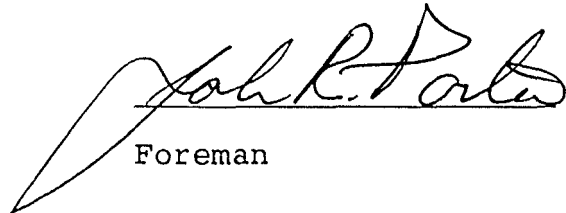


aggregate amount in excess of \$5,000, with the intent to permanently deprive said Robert Tenney thereof, all in violation of 17-A M.R.S.A. § § 352(5)(E), 353, and 362(1) and (2)(A) (1983).

A true bill.

Date: 2/3/92


Foreman

Appendix A

Douglas and Karen McCumber	\$2500
Samuel and Marvis Currier	\$2500
Allison and Andrew Thibeault	\$2500
Javier and Ethel Salinas	\$2500
Denise and Sean Grover	\$5000
Aaron and Frances LaBree	\$1600
David and Robin Gault	\$2500
Lynne and S. Robert Bomes	\$2000
Debra Killam	\$2500

STATE OF MAINE
PENOBSCOT _____ ss.

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. CR-92-154
CR-97-591

|
STATE OF MAINE)
)
)
 v.)
)
 HUGH RUDY MORIN)
 Defendant)

STATEMENT OF DEDUCTION FOR
DETENTION TIME PURSUANT TO
17-A M.R.S.A. § 1253(2)

The attorney for the State, pursuant to 17-A M.R.S.A. § 1253(2), states that the Defendant was detained a total of 101 day(s) (awaiting trial), (~~during trial~~), (~~post-trial awaiting sentencing~~), (~~post-sentencing prior to the date on which the sentence commenced to run~~) for the conduct for which the Defendant was sentenced. The actual calendar days constituting the above total deduction and place(s) of detention is/are as follows:

From <u>4-21-97</u>	through <u>5-14-97*</u>	at <u>Hillsborough</u>	; <u>24</u> days
(date)	(date)	(place)	
		County Jail, FL	
From <u>5-15-97</u>	through <u>7-30-97</u>	at <u>Penobscot</u>	; <u>77</u> days
(date)	(date)	(place)	
		County Jail	
From _____	through _____	at _____	; _____ days
(date)	(date)	(place)	

Dated: August 4, 1997

Mary M. Sauer
Attorney for the State
Mary M. Sauer

*Actual date was 5-15-97, but it was adjusted for purposes of this statement so that 5-15-97 would not be double counted.

