooth Multi-Services Platform..."-Paragraph 39(k), and
- f. "...check to Bello..."-Paragraph 39(h), all payee are defined as Bello in paragraph 39 header - "Additional PPP loans that paid 22-32% to Bello

This indictment fails disgorgement test by unlawfully forcing and punishing the {~~N~~Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} to give up the amount by which he was unjustly enriched, while this indictment further fails to state that the {~~N~~Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} unlawfully and unjustly enrich himself-Fig 201.

SUPPRESSION OF EVIDENCE

The

{ Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} person and his house were searched on June 21, 2023, after the { Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} invoked his right to the counsel, the federal officer compelled the { Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant} to unlock his cell phones and computers and produce his login password, all in violation of the { Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} fifth and fourteenth amendment to the United States constitution, provides that no person shall be compelled in any criminal case to be a witness against himself.

This act is procedural misconduct, improper and prejucially affect the { Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} substantial right to the fifth and fourteenth amendment -United States V. Gonzale, 122 f.3d 1383, 1389 (11th Cir. 1997).

The

{ Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} person and his residence were searched as a result of force entry in violation of 18 U.S.C §3109.

After the

{ Petitioner|[]}{ Petitioner|[]Appealant|[]Applicant|[]Defendant|[]Movant|[]Applicant|[]Defendant|[]Movant} unlock the front-door, within the reaonable time, with his two hands up, the federal agent engaged force entry and broke the door.

The

{ Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} person and his residence were searched and the car Title for the Dodge RAM 1500 was intentionallly omitted. Paragraph 49 of this indictment alleged the Title was in Ajide Technology Corporation and { Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} name.

The truth is, it was Ajide Technology Corporation truck, purchased by Ajide Technology Corporation and for Ajide Corporation's operation and the Car Title is 100% in Ajide Technology Corporation's name.

This is an exculpatory and government impeachment evidence and a prove of grand jury false testimony to secure the { Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} indictment.

The

{ Petitioner's|[]Appealant's|[]Applicant's|[]Defendant's|[]Movant's} person and his residence were searched on or about June 21, 2023, and

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the following "Probable cause" computer and electronics devices were intentionally omitted and not seized:

- a. Computer System Servers
- b. Data center Network equipments
- c. Cloud Storage Network Drive
- d. Television Station production room equipments for IPTV and media broacast
- e. Laptops

all of the above omitted electronics devices and appliances are information content provider equipments, owned by different companies accross the globe,that co-located or house those equipments and devices at the

{ Petitioner's| Appealant's| Applicant's| Defendant's| Movant's} residence for the purpose of global interactive computer services and solutions using the
{ Petitioner's| Appealant's| Applicant's| Defendant's| Movant's} residence as a mini remote Data center.

All the knowingly and international omitted computer and electronics devices are materials to the probable cause determination and the omission violate the deu process and prejudice to the
{ Petitioner| Appealant| Applicant| Defendant| Movant}.

The above search of both the person and the residence was therefore illegal and all fruits of such Illegal search must be suppressed.

That the arrest incident to such was illegal and therefore all other statements and evidence gathered as a result of such illegal arrest must necessarily be suppressed.

70-DAYS SPEEDY TRIAL VIOLATION

The Petitioner Was arrested on 06/21/2023 and Made an initial appearance and arraignment on 06/22/2023.

As of 09/02/2023, the 70-days has elapsed on the Speedy Trial Clock, because the order to Continue entered and granted on 07/17/2023 was without the Petitioner's Consent and the Court did not set forth, either orally or in writing, its reason for finding that the ends of Justice were required to exclude the time from 07/17/2023 to 09/02/2023 from the speedy trial clock. Even if the reasons were set forth, the ends of Justice were not satisfied.

The court must find that ends of Justice are met to exclude such time from the speedy trial clock - Zedner v. United States, 547 U.S. 489, 500, 126 S. Ct 1976, 164 L. Ed. 2d 749 (2006).

To grant an "ends of Justice" continuance, the continuance must be (1) "specifically limited in time", and (2) "justify [on the record] with reference to the facts as the time the delay is ordered" - Jordan, 915 F. 2d at 565-66.

