

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE, :
: :
: I.D. No. 2503012543
: :
v. :
: :
EDWARD A. JOBES, JR., :
: :
Defendant. :
:

Submitted: December 17, 2025
Decided: January 5, 2026

ORDER

On this 5th day of January 2026, having considered Defendant Edward A. Jobes' motion for a bill of particulars, and the State's response in opposition, it appears that:

1. Lynda Carson-Fizer suffered injuries and was left unattended in her home for some time afterward. As alleged, she later died in her home because of those injuries. The State has separately indicted Mr. Jobes and a co-defendant for Murder Second Degree in connection with recklessly causing her death. The evidence presented at the preliminary hearing in Mr. Jobes' case, Mr. Jobes' statement to the police, and his co-defendant's statement to the police, all support an allegation that Mr. Jobes was Ms. Carson-Fizer's caregiver before and at the time of her death.

2. The indictment charging Mr. Jobes with Murder Second Degree tracks the statutory elements of that offense. It does not allege, however, that Mr. Jobes owed a duty to Ms. Carson-Fizer that would support an omission-based theory of liability. In other words, it does not allege that Mr. Jobes' reckless conduct involved

a failure to seek help or provide aid that could have prevented Ms. Carson-Fizer's death.

3. Presently, Mr. Jobes asks the Court to order the State to file a bill of particulars identifying the basis for asserting that he had a duty to act to prevent her death. To this end, Mr. Jobes asks the State to identify the origin and nature of any such alleged duty or duties so he can prepare an adequate defense.

4. The State opposes the motion. It emphasizes that the indictment tracks the statutory language for the offense, which it contends provides Mr. Jobes sufficient notice to prepare, and then later present, a defense. The State further contends that facts already available to Mr. Jobes—his own statements, testimony at his preliminary hearing, and his co-defendant's statements—combine to provide him adequate notice of what the State intends to prove at trial.

5. Analysis of a request for bill of particulars starts with an examination of the indictment. Superior Court Criminal Rule 7(c)(1) provides that an indictment "shall be a plain, concise and definite written statement of the essential facts constituting the offense charged." This Rule, which addresses the minimum standard for an indictment, serves two purposes. First, it places a defendant on notice of the charges that he must be prepared to defend.¹ Second, it shields a defendant against future prosecutions for the same offense.² Generally, an indictment is sufficient under Rule 7(c)(1) if it tracks the language of the criminal statute that creates the offense.³ Germane to this case, this standard remains the same whether a defendant is charged with a crime based on a defendant's voluntary act *or* a

¹ *State v. General Chem. Corp.*, 559 A.2d 292, 298 (Del. 1988).

² *Id.*

³ *Allison v. State*, 148 A.3d 688, 2016 WL 5462439, at *2 (Del. Sept. 28, 2016) (TABLE) ("Generally it is sufficient that an information follow the language of the statute.").

defendant's failure to act.⁴ In this case, the indictment satisfies Rule 7(c)(1) by tracking the language of the relevant statute.

6. An indictment, however, may be legally sufficient even though it does not fairly fulfill the two purposes described above. In such a case, a bill of particulars becomes the proper remedy to ensure that a defendant has fair notice of the State's allegations so the defendant can adequately prepare a defense and receive protection against double jeopardy. Examples of when a bill of particulars may be necessary include when the State elects to charge a defendant with multiple offenses criminalized by the same statute but based upon separate acts or omissions.⁵ There, a bill of particulars may be necessary to meet one or both purposes even though the indictment is legally sufficient.⁶ As a result, Superior Court Criminal Rule 7(f) provides the Court discretion to direct the State to file a bill of particulars to address such concerns.⁷

7. Here, Mr. Jobes does not contend that a bill of particulars is necessary to protect him from double jeopardy. After all, the indictment alleges a single count involving allegedly reckless conduct that caused the death of a single victim in Kent County at a specific time. Rather, Mr. Jobes focuses on the level of notice necessary to prepare his defense. Specifically, he contends that the State must identify the basis for any duties that it alleges he breached, which in turn, criminalized his

⁴ See *State v. Benton*, 187 A. 609, 617 (Del. Ct. O.&T. 1936) (“We think that no more certainty is required in charging manslaughter resulting from negligent inaction than from negligent action.”).

⁵ See e.g. *Luttrell v. State*, 97 A.3d 70, 77 (Del. 2014) (holding that a bill of particulars was necessary where the indictment, together with pretrial discovery, “did not specify which particular alleged act aligned with each count in the indictment,” and where the information available through discovery did not answer those questions).

⁶ See *United States v. Boone et al.*, 2025 WL 3530078, at *13 (M.D. Pa. Dec. 9, 2025) (“While the indictment satisfies Rule 7(c)(1) and fulfills its constitutional function, the necessity of a bill of particulars is a separate question.”).

