

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

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UNITED STATES OF AMERICA : CASE No.: 2:23 CR 198 (MAK)

-against-

JOSEPH LAFORTE, :
Defendant :

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JOSEPH LAFORTE’S MOTIONS TO DISMISS, CONSOLIDATE, AND SUPPRESS

Defendant JOSEPH LAFORTE (“LAFORTE”) moves to dismiss certain counts, consolidate trials, and to suppress evidence.

First, LAFORTE moves to dismiss Counts 2 – 20 and Wire Fraud Racketeering Act(s) of Count 1. The Indictment alleges LAFORTE committed Wire Fraud by depriving investors of Complete Business Solutions Group, Inc. d/b/a Par Funding (hereafter “PAR”) of information that could have been used to determine whether to invest. In the wake of Ciminelli v. United States, 143 S. Ct. 1121 (2023), the deprivation of information cannot constitute wire fraud.

Second, LAFORTE moves to dismiss Count 21 and the Securities Fraud Racketeering Act(s) of Count 1. One of the elements of securities fraud is intent to defraud. We respectfully submit an intent to defraud requires intent to cause loss. Where PAR paid millions to investors before the discovery of the alleged fraud, and PAR was worth millions more under reliable accounting principles, the allegations cannot satisfy an intent to cause loss.

Third, LAFORTE moves to dismiss Count 49, which alleges LAFORTE obstructed an official proceeding by making false statements at a deposition and coaching others to do the same. Generally, an official proceeding must be before a U.S. court. An out of court deposition would not satisfy this element. Additionally, the Indictment would have to allege that LAFORTE

acted with the intent to or with knowledge that his actions were likely to have an effect on an official proceeding. A witness does not necessarily know that answering “I don’t know” is likely to affect an official proceeding.

Fourth, LAFORTE moves to dismiss Count 57 and the Retaliation Racketeering Act(s) of Count 1. Retaliation must be aimed against a party or witness. Here, the official proceeding was Securities and Exchange Commission v. Complete Business Solutions Group Inc. d/b/a Par Funding et. al., (S.D. Fla.) (the “SEC Case”), and the alleged parties or witnesses were the Receiver and the Receiver’s attorney. An attorney does not count as a party or witness. Likewise, a Receiver is not a party, he is an arm of the court. While a Receiver could become a witness, the Receiver was not a witness in the proceeding. The alleged Retaliation was for G.A. addressing the eviction of LAFORTE and his wife from their home if they did not pay rent and expenses to the Receiver. That does not satisfy the element of party or witness.

Fifth, LAFORTE moves to consolidate trial of this action with trial of United States v. LaForte et al., 24 CR 65 (MAK) (the “Tax Case”). Not only could the two actions have been properly joined in one indictment, but the two actions *were* joined in one indictment. Consolidating trial of the actions will serve the interests of judicial economy, saving resources, and spare LAFORTE (who is detained without bail pending trial of both actions) from having to go through multiple count, multi-defendant trials twice.

Sixth, LAFORTE moves to suppress emails from his AOL email account. On information and belief, law enforcement seized LAFORTE’S emails from the Receiver without a warrant or other exception to the warrant requirement, relying on the assumption that the Receiver consented to the seizure. The problem for the Government is that the Receiver cannot consent to the seizure of a person’s private emails, and law enforcement should have known as much.

Seventh, in July of 2020, search warrants were executed at LAFORTE's primary residence, at PAR's offices, and at a secondary residence at Quayside Drive. LAFORTE moves to preclude evidence from the executions of the initial search warrants executed at Quayside Drive and PGA Blvd. as the Government failed to turn over the supporting affidavit under Fed. R. Crim. Pro. 16(a).

