

Robert Wilson Stewart, pro per.  
c/o 2812 North 34th Place  
Mesa, Arizona state (No Zip)  
(480) 325-5624, Fax 325-5625

District Court of the united States  
for the state of Arizona

THE UNITED STATES, INC.  
PAUL K. CHARLTON, ESQ.

Alleged Plaintiff

Robert Wilson Stewart, pro per.  
Mesa, Arizona state  
(NO ZIP CODE!)

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\*  
\*  
\* Case No. CR-000698-PHX-ROS  
\*  
\* Judge Roslyn O. Silver  
vs. \*

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\* Alleged Accused's Reply to  
\* Plaintiff's Response to  
\* Accused's Special Demand for  
\* Specific Bill of Particulars  
  
\* Particulars Proposed for  
\* Stipulation, with Affidavit  
\* of Verification.

\* and Response to Plaintiff's  
\* Motion to Strike Bill of  
Alleged Accused

Comes now Robert Wilson Stewart, sui juris, hereafter referred to as "Alleged Accused", attending specially and not generally, in propria persona and not Pro Se, pursuant to Local Rules 1.10(d) and 1.10(c) to enter his Reply in opposition to alleged plaintiff's Response to the Alleged Accused's Special Demand for a Specific Bill of Particulars and to enter his Response in opposition to the alleged plaintiff's Motion to Strike Alleged Accused's Bill of Particulars Proposed for Stipulation.

This opposition is based on the fact that without his Specific Bill of Particulars the Alleged Accused is unable to understand the true and complete Nature of the colorable indictment filed in the above captioned purported instant action and to adequately prepare his defense and avoid surprise at any possible trial. The

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Alleged Accused has never knowingly or intentionally entered into any "reciprocal discovery agreement" with any government, governmental agent or government attorney. Further, the Alleged Accused has not requested production of any evidence or "discovery" material whether inside or outside the boundaries of federal discovery as set forth in Rule 16 Fed.R.Crim.P.

This opposition is further supported by the attached Memorandum.

Sincerely interposed,

*Teste Meipso}*

Robert Wilson Stewart, pro per.

Memorandum

The alleged plaintiff has submitted an artful response and frivolous motion which seeks to deprive the Alleged Accused of his duly requisitioned Specific Bill of Particulars and his Specific Bill of Particulars Proposed for Stipulation as well as his substantive right to be fully informed of the nature and cause of any accusation against him. The Alleged Accused has not received service of regular process (i.e. arrest warrant or criminal summons) or any other form of original judicial process. In addition the Alleged Accused is a layman unschooled in law and being a Citizen of the state of Arizona is foreign to the corporate United States, its federal "District" of Arizona and a

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stranger to its municipal laws. The Alleged Accused was taken captive within his home state of Arizona by U.S. federal agents operating outside of their lawful territorial venue and then unlawfully extradited to the federal District of Arizona wherein the alleged plaintiff seemingly intends to try the Alleged Accused for pretended offenses purportedly committed within some federal enclave or territory referred to as "the District of Arizona."

In order for the Alleged Accused to possibly understand the true nature and cause of the purported action against him, and to intelligently challenge the court's venue and personam jurisdiction over him and to adequately prepare his defense and avoid surprise at trial, the Alleged Accused merely seeks a specific bill of particulars which is essential to any meaningful defense.

The Alleged Accused has not yet received answers to any of the 66 questions he propounded in his duly served and filed demand for a Specific Bill of Particulars.

In order not to over burden the learned prosecutor and for purposes of judicial economy, the Alleged Accused has duly served and filed a Specific Bill of Particulars Proposed for Stipulation.

The alleged plaintiff is invited and encouraged to change or substitute any answer contained therein that it believes is misleading or incorrect. In addition, if the alleged plaintiff is either unwilling or unable to answer the Alleged Accused's request for a specific bill of particulars or correct any possible

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erroneous answers contained in the Bill of Particulars Proposed for Stipulation, the court is hereby authorized, invited and encouraged to correct any wrong or misleading answers, provided of course that the alleged plaintiff concurs and stipulates to any such court supplied exorbitant answer or correction.

The alleged plaintiff makes the spurious argument that the demand for a specific bill of particulars is nothing more than an improper request for discovery, however no discovery questions are propounded therein and no evidence is requested within the entire text of the demand for a Specific Bill of Particulars. The demand for a specific bill of particulars merely asks what are the specific *Claims* of the alleged plaintiff. This is borne out at lines 2 and 3 in page four of the alleged plaintiff's instant motion wherein it states, "The document seeks a government response to 66 questions many of which relate to jurisdictional *claims*." While it is true that most of the referenced questions solicit the jurisdictional claims of the alleged plaintiff, specific answers and claims as opposed to a general "response" are what is being sought within said demand. In lieu of providing the duly requested specific bill of particulars the alleged plaintiff has provided a partial copy of the defective indictment which the Alleged Accused has already moved to quash.