Docket No. CR-92-154	County/Location PENOBSCOT	Date 7/31/97	DOB 1/6/43
State of Maine v. Defendant's Name H. RUDY MORIN		Residence DANVERS, MA	
Offense(s) charged: COUNT I: THEFT BY UNAUTHORIZED TAKING (CLASS B) 17-A MRSA, §353		Charged by: <input checked="" type="checkbox"/> indictment <input type="checkbox"/> information <input type="checkbox"/> complaint	
Plea(s): <input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Nolo <input type="checkbox"/> Not Guilty		Date of Violation(s): <u>Sept. 1989</u> <u>thru</u> <u>Jan. 1990</u>	
Offense(s) convicted: COUNT I: THEFT BY UNAUTHORIZED TAKING (CLASS B) 17-A MRSA, §353		Convicted on: <input checked="" type="checkbox"/> plea <input type="checkbox"/> jury verdict <input type="checkbox"/> court finding	
IT IS ADJUDGED THAT THE DEFENDANT IS GUILTY OF THE OFFENSES AS SHOWN ABOVE AND CONVICTED.			
<input checked="" type="checkbox"/> IT IS ADJUDGED THAT THE DEFENDANT BE HEREBY COMMITTED TO THE SHERIFF OF THE WITHIN NAMED COUNTY OR HIS AUTHORIZED REPRESENTATIVE WHO SHALL WITHOUT NEEDLESS DELAY REMOVE THE DEFENDANT TO: <input type="checkbox"/> The custody of the Commissioner of the Department of Corrections, at a facility designated by the Commissioner, to be punished by imprisonment for a term of _____ <input checked="" type="checkbox"/> The County jail to be punished by imprisonment for a term of <u>Nine months to be served concurrently with sentence imposed in CR-97-591.</u> This sentence to be served (consecutively to) (concurrently with) _____ <input type="checkbox"/> Execution stayed to on or before: _____ at _____ (a.m.) (p.m.)			
<input checked="" type="checkbox"/> IT IS ORDERED THAT ALL (BUT) <u>Three Months</u> OF THE SENTENCE (AS IT RELATES TO CONFINEMENT) (AS IT RELATES TO THE _____) BE SUSPENDED AND THE DEFENDANT BE COMMITTED TO THE CUSTODY AND CONTROL OF THE DIVISION OF PROBATION AND PAROLE FOR A TERM OF <u>Four Years</u> UPON CONDITIONS ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN. SAID PROBATION TO COMMENCE (_____) (UPON COMPLETION OF THE UNSUSPENDED TERM OF IMPRISONMENT). THE DEFENDANT SHALL SERVE THE INITIAL PORTION OF THE FOREGOING SENTENCE AT <u>Penobscot County Jail</u> <input type="checkbox"/> The final _____ month(s) of the unsuspended portion of the term of imprisonment is to be served with intensive supervision under conditions separately specified and incorporated herein.			
<input type="checkbox"/> IT IS ORDERED THAT THE DEFENDANT FORFEIT AND PAY THE SUM OF \$ _____ AS A FINE, PLUS APPLICABLE SURCHARGES AND ASSESSMENTS FOR A TOTAL OF \$ _____ TO THE CLERK OF THE COURT. THE TOTAL AMOUNT DUE INCLUDES THE FOLLOWING: <input type="checkbox"/> 10% SURCHARGE <input type="checkbox"/> 12% SURCHARGE (Effective 7/4/96) (4 M.R.S.A. § 1057) <input type="checkbox"/> \$30.00 SURCHARGE <input type="checkbox"/> \$125.00 SURCHARGE (29 M.R.S.A. § 1312-B(5), 29-A M.R.S.A. § 2411 (7)) <input type="checkbox"/> _____ \$10 ASSESSMENT(S) <input type="checkbox"/> _____ \$25 ASSESSMENT(S) (5 M.R.S.A. § 3360-I) \$ _____ OF THE ASSESSMENT HAS BEEN PAID. <input type="checkbox"/> All but \$ _____ suspended. <input type="checkbox"/> Execution/payment stayed to pay in full by _____ or warrant to issue. <input type="checkbox"/> To pay \$ _____ per week / month beginning _____ or warrant to issue.			

SUPERIOR COURT

DISTRICT COURT

JUDGMENT AND COMMITMENT

Docket No. CR-97-591	County/Location PENOBSCOT	Date 7/31/97	DOB 1/6/43
-------------------------	------------------------------	-----------------	---------------

State of Maine v. Defendant's Name HUGH RUDY MORIN	Residence DANVERS, MA
---	--------------------------

Offense(s) charged: THEFT BY UNAUTHORIZED TAKING (CLASS B) 17-A MRSA, \$353	Charged by: <input type="checkbox"/> indictment <input checked="" type="checkbox"/> information <input type="checkbox"/> complaint
Plea(s): <input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Nolo <input type="checkbox"/> Not Guilty	Date of Violation(s): <u>Oct. 1989</u> thru <u>Dec. 1989</u>

Offense(s) convicted: THEFT BY UNAUTHORIZED TAKING (CLASS B) 17-A MRSA, \$353	Convicted on: <input checked="" type="checkbox"/> plea <input type="checkbox"/> jury verdict <input type="checkbox"/> court finding
--	--

IT IS ADJUDGED THAT THE DEFENDANT IS GUILTY OF THE OFFENSES AS SHOWN ABOVE AND CONVICTED.