In *Lloyd*, the Ninth Circuit found a violation of a defendant's speedy trial rights because (1) the district court simply recited a scheduling conflict on a single day as a basis for the continuance, (2) the district court conducted no independent inquiry and made no attempt to verify statements made by one counsel about other counsels' schedules; and (3) the district court did not determine whether any scheduling conflicts that did exist could be resolved without unduly delaying trial - 125 F. 3d at 1269. Similarly, here, the court did not conduct further inquiry or analysis into whether the five-months continuance was necessary and the court did not analyze the ends of justice factor under 18 U.S.C. § 3161(h)(7)(B), the time that elapsed from 07/17/2023 until 12/12/2023, during the continuance arguable should not be excluded from the speedy trial clock. The court did not set forth the reasons for its finding clearly, violation of the ~~defendant's~~ petitioner's speedy trial rights and Sixth Amendment Right to speedy trial and the due process. Because the ends-of-justice provision under § 3161(h)(7) requires consideration of the petitioner's interest in speedy trial, a detained petitioner's status must be considered before a continuance of trial is granted, the ends-of-justice granted continuance on 12/12/2023 violate the petitioner's due process.

90-DAYS SPEEDY TRIAL ACT VIOLATION

The {Petitioner|Appealant|Applicant|Defendant|Movant} was arrested on 08/16/2023, which set the begining clock of the 90-days continuous detention speedy trial act-18 U.S.C §3164(b).

The {Petitioner's|Appealant's|Applicant's|Defendant's|Movant's} counsel unopposed motion to continue trial was entered on 12/11/2023, 115 days of the {Petitioner's|Appealant's|Applicant's|Defendant's|Movant's} continuous detention and the delay was "throug no fault of the accused or his counsel". Failure to timely commence the trial of a detainee, through no fault of the defendant or his counsel, "shall result in the automatic review by the court of the condition of release.

From the time of the {Petitioner's|Appealant's|Applicant's|Defendant's|Movant's} arrest to the date of this {appeal|move|motion|request}, the {Petitioner|Appealant|Applicant|Defendant|Movant} has been continuously incarcerated for 206 days. Over 206 days

Between the time of the {Petitioner's|Appealant's|Applicant's|Defendant's|Movant's} arrest to the date of the counsel request continuance in violation of 18 U.S.C §3161, is 115 days.

The {Petitioner|Appealant|Applicant|Defendant|Movant} has been sitting in the Fannin County Detention Center in Bonham Texas awaiting trial for 206 days. Over 206 days

The time period between 8/16/2023 and 12/11/2023 in violation of 90-days speedy trial act as defined by 18 U.S.C §3161(h), the clear language of 18 U.S.C §3164 requires that an order of release must be issue from this court-United States V. Gates, 935 F. 2d 187, 188(11th Cir. 1991)(Citing United States V. Tirasso, 532 F. 2d 1298, 1299-1300(9th Cir. 1976); United States V. Valencia-Gamboa,2021 Case No. 8:21-CR-121-CEH-JSS.

RECORDED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION
101 East Pecan
Sherman, Texas 75090
903-892-2921

March 18, 2024

Re: United States v. Olamide Olatayo Bello
Case No. 4:23-cr-136

Mr. Bello:

We are returning your document to you. Please refer to document 196, Order denying motions.

Thank you.

Deputy Clerk

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA §
§
VS. § CASE NUMBER 4:23CR136
§
OLAMIDE OLATAYO BELLO (1) §

ORDER DENYING MOTIONS

Before the Court are multiple *Pro Se* pending motions, as follows: Dkt. #174 *Pro Se* Motion to Compel the Production of Excludable Time Periods and Reasons, Dkt. #182 *Pro Se* Application for Writ of Habeas Corpus by Olamide Olatayo Bellow, Dkt. #185 *Pro Se* Motion to Dismiss Counsel, *Pro Se* Motion Requesting Affidavit of Search Warrant, Dkt. #186 *Pro Se* Motion Requesting Affidavit of Search Warrant, Dkt. #187 *Pro Se* Motion to Reconsider or Reopen a Detention Hearing, Dkt. #188 *Pro Se* Motion to Compel Discovery of Exculpatory Evidence, Dkt. #189 *Pro Se* Motion for Access to Grand Jury Minutes and Testimony, Dkt. #190 *Pro Se* Motion for Notice of Government's Intent to Use, Dkt. #191 *Pro Se* Motion to Compel Immunity, Dkt. #192 *Pro Se* Motion to Compel On-Site Inspection, Dkt. #193 *Pro Se* Motion to Reconsider Suppression of Evidence, Dkt. #194 *Pro Se* Motion to Revoke Pre-Trial Detention Order, Dkt. #195 *Pro Se* Motion to Strike Surplusage. Even though Defendant Bello is represented by retained counsel, he has filed these motions *Pro Se*. Because Bello is represented by counsel, these motions cannot be accepted for filing, and therefore will be stricken from the record. Having considered the Motions, the Court is of the opinion that said motion should be **DENIED**.

