

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. 16 CR 00064-WCG-DEJ
v.)	
)	Honorable William Griesbach
RON VAN DEN HEUVEL and)	Magistrate Judge David E. Jones
KELLY VAN DEN HEUVEL,)	
)	
Defendants.)	

DEFENDANT KELLY VAN DEN HEUVEL’S MOTION TO SEVER

Defendant, KELLY VAN DEN HEUVEL, by and through her attorneys, pursuant to Federal Rules of Criminal Procedure 14 and 12(b)(3)(D) and 8, hereby moves this Honorable Court to enter an order severing Ms. Van Den Heuvel’s trial from the trial of her codefendant, Ron Van Den Heuvel. In support thereof, Ms. Van Den Heuvel states:

1. Ms. Van Den Heuvel is charged in three counts in a 19 count superseding indictment. Mr. Van Den Heuvel is a co-defendant and Ms. Van Den Heuvel’s husband. Mr. Van Den Heuvel is charged in all nineteen counts in the superseding indictment.
2. Federal Rule of Criminal Procedure 14(a) provides defendants relief from prejudicial joinder “[i]f the joinder of offenses or defendants in an indictment . . . appears to prejudice a defendant or the government[.]”
3. The gross disparity in the evidence and the “spillover” effect of the evidence against Ms. Van Den Heuvel’s co-defendant and husband will prejudice Ms. Van Den Heuvel – particularly given that they are married (which will cause the jury to make assumptions based solely on a marital relationship rather than the evidence presented).

4. Furthermore, potential *Bruton* issues also exist with regard to co-defendant statements which would violate Ms. Van Den Heuvel's Sixth Amendment rights.

5. Finally, there is little judicial efficiency in a joint trial with Mr. Van Den Heuvel, where there is minimal overlapping evidence and a separate trial against Ms. Van Den Heuvel would be very short – as opposed to the two week plus trial contemplated if the defendants are tried jointly.

6. In addition, improper joinder exists in violation of Federal Rule of Criminal Procedure 8 in adding Kelly Van Den Heuvel to a superseding indictment which involves fraud charges against her co-defendant in which she is not named as a defendant and implicates conduct years after the two loans in which she is purportedly involved.

WHEREFORE, for these reasons and the reasons articulated in Defendant Kelly Van Den Heuvel's memorandum in support thereof, Ms. Van Den Heuvel respectfully asks that this Court enter an order severing Ms. Van Den Heuvel from her husband in these criminal proceedings.

Respectfully submitted,

/s/ Andrew Porter

Andrew C. Porter
Carrie DeLange
DRINKER, BIDDLE, and REATH LLP
191 N. Wacker Drive, Suite 3700
Chicago, Illinois 60606
312-569-1000
Andrew.Porter@dbr.com / Carrie.DeLange@dbr.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that in accordance with Fed. R. Crim. P. 49, Fed. R. Civ. P. 5 and the General Order on Electronic Case Filing (ECF), the following document:

DEFENDANT KELLY VAN DEN HEUVEL'S MOTION TO SEVER

was served pursuant to the district court's ECF system.

_____/s/ Carrie E. DeLange