

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, ) CRIMINAL ACTION FILE  
v. ) NO. 1:20-MJ-370  
 )  
MAURICE FAYNE, )  
 )  
Defendant. )  
\_\_\_\_\_ )

-----  
BEFORE THE HONORABLE JUSTIN S. ANAND  
TRANSCRIPT OF TAPED PROCEEDINGS  
MAY 13, 2020  
-----

APPEARANCES:

For the Plaintiff: OFFICE OF THE U.S. ATTORNEY  
(By: Russell Phillips  
Bernita Malloy  
Michael Brown)

For the Defendant: LAW OFFICE OF TANYA F. MILLER  
(By: Tanya F. Miller)

Proceedings recorded by mechanical stenography  
and computer-aided transcript produced by

JANA B. COLTER, FAPR, RMR, CRR, CRC  
Official Court Reporter  
1949 U.S. Courthouse  
75 Ted Turner Drive, SW  
Atlanta, Georgia 30303  
(404) 215-1456

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

-- --

P R O C E E D I N G S

(Atlanta, Fulton County, Georgia, May 13, 2020, in open court.)

THE COURT: -- 1:20-MJ-370, representing the United States is Assistant U.S. Attorney, Russell Phillips. And I understand, Mr. Phillips, you're appearing by telephone; is that right?

MR. PHILLIPS: I am, Your Honor. Thank you for letting me do that.

THE COURT: Of course.

MR. PHILLIPS: In addition, my co-counsel, Bernita Malloy and Mike Brown are on the line as well.

THE COURT: Okay. Good afternoon to both -- to all of you.

MS. MALLOY: Good afternoon, Your Honor.

THE COURT: And we have -- is it Tanya Miller; is that right?

MS. MILLER: Yes, Your Honor.

THE COURT: Okay. Tanya Miller representing Mr. Fayne.

Mr. Fayne, you're here because you've been arrested on the -- and, by the way, can you hear me okay?

THE DEFENDANT: Yes, sir.

1 THE COURT: It's awkward with the mask.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: I just want to make sure that you can  
4 hear me.

5 You've been arrested on the basis of a criminal  
6 complaint that charges you with the offense of bank fraud in  
7 violation of U.S. law Title 18 United States Code Section 1344.  
8 Do you have a copy of that complaint and the affidavit?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. And so do you have an  
11 understanding of what it is that you've been charged with in  
12 this case?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Okay. Let me advise you that you have  
15 the right to remain silent. The government can't force you to  
16 make any statements relating in any way whatsoever to any of  
17 the facts that may be pertinent to this case.

18 If you make statements, what you say could be used  
19 against you, it could be used against you in the prosecution of  
20 this case, including at trial or other proceedings that may  
21 occur in the case, or in other cases that you may face now or  
22 in the future including other criminal or civil cases of any  
23 sort.

24 So my advice to you is that you not make statements  
25 relating in any way whatsoever to the facts of this matter to

1 the police, law enforcement or other representatives of the  
2 government unless you first consult with your lawyer, who  
3 represents you in the case, about whether you should do so.

4           You have the right to a lawyer to advise and  
5 represent you and defend you throughout these proceedings and  
6 to be present with you if you choose to speak to  
7 representatives of the government. You can hire a lawyer of  
8 your own choosing, if you have the means to do so, and here  
9 it's my understanding that you've retained Ms. Miller to  
10 represent you in this case; is that right?

11           THE DEFENDANT: That's correct.

12           MS. MILLER: That's correct, Your Honor.

13           THE COURT: Okay. But let me just advise you that  
14 you do have the right to apply for court-appointed counsel if  
15 you were unable to pay for a privately retained lawyer. In  
16 other words, you'd have the right to -- if you could make a  
17 showing that you lacked the ability to pay a lawyer, you'd  
18 still be entitled to have a lawyer appointed for you free of  
19 charge by the Court.

20           But I understand that's not an application you're  
21 making today because you have retained counsel, Ms. Miller.

22           All right. Being that you are charged on a criminal  
23 complaint, which is not an indictment passed by a grand jury,  
24 the grand jury in this district is on temporary suspension  
25 because of the coronavirus outbreak, you have the right to

1 what's known as a preliminary hearing.

2 Now, a preliminary hearing is not in itself a trial.  
3 It would be a brief summary hearing where the question before  
4 the Court would be is there probable cause, sufficient evidence  
5 to show probable cause that you have, in fact, committed the  
6 offense charged.