IT IS ADJUDGED THAT THE DEFENDANT BE HEREBY COMMITTED TO THE SHERIFF OF THE WITHIN NAMED COUNTY OR HIS AUTHORIZED REPRESENTATIVE WHO SHALL WITHOUT NEEDLESS DELAY REMOVE THE DEFENDANT TO:

The custody of the Commissioner of the Department of Corrections, at a facility designated by the Commissioner, to be punished by imprisonment for a term of Three years to be served concurrently with sentence imposed in CR-92-154.

The County jail to be punished by imprisonment for a term of _____

This sentence to be served (consecutively to) (concurrently with) _____

Execution stayed to on or before: _____ at _____ (a.m.) (p.m.)

IT IS ORDERED THAT ALL (BUT) Six months OF THE SENTENCE (AS IT RELATES TO CONFINEMENT) (AS IT RELATES TO THE _____) BE SUSPENDED AND THE DEFENDANT BE COMMITTED TO THE CUSTODY AND CONTROL OF THE DIVISION OF PROBATION AND PAROLE FOR A TERM OF One Year UPON CONDITIONS ATTACHED HERETO AND INCORPORATED BY REFERENCE HEREIN. SAID PROBATION TO COMMENCE (_____) (UPON COMPLETION OF THE UNSUSPENDED TERM OF IMPRISONMENT). THE DEFENDANT SHALL SERVE THE INITIAL PORTION OF THE FOREGOING SENTENCE AT Penobscot County Jail

The final _____ month(s) of the unsuspended portion of the term of imprisonment is to be served with intensive supervision under conditions separately specified and incorporated herein.

IT IS ORDERED THAT THE DEFENDANT FORFEIT AND PAY THE SUM OF \$ _____ AS A FINE, PLUS APPLICABLE SURCHARGES AND ASSESSMENTS FOR A TOTAL OF \$ _____ TO THE CLERK OF THE COURT. THE TOTAL AMOUNT DUE INCLUDES THE FOLLOWING:

10% SURCHARGE 12% SURCHARGE (Effective 7/4/96) (4 M.R.S.A. § 1057)

\$30.00 SURCHARGE \$125.00 SURCHARGE (29 M.R.S.A. § 1312-B(5), 29-A M.R.S.A. § 2411 (7))

_____ \$10 ASSESSMENT(S) _____ \$25 ASSESSMENT(S) (5 M.R.S.A. § 3360-I)

\$ _____ OF THE ASSESSMENT HAS BEEN PAID.

All but \$ _____ suspended.

Execution/payment stayed to pay in full by _____ or warrant to issue.

To pay \$ _____ per week / month beginning _____ or warrant to issue.

STATE OF MAINE vs. Hugh Rudy Morin **CONDITIONS OF PROBATION**

D.O.B.: 1/6/43

Probation Term. One Year
S.S. # _____

You have been convicted of Theft by Unauthorized Taking
which (is)(are) Class B crime(s) and the court has placed you on probation and committed you to the custody and control of the Division of Probation for the term specified above and on conditions specified below.

