

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

MARTHA AGUILAR,
a/k/a "Martha Manzur,"
a/k/a "Martha Sturma,"
a/k/a "Darlene Yuhás"

: Criminal. No. 18-435 (FLW)
:
:
: 18 U.S.C. § 641
: 18 U.S.C. § 1347
: 42 U.S.C. § 408(a)(3)
: 42 U.S.C. § 408(a)(4)
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RECEIVED

MAR 14 2019

AT 8:00 12:00 PM
WILLIAM T. WALSH
CLERK

SUPERSEDING INDICTMENT

The Grand Jury in and for the District of New Jersey sitting at Trenton,
charges:

COUNT ONE
(Theft of Government Money)

INTRODUCTION

At all times relevant to the charges in this Superseding Indictment:

1. Defendant MARTHA AGUILAR ("AGUILAR") was a resident of Middletown, New Jersey.
2. The Social Security Administration ("SSA") was an agency of the United States within the United States government which 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 Benefit ("DIB") program and Supplemental Security Income ("SSI") program

under Title II and Title XVI, respectively, of the Social Security Act, Title 42, United States Code, Section 401 et seq., for eligible individuals. Generally, to be eligible for the Title II DIB program and the Title XVI SSI program, an individual must have met the definition of disability: he/she was unable to perform past relevant work and could not perform any other type of work because of a physical or mental impairment which had lasted, or was expected to last, for at least twelve months, or which could be expected to result in death.

4. The object of the DIB program was to replace part of the earnings lost by workers under age sixty-five because of a physical or mental disability. DIB provided monthly payments to eligible disabled persons and their eligible auxiliary beneficiaries throughout the period of disability. To qualify for DIB, the disabled person was required to have paid sufficient Social Security taxes prior to becoming disabled.

5. The object of the SSI program was to make monthly payments to people who had limited income and resources if they have a disability. Since SSI was a needs based program, an individual must have had limited income and resources to qualify once they met the disability requirements. All income from all sources, including parents or spouse, were considered and could affect the amount of SSI benefits paid to an eligible person. Even though the SSA managed the SSI program, SSI was not funded by Social Security taxes but, rather, was funded by the U.S. Treasury's general fund.

6. The child of a person who received DIB benefits could receive Child Insurance Benefits (“CIB”) if the child was the beneficiary's biological child, adopted child, or dependent stepchild; the child had a parent who was disabled or retired and entitled to Social Security benefits; or a parent who died after having worked long enough in a job where he or she paid Social Security taxes. To be eligible, the child was required to be unmarried, under eighteen years of age, or age eighteen to nineteen if a full-time student (no higher than grade twelve), or over eighteen and disabled.

7. The Medicare program, established by the Social Security Act, was a federal health insurance program of the United States Department of Health and Human Services that provided health care services for persons age sixty-five and older, and certain disabled persons. Under this program, certain covered medical expenses were paid by the United States Government for eligible persons. If an individual qualified for DIB payments from the SSA, he or she would be qualified to receive Medicare benefits after a specified waiting period, which was typically between two and two-and-a-half years from the date of entitlement to DIB payments.

THE SCHEME TO DEFRAUD

8. From in or about September 2004 through on or about January 2015, in Monmouth County, in the District of New Jersey, and elsewhere, defendant

MARTHA AGUILAR,

did knowingly embezzle, steal, purloin and convert to her own use money of the United States and the SSA exceeding \$1,000, that is, approximately \$136,879.24 in SSA program benefits which she was not entitled.

GOAL OF THE SCHEME

9. The goal of the scheme was for AGUILAR to obtain money and other benefits from the SSA to which she was not entitled by lying to the SSA about her employment and income history.

10. In furtherance of the scheme, AGUILAR received government disability insurance benefits, including DIB, CIB, and SSI payments, by concealing and failing to accurately report to the SSA that she:

a. Received unemployment insurance benefits ("UIB"), even while employed, from the State of New Jersey from in or about November 2008 to in or about September 2010 and again from in or about June 2011 to in or about January 2013.

b. Received temporary disability insurance benefits, even while employed, from the State of New Jersey from in or about May 2008 to in or about October 2008; and

c. Earned income by working under the Social Security number (“SSN”) belonging to another individual, or by working under her own SSN but claiming that she did not perform any of the work activity reported under her SSN and having that employment history removed from her record.

MANNER AND MEANS

The DIB and CIB Applications

11. On or about June 19, 1997, defendant AGUILAR completed an application for DIB. AGUILAR claimed that she became unable to work as a result of a disabling condition in June 1996. By completing the application, AGUILAR agreed to: (1) notify the SSA if her medical condition improved so that she would be able to return to work, even if she had not yet returned to work; (2) notify the SSA if she went to work, whether as an employee or self-employed person; (3) notify the SSA if she applied for or received a decision on benefits under any workers’ compensation law or plan, or other public benefits based on disability; and (4) notify the SSA if she was imprisoned for conviction of a felony.

