

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :  
v. : CR. NO. 00-207-2  
ISAIAH GINYARD :

**MEMORANDUM**

Robert F. Kelly, Sr. J.

MAY 16 , 2002

Defendant has filed a Motion for Release Pending Appeal. 18 U.S.C. § 3143 provides that a judicial officer may release a person pending appeal if they determine:

“[A] by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person in the community if released ...; and

[B] that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in -

- (i) reversal,
- (ii) an order for a new trial . . .

The basis for the appeal is that this Court erred when it denied Defendant’s Motion to Sever the Counts in the Indictment prior to trial. Pursuant to Federal Rule of Criminal Procedure 8, the offenses charged in the Indictment were properly joined. The charges are connected together, were part of a common plan or scheme, were logically related, and share a transactional nexus. The Indictment charges that the Defendant fraudulently used the identity of his nephew, “Norman A. Ginyard,” to endorse checks that he received as a result of participation in each of the charged fraud schemes. These fraudulently endorsed checks were then all

deposited in the same bank account that the Defendant opened using the name of his nephew, “Norman A. Ginyard.”

The fraud schemes alleged in Counts 1, 2, 3, 5 and 7 through 24 are all temporally related because all occurred in full or in part between January 1995 through July 1995.

Ginyard was not prejudiced by the joint trial because the evidence admissible to prove Counts 1, 2 and 3 was also admissible to prove Counts 5 and 7 through 24. Specifically, evidence in the form of bank records from First Fidelity Bank showed that Defendant deposited checks resulting from each of the charged fraud schemes into the same bank account while fraudulently using the name and identity of his nephew, “Norman A. Ginyard”. That evidence together with the testimony of his nephew, Norman A. Ginyard, indicated that the Defendant used his nephew’s identity to advance the fraud schemes while concealing his own identity in order to avoid detection.

For these reasons, I find that the appeal is for the mere purpose of delay and does not raise any substantial question of law or fact likely to result in reversal or the order of a new trial. I, therefore, enter the following Order.