THE CONDITIONS OF YOUR PROBATION ARE AS FOLLOWS: YOU SHALL

- 1. refrain from all criminal conduct and violation of federal, state and local laws.
- 2. report to the probation officer forthwith and thereafter as the probation officer may direct, or if incarcerated, within 48 hours of release from custody.
- 3. answer all reasonable inquiries by the probation officer and permit the probation officer to visit you at reasonable times at your home or elsewhere.
- 4. notify the probation officer before changing address or employment.
- 5. remain within the jurisdiction of this state unless written permission is given by the probation officer for you to leave the state temporarily.
- 6. refrain from possession and use of any unlawful drugs.
- 7. refrain from (excessive) (possession or) use of intoxicating liquor.
- 8. identify yourself as a probationer to any law enforcement officer when arrested, detained or questioned and you shall notify your probation officer of the contact within 24 hours.
- 9. waive extradition to the State of Maine from any State of the United States, the District of Columbia, or any other place, to answer any charge of violating the terms of probation.
- 10. maintain employment and devote yourself to an approved employment/educational program.
- 11. submit to random search and testing for (alcohol) (drugs) (firearms) (dangerous weapons).
- 12. sign releases reasonably required by your probation officer necessary to monitor compliance with the terms of probation including permission to obtain confidential records.
- 13. pay to the Division of Probation a supervision fee of \$ 10.00 per month.
- 14. If this section is checked, or if you have been convicted of murder, or a Class A, B or C crime, or any other matter involving the use of a firearm, you are prohibited from owning, possessing or using firearms or dangerous weapons.
- 15. undergo _____ counseling/treatment to the satisfaction of the probation officer and you shall contribute to the cost thereof based on your financial ability as determined by the probation officer.
- 16. pay restitution (in the [maximum] amount of \$ _____) through the division of probation within _____ months (on a schedule to be determined and set by the probation officer) for the benefit of _____
- 17. pay \$ _____ as (fines) (surcharges) and/or (assessments) and (\$ _____ as counsel fees), within _____ months (on a schedule to be determined and set by the probation officer).
- 18. not operate or attempt to operate any motor vehicle (including ATV, motorboat or aircraft) (until properly licensed by the Secretary of State).
- 19. have no contact of any kind, with _____ and/or the family of said person(s).
- 20. not associate with any other person who is on probation or parole without written permission of the probation officer.
- 21. perform _____ hours of public service work within _____ months at the direction and to the satisfaction of your probation officer.
- 22. not be present in an establishment that serves liquor for on premises consumption after _____.
- 23. Other: _____

Your freedom from future arrest and punishment for the offense(s) of which you have been found guilty depends upon strict observance of the foregoing conditions of probation, or any additional conditions further imposed by this court during the term of your probation.

ORDERED: The foregoing conditions are made part of the judgment as if recited therein and shall be incorporated into the docket by reference.

Dated: July 31, 1997

[Signature]
Judge/Justice Presiding

I ACKNOWLEDGE RECEIPT OF THESE CONDITIONS AND ACCEPT THEM AS WRITTEN.

WITNESS: [Signature]

PROBATIONER: X Hugh R. Morin

A TRUE COPY, ATTEST: [Signature]
Clerk

PENOBSCOT _____, ss.

SUPERIOR COURT
CR- ~~92-154~~ 97-591

STATE OF MAINE

vs.

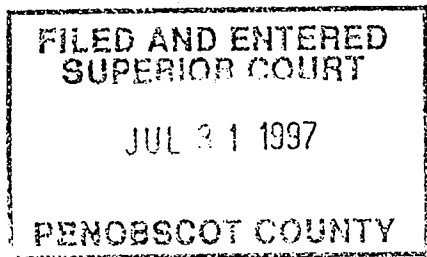
INFORMATION FOR VIOLATION OF
17-A M.R.S.A. SECTION 353 (Class B)

HUGH RUDY MORIN

(Theft by Unauthorized Taking)

THE ATTORNEY FOR THE STATE CHARGES:

From on or about October, 1989 through December 1989, in the County of Penobscot, State of Maine, H. Rudy Morin did commit theft pursuant to one scheme or course of conduct by obtaining or exercising unauthorized control over the property of Key Bank and/or Robert Tenney, such property consisting of money in an aggregate amount in excess of \$5,000, with the intent to permanently deprive said Key Bank and/or Robert Tenney thereof, all in violation of 17-A M.R.S.A. §§352(5)(E), 353, and 362(1) and (2)(A) (1983).



Mary M. Sauer
Attorney FOR THE STATE

Dated: July 31, 1997

STATE OF MAINE

Penobscot _____, ss.

The above named Mary M. Sauer personally appeared before me and made oath that the above information signed by him/her is true to the best of his/her information and belief.

Dated July 31, 1997, before me Patricia L. Lane
Notary Public
Comm'n Exp. 8/18/99

Class D and E Crimes

Leave of Court for prosecution by information Granted.

Dated _____
Justice, Superior Court

STATE OF MAINE
PENOBSCOT

FILED AND ENTERED
SUPERIOR COURT
JUL 23 1997
PENOBSCOT COUNTY

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. PEN-CR-92-154

RECEIVED
STATE OF MAINE
ATTORNEY GENERAL
JUL 25 1997
STATE HOUSE AUGUSTA, MAINE

STATE)

v.)