On September 7, 2023, an Unopposed Motion to Substitute Attorney was filed requesting the Court substitute for retained counsel, Mark Watson. The Court granted the request and entered an order on September 8, 2023 (Dkt. #142). Since that time, Mark Watson has consistently

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represented Bello and has not withdrawn as counsel. Bello cannot simultaneously proceed *pro se*. Bello does not have a “constitutional right to hybrid representation.” United States v. Ogbonna, 184 F.3d 447, 449 n.1 (5th Cir. 1999) (citation omitted). Therefore, the Court will not accept Bello’s pro se motion for filing in this case. See, e.g., United States v. Alvarado, 321 F.App’x 399, 400 (5th Cir. 2009) (per curiam) (“Because Alvarado was represented by counsel in the district court, he was not entitled to file a pro se motion on his own behalf.”); United States v. Ruston, No. 3:04-CR-191, 2006 WL 8441626, at *2 (N.D. Tex. July 24, 2006) (declining to accept pro se documents where defendant was represented by counsel).

It is therefore **ORDERED** that Defendant’s *Pro Se* Motions (Dkts. 174, 182, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195) are **DENIED**.

IT IS SO ORDERED.

SIGNED this 14th day of February, 2024.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE

*United States Court of Appeals*FIFTH CIRCUIT
OFFICE OF THE CLERKLYLE W. CAYCE
CLERKTEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

January 23, 2024

Mr. Olamide Olatayo Bello #65100510
Fannin County Jail
2389 Silo Road
Bonham, TX 75418

Dear Mr. Bello,

I am returning your petition, complaint or other papers for the following reason(s):

We do not accept original petitions for habeas corpus. File your petition with the appropriate U.S. District Court. You must exhaust all available state remedies, as well. You may request habeas corpus forms from the U.S. District Court.