12. As a result of her submitted application, the SSA determined that AGUILAR was entitled to DIB payments, retroactive to December 1996.

13. On or about October 24, 1997, AGUILAR completed an Application for CIB on behalf of her son for benefits payable based on AGUILAR’s purported disability. By completing the application, AGUILAR agreed that she could be

held personally liable for the repayment of benefits she received if she was found to be at fault with respect to an overpayment of benefits.

14. In or about November 2004, the New Jersey State Disability Determination Service, a state agency funded by the federal government to make disability determinations for the SSA, completed a Continuing Disability Review on behalf of the SSA and determined that AGUILAR was no longer disabled. Following the determination, AGUILAR elected payment continuation during the appeals process. AGUILAR was informed that if she lost her appeal, she would have to repay to SSA all payments received after she was found to be no longer disabled.

15. On various dates between November 2004 and June 2005, AGUILAR completed appeal-related documentation and represented that she had not worked during the time period of her DIB and CIB benefits. AGUILAR falsely claimed in administrative proceedings that the work indicated on her earnings record for 2004 and 2005 was not performed by her and was the product of a third-party using her SSN without her authorization.

16. On or about November 17, 2006, at the conclusion of the appeal process, the Disability Determination Service found that AGUILAR's disability ceased on September 1, 2004.

The 2007 DIB and SSI Applications

17. On or about January 18, 2007, AGUILAR completed applications for DIB and SSI. On the applications, she represented that she became

unable to work because of her disabling condition in June 1996. During the application process, she further represented that she did not perform the work that resulted in the earnings on her record for the years 2004 and 2005 and that those earnings were not attributable to her. Indeed, in SSA forms completed in support of her application, AGUILAR represented that she had not worked in the last fifteen years. SSA denied AGUILAR's claim for disability and AGUILAR requested a reconsideration of her disability determination.

18. Upon reconsideration of her disability determination and following an administrative hearing, on or about September 30, 2009, the SSA issued a partially favorable decision and concluded that AGUILAR was disabled as of June 13, 2007. As a result, AGUILAR's SSA benefits commenced in November 2009 and were paid retroactive to June 2007.

19. On or about October 2, 2009, AGUILAR filed an Application for CIB on behalf of her son. The claim was based on AGUILAR's entitlement to DIB as of September 2009.

20. In applying for DIB and CIB benefits in 2009, AGUILAR, alleged that she was disabled and unable to work.

21. As a result of her DIB eligibility, AGUILAR also became entitled to Medicare benefits.

AGUILAR's Employment

22. Notwithstanding her contrary representations to the SSA,

beginning as early as in or about October 2004, and continuing through in or about November 2014 AGUILAR secured employment using either her own SSN or an SSN belonging to another individual. During that time, AGUILAR was employed by and received wages from two restaurants and numerous law firms and law offices. Despite her continual employment from in or about 2004 through in or about 2014, AGUILAR applied for and received unemployment benefits from the State of New Jersey from on or about November 1, 2008 to on or about September 18, 2010, totaling approximately \$55,440. AGUILAR also received unemployment benefits from on or about June 4, 2011 to on or about January 5, 2013, totaling approximately \$48,298.

23. AGUILAR also applied for and received Temporary Disability Insurance Benefits in the amount of \$13,622 from the State of New Jersey from on or about May 5, 2008 to on or about October 22, 2008.

24. AGUILAR concealed from the SSA her work activity, unemployment benefits, and temporary state disability benefits to allow her to continue to receive money and other benefits from the SSA in furtherance of the scheme. As a result, between in or about 2004 to in or about 2014, AGUILAR received approximately \$488,870 in wages and benefits that she failed to report to the SSA.

25. Had AGUILAR truthfully reported her work activity and income, her application for Social Security benefits in January 2009 would not have been approved and she would not have been eligible for DIB, CIB, or SSI from

in or about September 2007 to in or about January 2015.

26. From in or about September 2004 to on or about January 2015, AGUILAR received approximately \$136,879.24 in Disability Insurance Benefits, Child Insurance Benefits, and Supplemental Security Income payments to which she was not entitled.

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

COUNTS TWO THROUGH FOUR
(Health Care Fraud)

27. Paragraphs 1 through 7 and 9 through 26 of Count One of this Superseding Indictment are hereby repeated, re-alleged, and incorporated as if fully set forth herein.

28. Medicare had four main components, referred to as Parts A, B, C, and D. AGUILAR received benefits under Parts A, B, and D. Part A covered medically necessary inpatient care in a hospital, skilled nursing facility or psychiatric hospital, hospice care, and home health care. Part B covered outpatient services such as physician and laboratory services. Part D covered prescription drugs.

29. From in or about July 2006 through in or about September 2016, AGUILAR received a total of approximately \$644,605 in Medicare benefits on the basis of her fraudulent application for, and receipt of, Social Security Disability Insurance Benefits.

