

FILED
CLERK OF COURT

2026 MAR 20 AM 9:44

IN THE SUPERIOR COURT OF GUAM

SUPERIOR COURT

PEOPLE OF GUAM,

Criminal Case No. CF0282-25 AM *ET*

OPA Report Nos. 24-07 / 24-12

v.

LEO RUSTUM J. ESPIA,

AMENDED
DECISION AND ORDER
GRANTING DEFENDANT'S MOTION
FOR BILL OF PARTICULARS

Defendant.

INTRODUCTION

This matter came before the Honorable Alberto C. Lamorena, III on January 9, 2026 for hearing on Leo Rustum J. Espia's ("Defendant's") Motion for Bill of Particulars ("Motion"). Assistant Attorney General Christopher Grey represents the People, and Attorney William Gavras represents Defendant. Having duly considered the parties' briefs, oral arguments, and the applicable law, the Court now issues the following Decision and Order and **GRANTS** Defendant's Motion.

BACKGROUND

Defendant is indicted on the following: Charge One: Theft by Deception (as a 2nd Degree Felony), Charge Two: Tampering with Public Records (as a 3rd Degree Felony), Charge Three: Certifying Officer Malfeasance (as a Misdemeanor), Charge Four: Misapplication of Entrusted Funds (as a Misdemeanor), and Charge Five: Official Misconduct (as a Misdemeanor). See Indictment (Apr. 25, 2025). Each charge is accompanied by a Special Allegation: Crimes Against the Community. Id. The charges stem from allegations that between September 1, 2017 to April 26, 2022, Defendant intentionally submitted and certified payroll timesheets detailing inaccurate hours so that he and others could collect money for overtime work they did not perform. Id.

On December 9, 2025, Defendant moved for a Bill of Particulars, arguing that the Indictment is too vague to properly prepare a defense against. See Motion at 1 (Dec. 9, 2025). Specifically, Defendant claims vagueness in the form of the Indictment's: (i) time frame (September 1, 2017 to April 26, 2022), (ii) failure to identify precise amounts stolen (Indictment only specifies an amount

1 exceeding one thousand five hundred dollars (\$1,500.00)), & (iii) failure to identify who the
2 “others” are that Defendant is accused of having improperly certified their payrolls. *Id.* at 2-4.

3 The Court held a hearing on January 9, 2026. After hearing the arguments of the parties, the
4 Court took the matter under advisement.

5 DISCUSSION

6 I. Applicable Law:

7 8 G.C.A. § 55.30 provides:

8 Whether or not an indictment or information complies with § 55.10, if it fails
9 to specify the particulars of the offense sufficiently to enable the defendant to
10 prepare his defense, the court may, on motion of the defendant, require the
11 prosecuting attorney to furnish the defendant with a clarification of the
pleading containing such particulars as may be necessary for the preparation
of the defense.

12 To enable a Defendant to adequately prepare a defense, the indictment must specify the
13 conduct which allegedly violates the statutes. *See U.S. v. Trumpower*, 546 F.Supp.2d 849 at 852
14 (E.D. Cal. 2008). In cases involving financial crimes, this means providing some factual context
15 tying specific funds to a specific crime. *Id.* at 852. Without this context, Defendant will be “unable
16 to adequately prepare for trial and there is an undue risk of surprise.” *Id.* at 852.

18 Regarding time frames, the Guam Supreme Court has previously determined that
19 Indictments narrowing a charge’s timeframe down to several months, are specific enough to enable
20 the Defendant to prepare a defense. *See People v. Salas*, 2000 Guam 2 at ¶22 (ruling that an
21 Indictment containing an alleged time frame of over two months does not prejudice the Defendant’s
22 right to prepare a defense). The Guam Supreme Court cited to the 9th Circuit case, *People v.*
23 *Atoigue*, in making their decision. *Id.* at ¶16. The *Atoigue* Court upheld an eight-month time frame
24 in an Indictment as sufficiently specific because it placed the illegal acts within an identifiable time
25 frame, even if a specific date could not be alleged. *See People v. Atoigue*, 36 F.3d 1103 at 6 (9th
26 Cir. 1994). This was especially true given the repetitive nature of the allegations against *Atoigue*
27 (twice-weekly). *Id.* at 6.
28

1 **II. The Indictment is *insufficiently* particularized because it spans a five-year period**
2 **without identifying which discrete timesheets are subject to the charges.**

3 Here, the Indictment spans a five-year period (September 1, 2017 to April 26, 2022), but
4 does not identify any precise amounts stolen or timesheets that are subject to the charges. The
5 Indictment's five-year timeframe is much longer than both the two-month timeframe the Guam
6 Supreme Court upheld in *Salas*, and the eight-month timeframe in *Atoigue* that the Court based their
7 decision on. However, that alone is not fatal to the Indictment because it may be true that
8 Defendant's criminal conduct did span that full five-year period. The allegations in the Indictment
9 are also repetitive (supposedly taking place across several different timesheets), further justifying a
10 longer timeframe given in the Indictment. See *People v. Atoigue*, 36 F.3d at 6.

11 But problems arise because the Court can logically conclude that Defendant certified a great
12 number of timesheets during that timeframe. There must be some context so that Defendant knows
13 which particular transactions/timesheets are in question and are actually subject to the charges in the
14 Indictment. Otherwise, Defendant would find himself unable to adequately prepare a defense
15 because he'd be forced to review every claimed hour of overtime worked over those five years
16 (which exceeds several thousand), unaware of which hours the prosecution is actually focusing in
17 on.

18 Similarly, the People must provide some context regarding who the "others" are that
19 Defendant is accused of having improperly certified their timesheets. The Court can logically
20 conclude that Defendant certified the timesheets of several "others" during this multi-year time
21 period, but they might not all be subject to the charges in the Indictment. Without additional
22 identification of who these "others" are, Defendant is faced with the impossible task of preparing a
23 defense against every single timesheet certified over the five-year period. This issue is highlighted
24 by the People's Witness List, which contains 100 different witnesses. See People's Witness List
25 (Jan. 8, 2026). Defendant cannot possibly prepare a defense unless he knows who these "others" are
26 so that he can focus on the specific timesheets at issue.

1 **CONCLUSION**

2 For the reasons stated above, the Court **GRANTS** Defendant's Motion. The People must,
3 within 21 days of this ruling, provide a Bill of Particulars, specifying:

- 4 • For each charge and special allegation, the specific hours which were claimed to
5 have been worked but, in fact, were not worked. If the People cannot identify the
6 specific hours, they should certify that they cannot and explain why. The People
7 should provide the days on which the hours were claimed to have been worked but
8 were not;
- 9 • Information sufficient to identify each false entry referred to in the Second Charge;
10 &
11 • Information sufficient to identify each corrupt certification referred to in the Third
12 Charge;

13
14 **IT IS SO ORDERED** this March 20, 2026 *nunc pro tunc* to March 16, 2026.

15 

16
17
18 **HONORABLE ALBERTO C. LAMORENA, III**
19 **Presiding Judge, Superior Court of Guam**

20
21
22
23
24 **SERVICE VIA E-MAIL**

I acknowledge that an electronic
copy of the original was e-mailed to:

25 AG's W. Gonzales

26
27 MAR 20 2026 Time: 7:59

28 Evan L. Topasna
Deputy Clerk, Superior Court of Guam