(See "Entry of Dilatory Plea to Quash Defective Indictment in the nature and style of a Pre-plea Motion to Dismiss colorable action, with a Memorandum of Facts in Support, Affidavit of Verification and Exhibits" filed in this court on the 6<sup>th</sup> day of April 2001 A.D.)

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Any perfunctory reading of this instrument (i.e. indictment) will reveal that it fails to answer any of the questions propounded in the Alleged Accused's demand for a specific bill of particulars, and said instrument also fails to supply the complete nature of the purported accusations and neither provides sufficient information to allow the Alleged Accused to adequately make pretrial motions, tender proper jurisdictional challenges, prepare his defenses nor avoid surprise at trial.

On page four at lines 13 and 14 of its instant motion the alleged plaintiff states, "Full discovery will obviate the need for a bill of particulars." While the Alleged Accused agrees with this statement, "full discovery" is generally only available within the limited context of a civil action but not usually available within the confines of a criminal case unless the alleged plaintiff now agrees to stipulate that full civil discovery be allowed. Such complete discovery would indeed obviate the need for any bill of particulars and would preclude the necessity of calling the alleged plaintiff's counsel as a witness at trial in order to ascertain the jurisdictional and other colorable claims of the alleged plaintiff, "the united States of America". Whether the above captioned purported instant action is criminal or civil could easily be determined if the alleged plaintiff would simply answer questions 9 and 11 of the Alleged Accused's demand for a Specific Bill of Particulars. The reasons for this basic information being concealed from the

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Alleged Accused are currently unknown and without the requested specific bill of particulars must be, at least temporarily, left to wild speculation.

The plaintiff claims on page 5 at lines 15 and 16 of its instant motion that "there is no provision under Rule 16 or any

other rule of criminal procedure that requires either party to respond to interrogatories." While this assertion may be true, such interrogatories are allowed under the federal rules of civil procedure (Rules 33 & 36). It must be pointed out that not only is the Alleged Accused (by virtue of his not having been served with regular process) not yet a "party" to any action, there is no provision whatsoever under any published federal criminal rule that authorizes the alleged plaintiff's instant "Motion to Strike." There is however, a federal civil rule (Civ.R.12(f)) that allows such motions to strike within the confines of a civil action. Once again the Alleged Accused is left to wonder about the true nature of the above captioned purported instant action.

On page four at lines 24 and 25 of its instant motion the alleged plaintiff states that the colorable indictment claims the Alleged Accused was previously convicted of a felony; however, the term "felony" is nowhere to be found within the text of said colorable indictment. The indictment does seem to allege the prior commission of some statutory and presumed mala prohibita high crime but "high crimes" by definition are merely serious misdemeanors that are punished as felonies. (See "Count 1" on page

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2 of alleged plaintiff's instant motion.) In this instance it would appear that the defective bill of indictment is nothing more than a proposed Bill of Pains and Penalties but even this cannot be ascertained with any degree of certainty until the Alleged Accused is informed whether the court is sitting as an Article I legislative tribunal or as an Article III judicial branch court endowed with the judicial power of these united States of America.

By simply answering questions 27, 28, 29 and 30 of the demand for

a specific bill of particulars the alleged plaintiff could have easily informed the Alleged Accused if he would be subjected to a bill of pains and penalties which certainly goes to the nature of the rumored action.

The colorable indictment makes no direct claim that the Alleged Accused shipped, transported, moved or received anything in interstate commerce. The arguable fact that any physical object "traveled" at some unspecified prior time in "interstate (i.e. from one federal enclave, district or territory as defined by 18 USC §921(1)(2) to another) or foreign commerce", as claimed by the alleged plaintiff, is not only an unprovable and prejudicial conclusion of law but an unknowable fiction of law with regards to any tangible "commercial" activity of the Alleged Accused. The alleged plaintiff's claims of the Alleged Accused's involvement in "interstate commerce" without a specific bill of particulars are not only groundless and without merit but completely incomprehensible to anyone other than the alleged plaintiff itself

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(and hopefully said plaintiff's attorney).

Although the furnishing of a duly requested specific bill of particulars should certainly be viewed as an act of fairness and basic procedural due process as well as a substantive right, there does also appear to be some pertinent federal case law on the subject, to wit:

(1960 Fed.) Where defendants, who were charged by indictment with violating the statute making the mailing of obscene matter an offense, did not move for a bill of particulars, Court of Appeals

on appeal by defendants, who contended that indictment failed to state an offense, could assume that the defendants were sufficiently informed of the charge they would have to meet at trial. Flying Eagle Publications, Inc. vs. U.S., C.A.1st, 273F.2d 799.

(1960 Fed.) Motion for bill of particulars is not device for discovery, and alleged possession by defendant of information sought would be no reason for denial of such motion. U.S. v. Grieco, D.C.N.Y. 25 F.R.D. 58.