30. On or about each of the dates listed below, in the District of New Jersey and elsewhere, defendant

MARTHA AGUILAR

knowingly and willfully executed a scheme and artifice to defraud Medicare, a health care benefit program, through payment for health care services, treatment, and medicines that she was not entitled to receive, which were paid out to providers on her behalf by Medicare in the approximate amounts listed below (each claim constituting a separate count of this indictment):

<u>COUNT</u>	<u>TYPE OF MEDICARE BENEFIT</u>	<u>APPROXIMATE DATE OF CLAIM</u>	<u>APPROXIMATE AMOUNT PAID BY MEDICARE</u>
2	A	10/17/2014	\$440.80
3	B	09/1/2015	\$186.40
4	D	09/07/2016	\$8,149.84

All in violation of Title 18, United States Code, Section 1347.

COUNT FIVE
(False Statements in Furtherance of Social Security Fraud)

31. Paragraphs 1 through 7 and 9 through 26 of Count One of this Superseding Indictment are hereby repeated, re-alleged, and incorporated as if fully set forth herein.

32. On or about December 20, 2014, AGUILAR went to the SSA office in Woodbridge, New Jersey and completed forms related to a continuing disability review. In those forms, AGUILAR made material misrepresentations, including that she had not worked since June 13, 2007 and that her only source of income was Social Security Disability.

33. On or about December 10, 2014, in the District of New Jersey and elsewhere, defendant

MARTHA AGUILAR

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 falsely represented on her Continuing Disability Review forms that she had not worked since her disability onset date, when in fact she had worked and continued to work after her alleged onset date.

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

COUNT SIX
(Social Security Fraud)

34. Paragraphs 1 through 7 and 9 through 26 of Count One this Superseding Indictment are hereby repeated, re-alleged, and incorporated as if fully set forth herein.

35. Between in or about September 2004 to on or about January 2015, in Monmouth County, in the District of New Jersey and elsewhere, defendant

MARTHA AGUILAR

in a matter within the jurisdiction of the Social Security Administration, having knowledge of the occurrence of an event affecting her continued right to Social Security Disability Insurance Benefits, and Supplemental Security Income payments, more specifically, income she derived through employment and the use of an alternate social security number, did knowingly conceal and fail to disclose such events with the intent to fraudulently secure Disability Insurance Benefits, Child Insurance Benefits, and Supplemental Security Income payments in a greater amount than was due and when no payment was authorized.

In violation of Title 42, United States Code, Section 408(a)(4).

FORFEITURE ALLEGATION AS TO COUNT ONE

1. As a result of committing the theft of government property offense charged in Count One of this Superseding Indictment, defendant,

MARTHA AGUILAR

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, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the violation of Title 18, United States Code, Sections 641, and all property traceable thereto, alleged in Count One of this Superseding Indictment.

FORFEITURE ALLEGATION AS TO COUNTS TWO THROUGH FOUR

2. Upon conviction of the Federal health care offense (as defined in 18 U.S.C. § 24) alleged in Counts Two through Four of this Superseding Indictment, defendant,

MARTHA AGUILAR

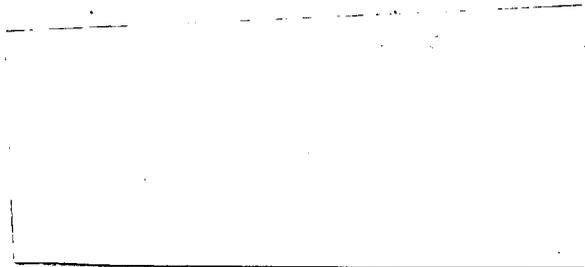
shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(7), all property, real or personal, that constitutes or is derived, directly and indirectly, from gross proceeds traceable to the commission of the offense (as defined in 18 U.S.C. § 24) alleged in Counts Two through Four of this Superseding Indictment.

SUBSTITUTE ASSETS PROVISION
(Applicable to All Forfeiture Allegations)

3. 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 party;
- 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 divided without difficulty;

the United States shall be entitled, pursuant to 21 U.S.C. § 853(p) (as incorporated by 28 U.S.C. § 2461(c) and 18 U.S.C. §§ 982(b)), to forfeiture of any other property of the defendant up to the value of the above-described forfeitable property.





CRAIG CARPENITO
United States Attorney

CASE NUMBER: 18-435

**United States District Court
District of New Jersey**

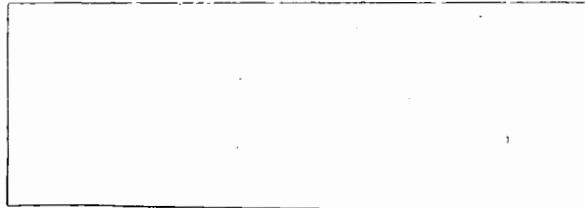
UNITED STATES OF AMERICA

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MARTHA AGUILAR

**SUPERSEDING INDICTMENT
FOR**

**18 U.S.C. § 641
18 U.S.C. § 1347
42 U.S.C. § 408(a)(3)
42 U.S.C. § 408(a)(4)
20 U.S.C. § 1097(a)**



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