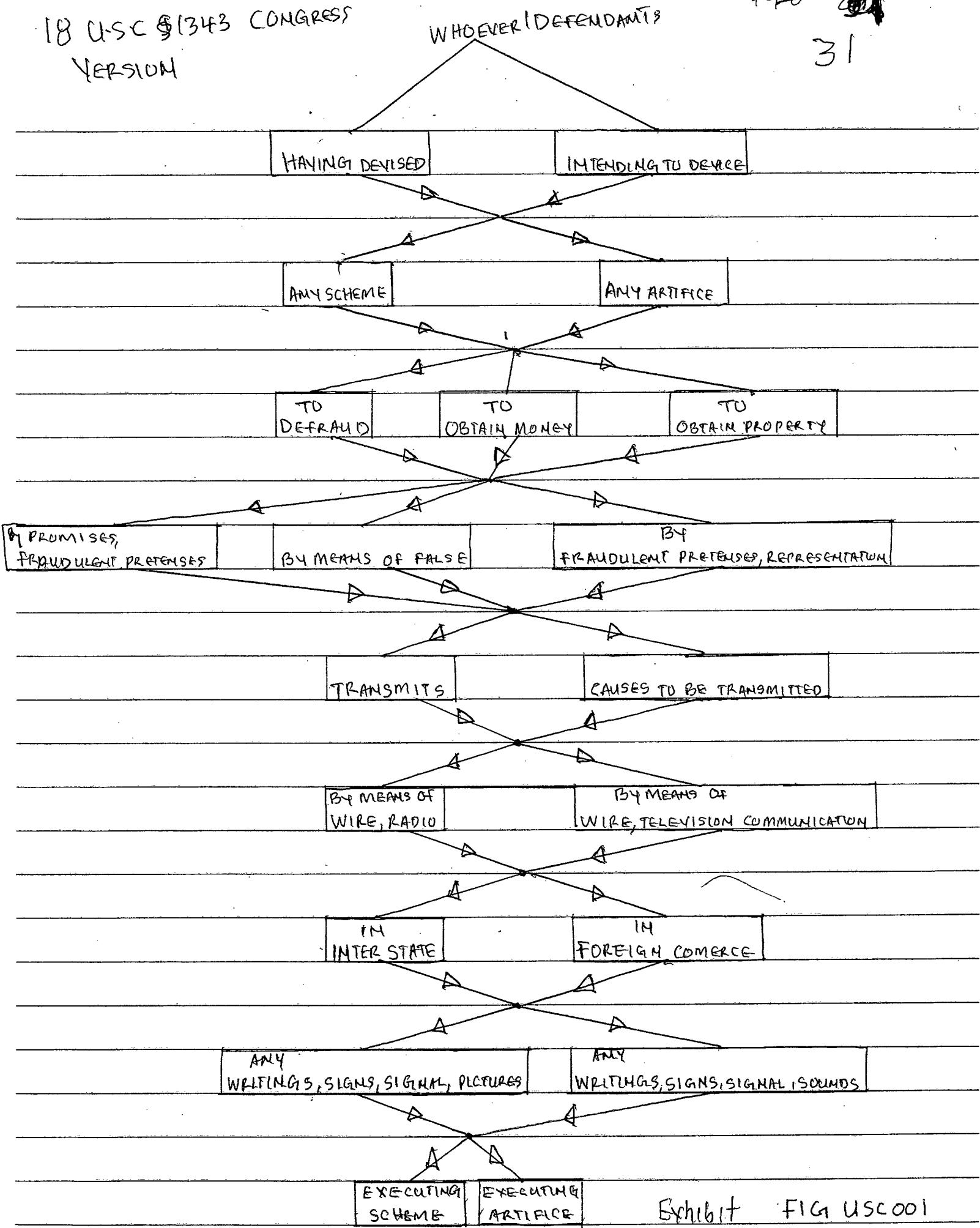
Sincerely,

LYLE W. CAYCE, Clerk



By: Monica R. Washington, Deputy Clerk
504-310-7705

Enclosure(s)



18 U.S.C § 1343 AMENDED INDICTED VERSION

WHOEVER (DEFENDANTS)