7 Probable cause is a legal term, but basically means  
8 viewing the evidence at this juncture in the case in the light  
9 most favorable to the prosecution, that there is sufficient  
10 evidence to believe that -- that it's more likely than not that  
11 you've committed this crime.

12 At a preliminary hearing, the government would not be  
13 obliged to call all or even any of the same witnesses it may  
14 later call at trial, it would be permissible for the  
15 prosecution to call one or more law enforcement officers to  
16 summarize the results of an investigation, even if they may not  
17 have personal knowledge of all the facts that they're  
18 testifying to.

19 But you have the right to have that happen, to be  
20 present, to hear that testimony, to cross-examine any witnesses  
21 the government may call through your lawyer, and you could  
22 introduce your -- evidence yourself on the question of probable  
23 cause, if you wished, but you'd have no obligation to do so.

24 The preliminary hearing is something you -- you  
25 could, if you wished to have it, be present for, that's your

1 choice, but we also could hold the proceeding remotely by video  
2 or telephonic means at your consent.

3 Ms. Miller, does he wish to have a preliminary  
4 hearing in this case?

5 MS. MILLER: No, Your Honor.

6 THE COURT: Okay. In terms of bond, I understand the  
7 government is not moving to detain; is that correct?

8 MR. PHILLIPS: That's correct, Your Honor, but we are  
9 asking for an ankle monitor. And at the appropriate time, I  
10 would like to just state briefly the reasons that we believe  
11 that's appropriate.

12 THE COURT: Okay. All right. Well, I was about to  
13 turn to the issue of bond at this time, so, Mr. Fayne, let me  
14 just explain, the government is not moving to detain you, in  
15 other words, they're not contesting that you should be released  
16 on conditions of bail or bond, but they are asking for more  
17 restrictive conditions in the form of an ankle monitor than are  
18 recommended from the pretrial services office in their report,  
19 it seems, and I'll hear from Mr. Phillips in a moment about  
20 that.

21 But -- well, let me do that now. Mr. Phillips, let  
22 me -- let me hear you now on the appropriate conditions of  
23 bond.

24 MR. PHILLIPS: Yes, Your Honor. First of all, just a  
25 little bit of background about the nature of the charges. The

1 defendant is the sole owner of a Georgia corporation called  
2 Flame Trucking. And on April the 15th, he signed and submitted  
3 an application for a paycheck protection program loan in the  
4 name of Flame Trucking, and he submitted that application to  
5 the United Community Bank, which is a federally insured  
6 institution.

7 In that application, he stated that his business had  
8 107 employees and an average monthly payroll of \$1,490,200 and  
9 he asked for a loan in the amount of \$3,725,500.

10 In that application, he certified that the loan  
11 proceeds would be used to, quote, retain workers and maintain  
12 payroll or make mortgage interest payments, lease payments and  
13 utility payments as specified under the paycheck protection  
14 program rules.

15 Ultimately, the bank loaned Mr. Fayne \$2,045,800, the  
16 amount that he sought was reduced, although it was originally  
17 put into an account, it was reduced to that \$2 million figure  
18 to comply with the regulations under the program because of the  
19 number of employees and the salaries that they had.

20 Within days after getting that \$2 million into his  
21 account in the name of Flame Trucking, we believe the evidence  
22 will show that he used more than \$1.5 million of that to  
23 purchase \$85,000 in custom-made jewelry, including a Rolex  
24 watch, a diamond bracelet and a 5.73 carot diamond ring for  
25 himself. He paid \$40,000 in child support, and he also wired

1 \$232,000 of the loan proceeds to his personal account at Navy  
2 Federal Credit Union.

3 And shortly after wiring that money into his account  
4 on May 1st, he paid \$136,000 to a company up in New Jersey to  
5 lease a Rolls-Royce, a 2019 Rolls-Royce, which was also seized  
6 pursuant to a seizure warrant issued by this Court.

7 The jewelry and over \$500,000 in PPP loan proceeds in  
8 various bank accounts was seized pursuant to seizure warrants.  
9 In addition, we obtained a search warrant for the defendant's  
10 residence in Gwinnett County, and that was executed on Monday  
11 of this week, May the 11th, and at that time, agents seized a  
12 bag that had \$70,000 in cash that was still wrapped up in bank  
13 wrappers and another \$9,400 that Mr. Fayne had in his pants  
14 pocket. That's when they also seized the jewelry at the  
15 residence.