⁷ Super. Ct. Crim. R. 7(f) (“The court may direct the filing of a bill of particulars.”); see also *Luttrell*, 97 A.3d at 76 (“The grant or denial of a defendant’s motion for a bill of particulars is within the sound discretion of the trial court.”).

conduct. Furthermore, he contends that it would unfairly prejudice him by requiring him to prepare defenses regarding alleged failures to act based upon potentially multiple alternative duties. For the reasons to follow, Mr. Jobes' motion is denied with one significant exception.

8. The analysis starts with the recognition that a bill of particulars is not a mechanism to force the State to disclose its theory of the case or to identify what evidence it contends will meet its burden at trial.⁸ Because the State's proof at trial will later be confined to the bill of particulars,⁹ it would be inappropriate to limit the State's case to a specific theory by unnecessarily requiring one.¹⁰ In many cases, discovery and other facts available to a defendant will obviate the need for a bill of particulars because they provide adequate notice.¹¹ Given Mr. Jobes' focus in this case on his ability to prepare a defense, the Court must balance two important concerns: (1) his ability to prepare an adequate defense given the information available to him, and (2) the State's valid adversarial interest in maintaining flexibility regarding its theory of the case and methods of proof.

9. The indictment, as it stands, provides Mr. Jobes notice that the State may elect to prosecute the case under either a voluntary act or a reckless omission theory. To be sure, the State is entitled to pursue alternative theories of criminal

⁸ *State v. Bittenbender*, 2001 WL 789663, at *1 (Del. Super. June 25, 2001) (“A bill of particulars may not serve as a discovery device and defendants may not use a bill of particulars to circumvent the rules governing discovery.”).

⁹ *Lovett v. State*, 516 A.2d 455, 466 (Del. 1986) (citing *United States v. Glaze*, 313 F.2d 757, 759 (2d Cir. 1963)).

¹⁰ *United States v. Boffa*, 513 F. Supp. 444, 484-85 (D. Del. 1980).

¹¹ See *State v. Banther*, 1998 WL 283476, at *1 (Del. Super. April 2, 1998) (“No bill of particulars is required if a defendant has been provided the requested information sought through alternative sources.”); *Boone*, 2025 WL 3530078, at *15 (noting that, “[i]n many cases, ‘access to discovery ... weakens the case for a bill of particulars’”).

liability at trial.¹² That is no less true in a case such as this where there are two severed co-defendants who were the only persons allegedly present when Ms. Carson-Fizer suffered her injuries. In a case such as this, they could reasonably be expected to present mutually antagonistic defenses. Pretrial discovery provides Mr. Jobes adequate notice that the State will likely seek to prove him guilty, at least alternatively, based upon his failure to act as a caregiver. Under the circumstances of this case, the indictment and information already available to Mr. Jobes provide sufficient notice to enable him to prepare a defense against (1) contractual or assumption-based omission theories, or (2) an allegation that he took direct action to cause her death.

10. Thus, Mr. Jobes' bill of particulars request is denied with one caveat. Namely, when the Court questioned the State at oral argument, it identified no relevant statute or regulation that could have imposed an obligation upon Mr. Jobes to render aid to Ms. Carson-Fizer. Nevertheless, the State wanted to leave the door open to do so and indicated that it may after further review. The State's possible reliance on a statute or regulation would require Mr. Jobes to defend against what could be separate elements of that statute or regulation. It would be patently unfair to require Mr. Jobes to prepare a defense anticipating any possible statutory or regulatory duty that could apply. A bill of particulars identifying such alleged duties will be necessary to enable Mr. Jobes to prepare a defense against a case based in whole or in part upon what would be additional elements contained in a statute or regulation. As a result, if the State will seek to prove Mr. Jobes' criminal liability based upon a statute or regulation that imposed a duty upon him to provide aid or

¹² See *Conlow v. State*, 441 A.2d 638, 640 (Del. 1982) (rejecting defendant's contention that the trial court erred by allowing the prosecution to proceed on alternate theories of intentional killing and felony murder); see also *Banther v. State*, 977 A.2d 870, 886 (Del. 2009) ("It is well established that a defendant who is indicted as a principal can be convicted as an accomplice and vice versa, if the evidence presented at trial supports the alternative basis for criminal liability.").

assistance to the decedent, the State must identify that statute or regulation through a bill of particulars.¹³

11. Accordingly, within twenty days of the date of this Order, the State shall file a bill of particulars identifying what statutes or regulations that it may allege created a duty for Mr. Jobes to act. Alternatively, if the State does not intend to rely on any statute- or regulation-based duty at trial, it must so state in the bill.

WHEREFORE, for the reasons stated above, Defendant's motion for a bill of particulars is **GRANTED-IN-PART** and **DENIED-IN-PART**.

IT IS SO ORDERED.

/s/ Jeffrey J. Clark
Resident Judge

¹³ See, e.g., *Boone*, 2025 WL 3530078, at *15-17 (ordering the government to disclose what Small Business Administration regulations it alleges defendants violated to support fraud charges in a document-heavy criminal prosecution).