HUGH RUDY MORIN,)
Defendant)

STATE'S MOTION TO QUASH SUBPOENA
AND ATTACHED
MEMORANDUM OF LAW

NOW COMES the State by its undersigned counsel and moves to quash the subpoena issued, pursuant to M. R. Crim. P. 17, by the Defense Attorney in this case to Robert Tenney commanding him to testify at the bail hearing for the Defendant scheduled for Thursday, July 24 at 1:30 p.m. The State moves to quash this subpoena for the following reasons:

1. Robert Tenney is the victim listed in Count II of the indictment and a potential witness for the State at trial. Statements by Robert Tenney are included in several places in the discovery already provided to the Defendant.

2. Robert Tenney's testimony at the bail hearing is unnecessary and irrelevant to the purposes of setting bail--to reasonably ensure the appearance of the Defendant and to reasonably ensure the integrity of the judicial process.

3. A grand jury in 199² indicted the Defendant on two counts of theft by unauthorized taking. The bail hearing is not an appropriate forum for the Court to hear testimony by witnesses about the grounds for the alleged crimes. The Defense will have the opportunity to examine the State's witnesses at trial. Robert Tenney should not be required to be subjected to preliminary examination at the bail hearing.

MEMORANDUM OF LAW

The stated purposes of the Maine Bail Code are as follows:

It is the purpose and intent of [the Maine Bail Code] that bail be set for a defendant in order to reasonably ensure the appearance of the defendant as required, to otherwise reasonably ensure the integrity of the judicial process and, when applicable, to reasonably ensure the safety of others in the community. Finally, it is also the purpose and intent of this chapter that the judicial officer consider, relative to crimes bailable as of right preconviction, the least restrictive release alternative which will reasonably ensure the attendance of the defendant as required, or otherwise reasonably ensure the integrity of the judicial process.

15 M.R.S.A. § 1002 (Supp. 1996).

Factors to be considered in setting bail include the nature and circumstances of the crime charged, the nature of evidence against the defendant, and the history and characteristics of the defendant. 15 M.R.S.A. § 1026(4) (Supp. 1996). These factors must, however, be considered in the context of the purposes set forth by the Legislature. Although the Court is authorized at a bail hearing to inquire into the circumstances of the crime charged and the nature of the evidence, the Legislature could not have intended the bail hearing to be akin to a grand jury proceeding or a run-through for the trial. The bail hearing is not a forum for a de novo review of the facts. Rather, the focus is on ensuring the appearance of the defendant and the integrity of the judicial process.

Any testimony by Robert Tenney at the bail hearing will not be relevant to the issue of ensuring the Defendant's appearance at trial. Statements made by Robert Tenney to the police and to an investigator at the Department of Attorney General are included in the discovery already provided to the Defendant. To the

extent that the Defendant believes that the substance of the allegations made by Robert Tenney are relevant to the issues at the bail hearing, the Defense could provide the Court with Tenney's statements in the discovery.

Furthermore, counsel for the State is aware of no legal precedent for compelling the testimony of Robert Tenney, the alleged victim in Count II and a potential witness for the State, at the Defendant's bail hearing.

WHEREFORE, the State requests for all the foregoing reasons that the Court quash the subpoena issued to Robert Tenney to testify at the bail hearing.

Dated: July 23, 1997

Mary M. Sauer
MARY M. SAUER
Assistant Attorney General
Public Protection Division
Department of Attorney General
State House Station 6
Augusta, Maine 04333
(207) 626-8591

July 23, 1997

Motion is granted. Subpoena is
ordered quashed.

Margaret J. Krauchuk

STATE OF MAINE
PENOBSCOT, ss.

SUPERIOR COURT
CRIMINAL ACTION
DOCKET NO. PEN-CR-92-154

STATE OF MAINE)	
)	STATE'S MEMORANDUM
v.)	IN OPPOSITION TO
)	DEFENDANT'S MOTION FOR
HUGH RUDY MORIN,)	BILL OF PARTICULARS
Defendant)	

NOW COMES the State of Maine, by and through its undersigned attorney, and responds to and opposes the Defendant's motion for a bill of particulars for the following reasons.