16 We obtained the search warrant, or rather the seizure  
17 warrant, for the Rolls-Royce. We didn't have all of the  
18 information that we received this morning, so we confirmed this  
19 morning that the \$136,000 upfront lease payment on the  
20 Rolls-Royce came out of the PPP loan proceeds, that is a  
21 \$132,000 wire from Flame Trucking to the defendant's personal  
22 account at Navy Federal Credit Union, which led to the payment  
23 on the Rolls-Royce.

24 And so that's the background about the charges. And  
25 the reason that we're asking for more restrictive conditions of

1 pretrial release is because when we obtained the defendant's  
2 phone in the search, the FBI conducted a search and we found  
3 some things on that that were concerning.

4 First of all, the -- I should say that the case  
5 agents from the FBI and the Small Business Administration  
6 Office of Inspector General interviewed Mr. Fayne on May the  
7 6th. The next day, May the 7th, the defendant's phone shows  
8 that he started conducting research into, quote, countries that  
9 will not extradite to the United States, close quote. Also, he  
10 searched, quote, does Dubai extradite to the U.S., close quote.

11 He searched countries with no extradition treaty with  
12 the U.S. And he searched what -- costs of living life in  
13 Dubai, he searched islands that don't have extradition, and he  
14 searched wire fraud punishment. This was all within 24 hours  
15 or probably a little bit less of being interviewed by federal  
16 agents concerning the charges in this case.

17 So we're -- we're concerned about that. We also take  
18 into consideration in making our recommendation the fact that  
19 the defendant hired an attorney. His attorney contacted the  
20 FBI and me and was cooperative in having the defendant turn  
21 himself in shortly after we informed counsel that we had an  
22 arrest warrant for the defendant, and he did voluntarily go to  
23 the FBI office this morning and turn himself in and turn over  
24 the Rolls-Royce pursuant to the seizure warrant.

25 He was also cooperative with the agents during the

1 searches -- or during the search of his residence when they  
2 seized various items, but one thing that that -- that happened  
3 there was also a little bit concerning, and that is when agents  
4 knocked on the door to execute the search warrant, they had  
5 various agents posted around the perimeter of the residence,  
6 and one of those agents was outside the basement door and the  
7 agents believe that Mr. Fayne was attempting to leave through  
8 the basement door until he saw that there was an agent posted  
9 outside. He then went back up the steps. When the agents went  
10 downstairs into the basement to search it, they found virtually  
11 nothing except the bag that had the \$70,000 in cash.

12 So there was some fear that he was attempting at that  
13 time or would have attempted to leave the premises rather than  
14 submit to search, if there had not been an agent posted  
15 outside.

16 So that combined with the searches on his phone  
17 concerning extradition and punishment are concerning and we  
18 thought about moving for detention, but because of the  
19 circumstances and because he did hire an attorney and did  
20 voluntarily turn himself in and cooperate thus far, we've  
21 elected to take a chance and move for an ankle monitor instead  
22 of moving for detention.

23 In addition to that, we would ask that the defendant  
24 be required to turn over his passport. It's my understanding  
25 that his lawyer already has that passport in her possession and

1 that she's prepared to turn that over today. And we would ask  
2 that the defendant not be permitted to travel outside the  
3 district.

4 Thank you, Judge.

5 THE COURT: All right. Ms. Miller, any response on  
6 the request for electronic monitoring?

7 MS. MILLER: Thank you, Your Honor. I -- just in  
8 case the Court can't hear me, I don't know if you can -- can  
9 you hear me with the mask?

10 THE COURT: Yeah, I can hear you. Yeah, you can  
11 leave it on. Yeah, I'd appreciate it if you would leave it on.

12 MS. MILLER: Leave it on, okay.

13 THE COURT: Yeah.

14 MS. MILLER: I just didn't know if you could hear me.  
15 Judge, I certainly understand why my colleague is asking for  
16 that. He did tell me in advance that he planned to ask for  
17 that.

18 I would just suggest to the Court that those searches  
19 were conducted, as has been represented to me, I have no  
20 ability to -- or no reason to challenge that, as I understand  
21 it, that wasn't the first time he'd searched things like that  
22 in connection with conversations that he was having, not  
23 because he intended to do anything, more or less it was --  
24 without going into detail -- just a conversation with somebody  
25 else about what was going on.