Eighth, LAFORTE moves to suppress the evidence from the searches of the primary residence, PAR's offices, and the subsequent searches of the Quayside Drive residence and PGA Blvd. location, including but not limited to evidence from seized electronic devices. The search warrants were unconstitutionally overbroad. The affidavits explicitly explained the warrants would be broad enough to permit the seizure and search of all electronic devices to be found at the multiple target premises regardless of whether the devices belonged to non-suspects. This blatantly violates the requirement that a warrant must not be broader than the probable cause upon which it is based. The warrants were also overbroad in other ways, for example, by permitting the seizure of security camera footage when no reason was given to support probable cause that evidence of a crime would be found on the footage.

Ninth, LAFORTE moves to suppress evidence from the 2023 searches of his primary residence, his cell phone, and motor vehicle. First, the 2023 warrants were unsupported by probable cause, hinging on LAFORTE's alleged involvement in an alleged assault on G.A. However, law enforcement's case against LAFORTE as to that offense is thin, hinging primarily on the theory that LAFORTE called his brother at the conclusion of a conference held over Zoom, to tell his brother that G.A. would be leaving G.A.'s law office shortly. This requires us to accept the premise that an actively practicing attorney was likely to leave his law office for the day in the middle of the afternoon solely because one of his remote court appearances had

concluded, which anyone who has spent time in the private practice of law knows to be highly improbable. The other main evidence for the search warrants is that LAFORTE traveled into town with his brother when meeting at LAFORTE's counsel's law office—hardly the basis to search LAFORTE's home, his cell phone, or his car. The warrants were also overbroad (permitting the seizure of items which have nothing to do with whether LAFORTE was involved in a physical assault on G.A.).

Tenth, LAFORTE moves to suppress evidence from search warrants for the data from his Apple, Inc. accounts. First, the 2023 search warrant is unsupported by probable cause for the same reasons as the other 2023 search warrants are unsupported by probable cause. Second, the scope of both Apple, Inc. search warrants are breathtakingly overbroad.

Eleventh, LAFORTE moves to suppress evidence from a search warrant for information concerning his AT&T cellular phone, which is overbroad.

Twelfth, LAFORTE moves for a Franks hearing as a recorded conversation proves that there was at least one intentional misrepresentation in one or more of the search warrant affidavits.

The Government has no objection to the dismissal of Count 49, but opposes the remaining motions herein. Counsel for co-defendant JAMES LAFORTE has advised that he intends to join in motions # 1, 2, 3, 4, 7, 10, and 13, and takes no position as to # 5, 6, 8, 9, 11, and 12. Co-defendant JOSEPH COLE BARLETA takes no position prior to service of the motions.

CONCLUSION

WHEREFORE, as set forth in the Memorandum in Support, Defendant respectfully requests an Order:

1. Dismissing Counts 2 – 20 and the Wire Fraud Racketeering Act(s) of Count 1;
2. Dismissing Count 21 and the Securities Fraud Racketeering Act(s) of Count 1;
3. Dismissing Count 49, Obstruction of Justice, for failure to state an offense;
4. Dismissing Count 57 and the Retaliation Racketeering Act(s) of Count 1;
5. That trial of this action be consolidated with trial of the Tax Case;
6. Suppressing the Defendant's AOL emails;
7. Suppressing evidence from the 2020 warrants for defendant's primary residence, as well as PAR's offices;
8. Precluding evidence from the first warrants for the Quayside Drive residence and PGA Blvd. office space for the Government's failure to produce the supporting affidavits;
9. Suppressing evidence from the subsequent warrants for the Quayside Drive residence and PGA Blvd. office space;
10. Suppressing evidence from the 2023 warrants for defendant's residence, phone, and vehicle for being unsupported by probable cause and overbroad;
11. Suppressing evidence from the warrants for defendant's Apple, Inc. account(s);
12. Suppressing evidence from the warrant for information concerning defendant's cell phone; and
13. Scheduling a hearing pursuant to Franks v. Delaware.

Dated: August 19, 2024

Respectfully submitted,

/s/ Joseph R. Corozzo

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