

2020R00141/KLA

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

KRZYSZTOF NIEDZIELSKI

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Hon. *Zahid N. Quraishi*

Crim. No. 25-189 (ZNQ)

18 U.S.C. § 641

42 U.S.C. § 408(a)(3)

INFORMATION

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

COUNT ONE
(Theft of Public Money)

Introduction

At all times relevant to the charges in this Information:

1. Defendant Krzysztof Niedzielski ("NIEDZIELSKI") was a resident of Toms River, New Jersey.

2. The Social Security Administration ("SSA") was an agency of the United States within the United States government that administered programs under the Social Security Act, Title 42, United States Code, Section 301, *et seq.* (the "Act").

3. The SSA, among other things, maintained the Disability Insurance Benefits ("DIB") program under Title II of the Act. The DIB program paid benefits to those unable to work because of a medical condition expected to last at least one year or result in death. DIBs are intended to replace part of the earnings lost because of a physical or mental impairment. Monthly DIBs are paid to an eligible disabled person and his or her eligible auxiliary beneficiaries, such as children, throughout the period

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of disability. Monthly benefits may be paid to, among others, disabled workers under full retirement age and their families.

4. The child of a DIB recipient may receive Child Insurance Benefits (“CIB”) if that child is the beneficiary’s biological or adopted child or dependent stepchild, or if the child had a parent who was disabled and entitled to Social Security benefits. To be CIB eligible, the child must be unmarried, and, with limited exceptions, under 18 years of age.

5. Medical evidence of the disabling condition is required, and medical recovery and/or work activity are events that affect entitlement or continued entitlements to disability benefits. An individual does not qualify as disabled for the purpose of these programs if he or she performed work considered significant gainful activity (“SGA”). If an individual engaged in several successive months of SGA, SSA may suspend disability payments.

The Scheme to Defraud

6. From in or around October 2012 to in or around December 2020, in the District of New Jersey, and elsewhere, the defendant,

KRZYSZTOF NIEDZIELSKI,

did knowingly and intentionally embezzle, steal, purloin, and convert to his own use money of the United States exceeding \$1,000, that is, approximately \$270,933.10 in Social Security Administration program benefits to which he was not entitled.

Goal of the Scheme

7. The goal of the scheme was for NIEDZIELSKI to obtain money and other benefits from the SSA to which he was not entitled by lying to the SSA about his employment and income history.

8. In furtherance of the scheme, NIEDZIELSKI received government disability insurance benefits, including DIB and CIB payments, by:

- a. Concealing his relationship and employment with a construction business between October 2012 and 2016.
- b. Concealing and failing to accurately report to the SSA that he engaged in SGA between 2016 and December 2020.
- c. Falsely stating to the SSA that he received no regular income other than his SSA DIBs.

Manner and Means

The DIB and CIB Applications

9. On or about April 3, 2010, through on or about November 22, 2011, NIEDZIELSKI received a closed period of disability based on an injury he sustained in April 2010.

10. On or about February 27, 2012, NIEDZIELSKI completed an application for DIBs claiming he still could not work due to the April 2010 injury. NIEDZIELSKI also applied on behalf of his spouse, K.N., and qualifying children, C.N., J.N., K.N., and A.N. By completing the application, NIEDZIELSKI agreed to: (1) notify the SSA

if his medical condition improved so that he could return to work, even if he had not returned to work; (2) notify the SSA if he worked as an employee or self-employed person; (3) notify the SSA if he applied for or received a decision on benefits under any workers' compensation law or plan, or received other public benefits based on disability; and (4) notify the SSA if imprisoned for or convicted of a felony.

11. In or around February 2012, NIEDZIELSKI applied for disability benefits for himself and his family. The SSA subsequently deemed NIEDZIELSKI eligible for a limited amount of DIBs for a closed disability period between April 2010 and November 2011. NIEDZIELSKI submitted a Request for Reconsideration on January 12, 2013, wherein NIEDZIELSKI wrote that his reason for reconsideration was that he was not working and that he had multiple sclerosis. The SSA denied the request because the SSA determined NIEDZIELSKI's qualifying disability was limited to the 2010-2011 period. NIEDZIELSKI appealed that decision, and an Administrative Law Judge ("ALJ") rendered a fully favorable decision for NIEDZIELSKI on March 3, 2015. Notably, in finding NIEDZIELSKI eligible for DIBs since February 24, 2012, due to his injury, the ALJ determined that NIEDZIELSKI was only fit to perform very light physical work.

NIEDZIELSKI's Employment

12. Notwithstanding NIEDZIELSKI's representations to the SSA or the ALJ's findings, since in or around October 2012, and continuing through in or around December 2020, NIEDZIELSKI was employed by a construction company and

engaged in SGA with that company from at least in or around 2016 onward, which rendered NIEDZIELSKI and his beneficiaries ineligible for SSA disability benefits.

13. NIEDZIELSKI concealed his employment and SGA from the SSA so that he, his spouse, and his dependents could continue to receive benefits from the SSA in furtherance of the scheme. Had NIEDZIELSKI truthfully reported his employment, SGA, and income, his application for DIBs and CIBs would have been denied. Furthermore, had NIEDZIELSKI truthfully reported his employment, SGA and income, NIEDZIELSKI, his spouse, and his dependents would not have been eligible for DIBs or CIBs from the period between in or around October 2012 through in or around December 2020.

NIEDZIELSKI's False Statements

14. On or about December 4, 2020, NIEDZIELSKI completed SSA forms related to a continuing disability review and made material misrepresentations on those forms, including that he did non-physical labor for no compensation and that SSA benefits were his only source of income.

15. From in or around October 2012 through in or around December 2020, NIEDZIELSKI received \$270,933.10 in DIBs and CIBs from the SSA to which he was not entitled.

All in violation of Title 18, United States Code, Section 641.

COUNT TWO
(False Statements)

16. The allegations set forth in paragraphs 1 through 15 of this Information are hereby realleged and incorporated as if fully set forth herein.

17. On or about December 4, 2020, in the District of New Jersey, and elsewhere, the defendant,

KRZYSZTOF NIEDZIELSKI,

knowingly made and caused to be made false statements and representations of a material fact for use in determining rights to any payment under Subchapter II of Title 42, United States Code, to wit: the defendant reported falsely on Social Security Administration documents that he was either not working or was not receiving any income when, in fact, he was engaged in both past relevant work and significant gainful activity.

In violation of Title 42, United States Code, Section 408(a)(3).

FORFEITURE ALLEGATION


Upon conviction of Theft of Government Funds, in violation of Title 18, United States Code, Section 641, as charged in Count One of this Information, the defendant, KRZYSZTOF NIEDZIELSKI, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all property, real and personal, the defendant obtained that constitutes or is derived from proceeds traceable to the commission of said offense, the value of which totaled \$270,933.10.

SUBSTITUTE ASSETS PROVISION

If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above-described forfeitable property.


ALINA HABBA
United States Attorney

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INFORMATION FOR

**18 U.S.C. § 641
42 U.S.C. § 408(a)(3)**

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