(1960 Fed.) Fact that a defendant may have some or all of the information requested does not necessarily defeat his *right* to a bill of particulars. U.S. v. Spur Knitting Mills, D.C.N.Y. 187 F.Supp. 653.

(1948 Fed.) Where on former appeal reviewing court had held that there was no error in overruling defendant's motion to dismiss information, but *reversed conviction because bill of particulars was not furnished*, furnishing of a bill of particulars did not constitute an amendment to information... Williams v. U.S., C.A.5th, 170 F.2d 319, certiorari denied 69 S.Ct. 412, 335 U.S. 909, 93 L.Ed. 442.

#### Argument

The defective Bill of Indictment gratuitously provided by the alleged plaintiff fails to allege any of the following particulars, to wit:

1. The defective indictment fails to allege that the Alleged Accused is a artificial "person" or a "whoever" as defined by

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18 USC § 921(a)(1).

2. The defective indictment fails to allege that the purported offense took place in a federal "State" as the term is defined by 18 USC § 921(2) and further defined in Rule 54(c) of the Federal Rules of Criminal Procedure.
3. The defective indictment fails to allege that the Alleged Accused possessed any "weapon" as the term is used but undefined at 18 USC § 921(a)(3)(A) and also used but undefined elsewhere



in Title 18, Chapter 44 of the United States Code. The undefined term “weapons” is also used within the alleged plaintiff’s instant motion on page 4 at line 23.

4. The defective indictment fails to allege that any of the private arms purportedly seized were used or intended to be used or designed exclusively for use as “weapons” or instruments of unlawful combat.
5. The defective indictment fails to allege that the Alleged Accused was not in lawful possession of any purportedly seized “machineguns” prior to the effective date of 18 USC § 922 (o) as provided by 18 USC § 922(o)(2)(B).
6. The defective indictment fails to allege that the Alleged Accused violated any duly enacted positive law or United States Statute at Large containing a valid enacting clause.
7. The defective indictment fails to allege that Congress has either exclusive, concurrent or plenary legislative jurisdiction over the organic state of Arizona, Maricopa county

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or the Alleged Accused’s dwelling house and curtilage located therein, although the defective indictment seems to contradict itself and allege on page 5 at line 22 of the alleged plaintiff’s instant motion, that the purported infractions occurred outside of any federal district and within the Union state venue of “Mesa, Arizona.”

8. The defective indictment fails to allege that the Alleged Accused is not the lawful private owner of any of the personal arms purportedly seized.
9. The defective indictment fails to allege just who the legal owner of the purportedly seized arms actually is and further fails to name any damaged party or allege any identifiable corpus delicti.
10. The defective indictment fails to allege that any of the arms purportedly seized were

contraband by virtue of any tax, excise, duty or impost being owed and unpaid, or by intent to ship such arms to some proscribed and belligerent nation.

11. The defective indictment fails to allege that the Alleged Accused's private possession of personal firearms resulted in a treaty violation which conferred any jurisdiction on the United States pursuant to Article I, Section 8, Clause 10 of the Constitution for these united States of America (1789).
12. The defective indictment fails to allege that the Alleged Accused has no rights guaranteed and protected by Article IV, Section 2, Clause 1, and the Second, Ninth and Tenth Articles

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in amendment to the constitution for these united States of America (1791).

#### Conclusion of Law

The Alleged Accused remains unable to understand the nature and cause of the purported accusations against him, to enter a knowing, intelligent and informed plea or to adequately prepare any defenses and avoid surprise at trial without his duly requested, necessary, essential and indispensable Specific Bill of Particulars.

#### Remedy Sought

For the above stated reasons the Alleged Accused prays this honorable court to deny the alleged plaintiff's instant motion and order the alleged plaintiff to provide the Alleged Accused with a true sworn, accurate, consummate and complete "Specific Bill of Particulars" as previously requested or in the alternative allow the Alleged Accused's previously served and filed "Bill of Particulars Proposed for Stipulation" to stand as *juris et de jure* and irrefutable at any trial of the above captioned purported instant action wherein the alleged plaintiff will be given a fair opportunity to prove *all* of its claims and the Alleged Accused can avoid surprise and intelligently defend.

Sincerely interposed,

*Teste Meipso*}

Robert Wilson Stewart, pro per.  
Tel. (480) 325-5624, Fax 325-5625

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Certificate of Service

I hereby certify that a true and exact copy of the foregoing Reply and Response in Opposition to alleged plaintiff's Response and Motion to Strike, with Affidavit of Verification has been sent via first class U.S. Mail, postage prepaid, on this 26<sup>th</sup> day of April 2001 A.D. to: JOSEPH C. WELTY, ESQ., United States Attorney's Office, 230 North First Avenue, Room 4000, Phoenix, AZ 85025.

Naomi Jean Stewart, sui juris  
c/o 2812 North 34<sup>th</sup> Place  
Mesa, Arizona state (No Zip)

CC: United States Attorney General  
John Ashcroft, c/o (202) 307-2825,  
via telephone FAX transmission.