Count II of the indictment for Theft by Unauthorized Taking, Class B, alleges that the Defendant from on or about October 1989 through December 1989, in Penobscot County, committed theft pursuant to one scheme or course of conduct by obtaining or exercising unauthorized control over the property of Robert Tenney, such property consisting of money in an amount in excess of \$5,000, with the intent to permanently deprive Robert Tenney thereof. In his motion for a bill of particulars, the Defendant asserts that Count II of the indictment is vague as to events, dates, and amounts of property involved in the alleged theft from Robert Tenney. Defendant claims that without that information, he cannot meaningfully piece together and make sense of the State's case as presented in the 1,600 pages of discovery materials. He also asserts that this subjects him to surprise at trial and that he is unable to establish a record to protect against double jeopardy in the future. Defendant's Motion For Bill of Particulars, at 1-3.

Rule 16(c)(1) of the Maine Rules of Criminal Procedure provides that “[t]he court for cause may direct the filing of a bill of particulars if it is satisfied that counsel has exhausted the discovery remedies under this rule or it is satisfied that discovery would be ineffective to protect the rights of the defendant.” The State has already made available to the Defendant discovery materials which contain all facts known to the State regarding the alleged theft by unauthorized taking. See State v. Larrabee, 377 A.2d 463, 465-66 (Me. 1977). The State will continue to provide discovery to the Defense as it is generated.

What the Defendant seems to be requesting in his motion is the State’s theory underlying its allegation of theft. As the Law Court has pointed out, however, a defendant is not entitled to knowledge of the State’s theory either through the indictment or through discovery. See State v. Hickey, 459 A.2d 573, 581 (Me. 1983). The Defendant is not entitled to be told in detail the evidence upon which the prosecution will rely at trial. See State v. Goldman, 281 A.2d 8, 11 (Me. 1971).

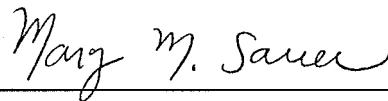
The Defendant has not made a showing of cause as to why the discovery is ineffective to protect his rights. All the Defendant has done is to make a bald assertion that he and counsel cannot determine the relevancy and importance of individual checks, invoices, loan applications, and other materials provided in discovery, and that the uncertainty created by vague allegations makes it impossible for him to discover the substance of the State’s case. Defendant’s Motion for Bill of Particulars, at 2-3. What the Defendant fails to point out in his motion is that among the voluminous discovery materials are several investigative reports

prepared by a detective in the Department of the Attorney General. In particular, the court's attention is directed towards a document entitled "Summary of Investigation" (Attachment 1 to this response; Discovery Page No. 267-72, 1618-20¹). This report, along with other documents mentioned in it, provide specifics on the events and amounts of money involved in the theft alleged in Count II. Furthermore, the dates are provided in the indictment itself. Given the comprehensive discovery and the specificity of information provided in documents such as that contained in Attachment 1, there is no showing of cause as to why the Defendant is entitled to a bill of particulars. Moreover, there is no authority that requires the State to explain to defense counsel how the discovery material will be used at trial to prove Count II. See Hickey, 459 A.2d at 581; Goldman, 281 A.2d at 11.

For all the foregoing reasons, the State requests that this Court deny Defendant's motion for a bill of particulars.

Dated: June 27, 1997

Respectfully submitted,



MARY M. SAUER
Assistant Attorney General
Public Protection Division
Department of the Attorney General
State House Station #6
Augusta, Maine 04333
(207) 626-8591

¹I have included the Progress Report (pages 1618-20) because it contains a correction to the Summary of Investigation report in Attachment 1.

STATE OF MAINE
Penobscot, ss.

FILED AND ENTERED
SUPERIOR COURT
JUN 19 1997
PENOBSCOT COUNTY

SUPERIOR COURT
Criminal Action
Docket No. PEN-CR-92-154
RECEIVED
STATE OF MAINE
ATTORNEY GENERAL
JUL 10 1997
STATE HOUSE AUGUSTA, MAINE

STATE OF MAINE)

v.)

