

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
EMMET BOWENS,)
)
Defendant.)
_____)

Case No. 6:21-cr-00141-RBD-EJK

UNDERSIGNED COUNSEL’S RENEWED MOTION TO WITHDRAW

The undersigned counsel for the Defendant, Emmet Bowens (“Mr. Bowens”), hereby moves to withdraw as counsel of record in this matter. In support thereof, the undersigned states as follows:

STATEMENT OF FACTS

Relevant Procedural History

1. On November 10, 2021, a federal grand jury in the Middle District of Florida returned an indictment charging Mr. Bowens with two counts of wire fraud, in violation of 18 U.S.C. § 1343 (Counts One and Two), and four counts of money laundering, in violation of 18 U.S.C. § 1957 (Counts Three through Six).

Doc. 1.

2. On December 2, 2021, in Atlanta, Georgia, Mr. Bowens was detained and eventually arrested in connection with a warrant issued in this case. Docs. 7, 9.

3. On the same date of his arrest, December 2, 2021, Mr. Bowens had a Rule 5(c)(3) initial appearance before a U.S. Magistrate Judge in the Northern District of Georgia. Doc. 7. At this hearing, the Magistrate Judge set conditions of release for Mr. Bowens. *Id.* at 4, 7.

4. On December 16, 2021, Mr. Bowens appeared in the Middle District of Florida, where this Court held an in-district initial appearance. Doc. 10. At this hearing, the Court appointed the Federal Public Defender to represent Mr. Bowens. Doc. 13.

5. On February 22, 2022, the Court granted the Federal Public Defender's motion to withdraw and appointed the undersigned to represent Mr. Bowens pursuant to the CJA. Docs. 30, 34, 35.

6. Following his appointment, the undersigned made substantial efforts to diligently represent Mr. Bowens, including reviewing the government's voluminous discovery production, drafting a lengthy legal memorandum for Mr. Bowens's review, and drafting three substantive pretrial motions, which were filed on May 5, 2022. Docs. 44, 45, 46. The pretrial motions were: (1) a motion to suppress statements taken from the defendant by law enforcement (Doc. 44); (2) a

motion to suppress identifications of the defendant (Doc. 45); and (3) a motion to dismiss one of the counts in the indictment due to improper venue (Doc. 46). The research and drafting of these motions took considerable time and effort.

7. Eventually, the undersigned developed a concern that Mr. Bowens was not competent to proceed in this case. On May 6, 2022, the undersigned filed a motion for a competency evaluation by a court-appointed expert. Doc. 47.

8. At a hearing on July 13, 2022, the Court found Mr. Bowens not competent to proceed based on a prior psychological evaluation performed by Jeffrey A. Danziger, M.D., a court-appointed psychiatrist. Docs. 75, 78.

9. The Court's Order finding Mr. Bowen's incompetent to proceed required that he report to a designated facility on a date set forth by the Bureau of Prisons ("BOP") for competency restoration treatment. Doc. 78. The BOP specifically designated the Federal Medical Center in Butner, North Carolina ("FMC Butner") as the facility for Mr. Bowens's competency restoration treatment. Mr. Bowens was also given a voluntary report date of March 21, 2023 by the BOP.

10. Despite the undersigned's diligence, on March 8, 2023, Mr. Bowens discharged the undersigned and instructed the undersigned to file a motion to withdraw. On this same date, March 8, 2023, the undersigned filed a motion to withdraw. Doc. 95.

11. On March 9, 2023, the Court denied the motion to withdraw without prejudice but stated that the undersigned could renew the motion following Mr. Bowens's competency restoration treatment, if Mr. Bowens still desired new counsel. Doc. 98.

12. After the denial of the motion to withdraw, Mr. Bowens failed to report to FMC Butner for his restoration treatment, as required by the Court. *See* Doc. 103. Therefore, Mr. Bowens's competency restoration treatment has not commenced. *Id.* After Mr. Bowens failed to appear at FMC Butner, the Court issued a warrant for his arrest. *Id.* The government also considers Mr. Bowen a fugitive from justice.

13. It has been over a year since Mr. Bowens failed to appear at FMC Butner.

14. As noted above, Mr. Bowens discharged the undersigned before the defendant became a fugitive. It was only due to Mr. Bowens's competency status that the Court denied the undersigned's first motion to withdraw as Mr. Bowens's attorney. As of this filing, there is no indication as to when Mr. Bowens will be located, much less when his competency can be addressed and restored. Based on the foregoing, the undersigned requests withdrawal at this time. If and when Mr. Bowens is located, he can request the appointment of new counsel if he wishes to have counsel represent him in this matter.

15. On May 1, 2024, the undersigned counsel conferred with the assigned Assistant United States Attorney, who informed the undersigned that the government does not object to the instant motion.

MEMORANDUM OF LAW

The Florida Rules of Professional Conduct require an attorney to withdraw from the representation of a client if “the lawyer is discharged.” *See* Rule 4-1.16(a)(3) of the Rules Regulating the Florida Bar. Moreover, the Rules provide that an attorney may withdraw from representing a client if, *inter alia*, “the client insists upon taking action that the lawyer considers . . . imprudent, or with which the lawyer has fundamental disagreement;” or “other good cause for withdrawal exists.” *See* Rule 4-1.16(b)(2) and (5) of the Rules Regulating the Florida Bar.

The Middle District of Florida Local Rules provide, in relevant part:

If a lawyer appears, the lawyer cannot without leave of court abandon, or withdraw from, the action.

(1) To withdraw, a lawyer:

(A) must notify each affected client fourteen days before moving to withdraw **unless the client consents to withdrawal**, and

(B) must file a motion to withdraw that includes:

(i) a certification that the lawyer has provided fourteen days’ notice to the client or **that the client consents to withdrawal** . .

See Rule 2.02(c), M.D. Fla. Local Rules (emphasis added).

Here, the undersigned cannot provide a fourteen-day notice to Mr. Bowens because his whereabouts are unknown. Further, as noted above, Mr. Bowens previously consented to the undersigned's withdrawal when he instructed the undersigned to file the first motion to withdraw.

CONCLUSION

WHEREFORE, the undersigned counsel, Andrew C. Searle, Esq., respectfully requests that this Court grant the undersigned leave to withdraw as counsel for defendant Emmet Bowens.

Respectfully submitted on this 2nd day of May, 2024.

s/Andrew C. Searle
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY on May 2, 2024, I filed a copy of the foregoing with the Clerk of the Court via the CM/ECF system. I further certify that all parties to this case are equipped to receive service of documents via that system.

s/Andrew C. Searle
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