ANY SCHEME AND ARTIFICE



TO DEFRAUD, OBTAIN MONEY AND PROPERTY



TO TRANSMIT AND CAUSE TO BE TRANSMITTED



BY MEANS OF WIRE COMMUNICATION



IN INTERSTATE AND FOREIGN COMMERCE



BY WRITINGS, SIGNS, SIGNALS, PICTURES, AND SOUNDS

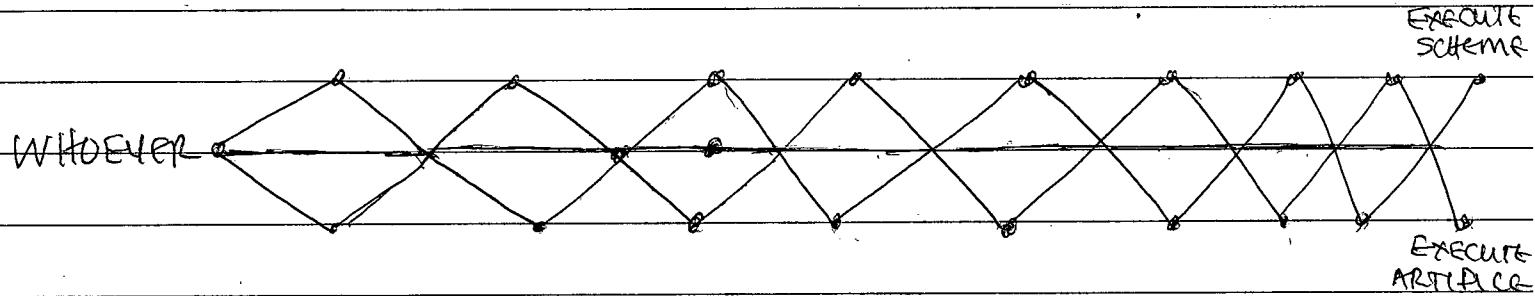


TO EXECUTE THE SCHEME AND ARTIFICE

FLA USC 02

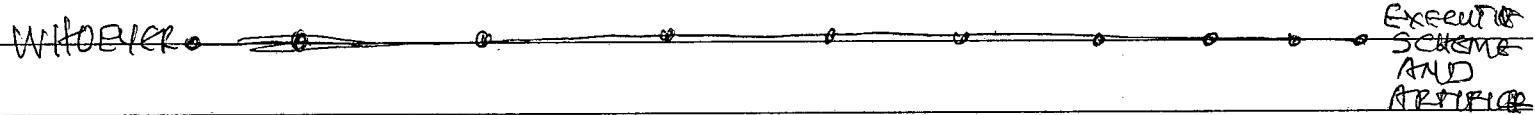
33

COMPARE 18 U.S.C § 1343 - CONGRESS VERSION TO INDICTED VERSION



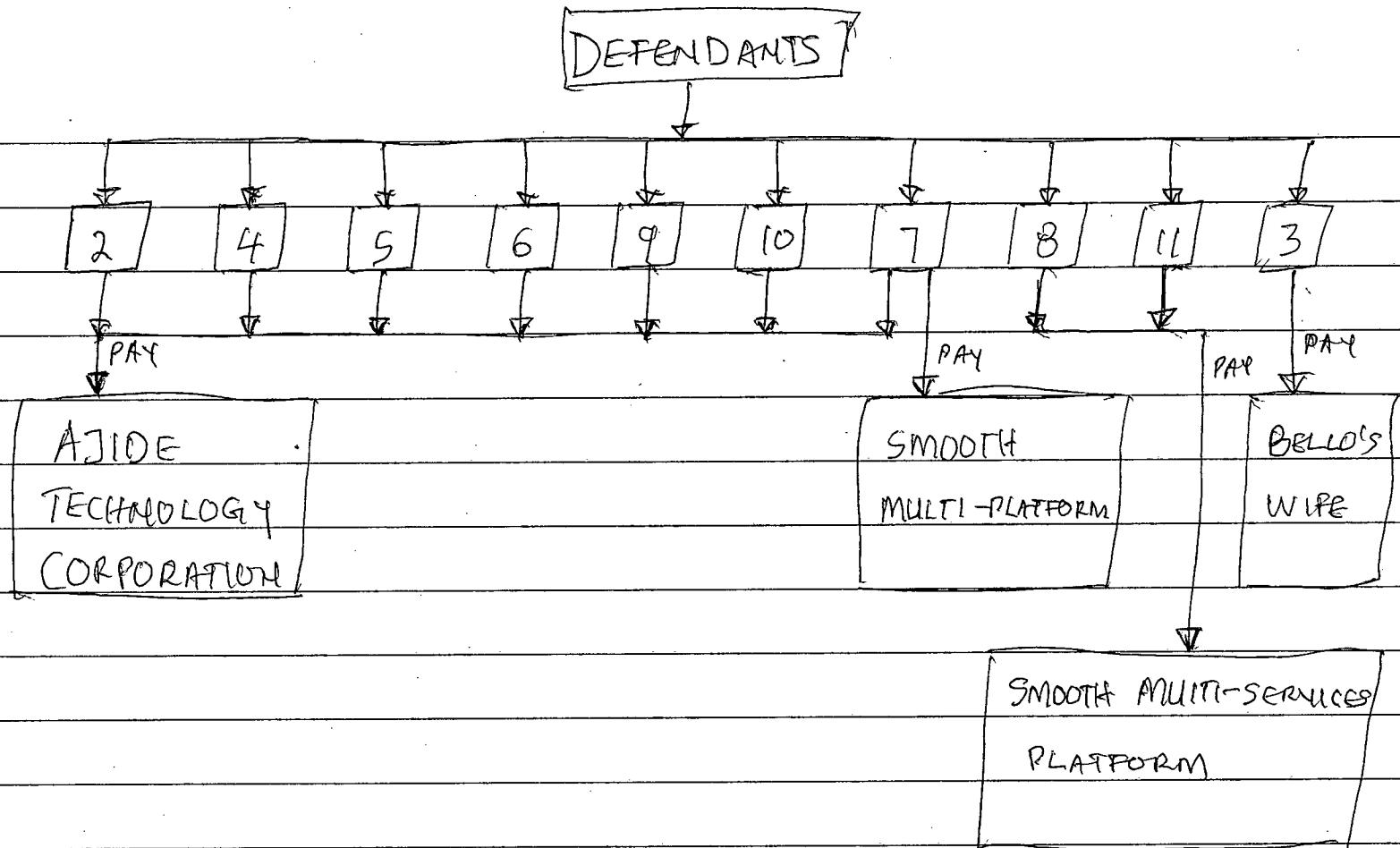
18 U.S.C. § 1343 CONGRESS INTENTION

FIG USC 003



AMENDED STATUTE CHARGED IN THE INDICTMENT
IN REFERENCE TO 18 U.S.C. § 1343

FIG USC 004

KEYS

- 2 — OLABODE THOMAS AJIBOLA
- 3 — DAMOLA YUSUF FASORITI
- 4 — KEHINDE SUNDAY ITOLA
- 5 — BRIGHT NNAMDI UNADILEKE
- 6 — VICTOR CHIBUIKE MWAKA
- 7 — JUSTICE NZUBA OGUEJI
- 8 — NNAEMEKA EMMANUEL OGUEJI
- 9 — ABDULRAHMAN OLAYINKA SALAUDEEN
- 10 — DUMBOR JOSEPHINE BARI BEG