

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
STATESBORO DIVISION

UNITED STATES OF AMERICA     )  
  )  
v.                                        )  
  )  
DAVID CASSADY                    )

CASE NO: 6:24-CR-004

**GOVERNMENT’S MOTION TO CORRECT SCRIVENER’S ERROR**

Now comes the United States of America, by and through Jill E. Steinberg, United States Attorney for the Southern District of Georgia, and the undersigned Special Assistant United States Attorney, and moves to correct the caption in the Indictment (Doc. 1). In support of its motion, the Government states as follows:

1. In the Indictment (Doc. 1), Defendant is charged with Making an Unregistered Destructive Device, 26 U.S.C. § 5861(f); Mailing a Destructive Device, 18 U.S.C. § 1716(j)(2); and Attempted Malicious Use of an Explosive, 18 U.S.C. § 844(f)(1) & (2).

2. In the caption of the case, it indicates that there is an additional charge for Possession of a Destructive Device in Furtherance of a Drug Trafficking Crime, 18 U.S.C. § 924(c)(1)(b). This is incorrect as there is no corresponding count in the Indictment relating to that statute.

3. A scrivener’s error does not require a new presentation to the grand jury if the amendment is one of form. Defendants are generally not prejudiced by a correction to the Indictment, that does not alter the charges against them nor

prejudices their rights. United States v. Thomas, No. CR 118-089, 2019 WL 4256286, at \*1 (S.D. Ga. Sept. 6, 2019). Further,

“An amendment that is merely a matter of form is permissible in situations where the indictment is ‘sufficiently detailed that there could have been no confusion as to what the government alleged the defendants had done.’” United States v. Bell, 500 F. App’x 133, 136 (3d Cir. 2012) (quoting United States v. Nelson, 852 F.2d 706, 715 (3d Cir. 1988)). “Thus, the modern rule is that an indictment may be amended by the court, provided that the amendment is not substantial, it is sufficiently definite and certain, the accused is not taken by surprise, and any evidence the defendant had before the amendment would be equally available to him after the amendment.” [United States v. Kegler, 724 F.2d 190, 195 (2d Cir. 1983)]. And, “the correction of merely technical errors, such as typographical or clerical mistakes, is permissible where it does not alter the essential substance of the charging terms.” United States v. Miller, 116 F.3d 641, 669–70 (2d Cir. 1997).

United States v. Roberson, No. 6:13-CR-214-ORL-28, 2013 WL 6897783, at \*1 (M.D. Fla. Dec. 30, 2013).

4. The Government notes that the crimes alleged in the Indictment are properly identified in the caption, and that this extraneous statute has no bearing on the Counts that the grand jury charged. The correction of the caption in the Indictment is not substantial and there is no confusion as to what the Defendant is charged with having done in the body of the Indictment.

5. Finally, this proposed amendment does not present a surprise to the Defendant. The Government’s requested change does not prejudice the Defendant’s rights nor substantially alter the charges against them. The Government also submits as an attachment, a corrected version of the Indictment which contains the correct caption.

Respectfully submitted this 4<sup>th</sup> day of April 2024.

JILL E. STEINBERG  
UNITED STATES ATTORNEY

*/s/ L. Alexander Hamner*

L. Alexander Hamner  
Assistant United States Attorney  
Indiana Bar No. 31996-41

P.O. Box 8970  
Savannah GA 31412  
Telephone Number: 912-652-4422

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
STATESBORO DIVISION

UNITED STATES OF AMERICA    )    CASE NO: 6:24-CR-004  
  )  
v.    )  
  )  
DAVID CASSADY                            )

CERTIFICATE OF SERVICE

This is to certify that I have on this day served all the parties in this case in accordance with the notice of electronic filing (“NEF”) which was generated as a result of electronic filing in this Court.

This 4<sup>th</sup> day of April 2024.

JILL E. STEINBERG  
UNITED STATES ATTORNEY

*/s/ L. Alexander Hamner*

L. Alexander Hamner  
Assistant United States Attorney  
Indiana Bar No. 31996-41

P.O. Box 8970  
Savannah GA 31412  
Telephone Number: 912-652-4422