HUGH RUDY MORIN,)

Defendant.)

MOTION FOR BILL OF PARTICULARS

NOW COMES Defendant, Hugh Rudy Morin, by and through counsel, David W. Bate, and moves the Court to direct the State to file a bill of particulars, see Me. R. Crim. P. 16(c)(1), on the following grounds:

Count II of the Indictment in this matter is vague as to the events, dates and amounts of property involved in the alleged theft from Robert Tenney. The resulting uncertainty is heightened here because State has provided Defendant with over 1600 pages of discovery to date, consisting mostly of canceled checks, invoices, loan documents and similar matter.

Rule 16(c)(1) states that a bill of particulars is appropriate where "counsel has exhausted the discovery remedies under this rule or ... discovery would be ineffective to protect the rights of the defendant." See also State v. Thorne, 490 A.2d 646, 648 (Me. 1985). If the indictment expresses the charged offense with such generality that a defendant is entitled to specifics, even though the pleading deficiency falls short of a constitutional violation, the court has authority to demand a bill of particulars so the defendant is able to prepare an adequate defense, avoid surprise at trial, and establish a record on which to plead double jeopardy, if necessary. State v. Cote,

444 A.2d at 34, 36 (Me. 1982); State v. Littlefield, 219 A.2d 755, 757 (Me. 1966).

Discovery provides notice only of the evidence the State may seek to introduce to prove its case. However, Count II does not provide specific notice as to how the 1600 pages of potential evidence relate to the alleged theft of Robert Tenney's property. Defendant is unable to effectively prepare his defense based on the present form of Count II because it fails to set forth specific events, dates and the amounts involved in that alleged theft. Without that information, Defendant cannot meaningfully piece together and make sense of the State's case as presented in the voluminous discovery materials.¹ See State v. Cote, 444 A.2d at 36.

For example, undersigned counsel estimates that the State has provided over 100 pages of copies of canceled checks -- with several canceled checks per page -- involving at least three accounts and covering a period over six months long. Unless the State provides additional event, time and amount details as to Count II, Defendant and undersigned counsel cannot determine the relevancy and importance of the individual checks. The uncertainty created by the State's vague allegations in Count II makes it impossible for Defendant to discover the substance of the State's case as evidenced by the checks. See Id. The same can be said for the invoices, loan applications and other

¹ Assistant Attorney General Mary Sauer, Esq. provided Defendant with her outline of the discovery, which was helpful and perhaps beyond the scope of her duty when responding to a discovery request. Although this action certainly is commendable, the outline does not provide the specific notice to which Defendant is entitled under Rule 16(c)(1).

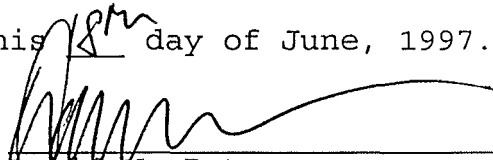
materials provided in discovery.

Moreover, without more detail as to the theft alleged in Count II, Defendant is subject to surprise at trial as to the relevancy of individual discovery materials. See Id. Finally, with the present form of Count II, Defendant is unable to establish a record to protect against double jeopardy in the future. See Id.

The government should not be able to avoid a bill of particulars when it charges vaguely and produces discovery voluminously. Under the present state of Count II and discovery, Defendant cannot adequately protect his rights without a more specific charge. See Rule 16(c)(1).

WHEREFORE, Defendant respectfully requests that the Court order the State to produce a bill of particulars as to Count II, specifically setting forth the events, dates and amounts involved in the theft that forms the basis for Count II.

Dated in Bangor, Maine this 8th day of June, 1997.



David W. Bate
Attorney for Defendant
6 State Street
Suite 403
Bangor, Maine 04401
(207) 945-3333

pc: AAG Mary Sauer, Esq.
Hugh Morin

July 8, 1997
Request for a Bill of Particulars is DENIED -