1           And I would say, Your Honor, the fact that he  
2 searched something when he has literally made -- every action  
3 that he has taken has been to cooperate with the government,  
4 meaning that he spoke to the agents voluntarily without  
5 counsel, meaning that he was present in the home when they  
6 searched, he did not flee. He handed over everything that they  
7 asked for, his phones, everything.

8           He obtained counsel when he realized that, you know,  
9 the situation was obviously something that he needed advice on.  
10 He has been supremely cooperative with me. He asked me to  
11 affirmatively reach out to the government to let them know  
12 that, which I did, before they got the arrest warrant.

13           Once -- and volunteered to -- to surrender him if  
14 they, at some point, got one. We did not know what their plan  
15 was. They called me at 6:30 this morning saying that they had  
16 an arrest warrant for him and he needed to turn himself in  
17 immediately. I immediately got up and got Mr. Fayne on the  
18 phone, told him what was happening, told him what their request  
19 was regarding the Rolls-Royce. He immediately sprang into  
20 action to do everything that I asked him to do.

21           I asked the agents if we could bring him and the car  
22 by 10:30. The agent said that was fine, and we were there at  
23 10:30 on the dot, as we promised and represented to them.

24           So I think the recommendation by pretrial is  
25 appropriate. Although I understand why my colleague is asking

1 for -- I understand why that would be concerning, so I'm not  
2 going to poo-poo that, because I certainly understand that.

3 But I can tell you that if you look at his actions  
4 and you look at his history and you look at what he has done in  
5 this case, it indicates nothing but an intent to be present, to  
6 answer to these accusations, to defend himself appropriately,  
7 to cooperate when it's appropriate.

8 And I would suggest that based on his actions,  
9 Your Honor, that the bond as recommended by pretrial would  
10 be -- would be appropriate. So that's all I would say on it,  
11 Judge.

12 THE COURT: All right. Couple of questions.

13 Mr. Phillips, first, is all the money accounted for?

14 MR. PHILLIPS: It is not, Your Honor. As I said, the  
15 amount of money that was actually funded into the defendant's  
16 account was a little bit over \$2 million. We've seized a  
17 little bit over \$500,000 from various accounts and I told you  
18 about the money that we seized in cash.

19 But while we were in the process of applying for  
20 seizure warrants for various banks, at least one of those  
21 accounts that we were looking at was cleaned out and another  
22 one, there was some money taken out of that before we could get  
23 to those.

24 I don't know what happened to that money. I know  
25 that the bank records indicate that the defendant made a

1 \$65,000 cash withdrawal. And keep in mind all of this happened  
2 in a fairly short time period. The loan was funded on April  
3 the 22nd, and the bank records indicate that the defendant  
4 started wiring the money out of the account the next day on  
5 April the 23rd.

6 There were wires for \$175,000 to a person in Miami  
7 named Trice Baum. I don't know who that is. I Googled it.  
8 That's the only information I have on it. I'm not sure who  
9 that person is.

10 There were only a couple of transactions that  
11 appeared to be related in name to some aspect of the trucking  
12 business. One of those was a TransAm Trucking Exchange and  
13 there was another one to Great Dane, LLC.

14 The other transfers were to individuals, \$350,000 to  
15 a woman named Kawanza Wilkins, and she's also the person who  
16 then wired money to the jewelry store and wired money to pay  
17 for the defendant's child support. We don't know what happened  
18 to the remainder of that \$350,000, that was only, let's see, 84  
19 plus 40, \$124,000 out of that 350 that was accounted for.

20 Then there were individual transactions that appeared  
21 to be payments on loans, one for \$30,000, another for \$50,000.  
22 Some unidentified people in Arkansas. One received \$25,000,  
23 another received \$75,000 on back-to-back days. A man named  
24 Jamal Shepard in Little Rock, Arkansas. He got \$75,000 on  
25 April 23rd, another \$75,000 on April the 24th.

1           And then two very concerning transactions where the  
2 defendant wired money from the business's account to his  
3 personal account. He wired himself \$90,000 on April the 28th,  
4 and he wired himself another \$142,000 just a couple of days  
5 later on May the 1st. And May the 1st is the day that he sent  
6 the \$136,000 to the company that leased the Rolls-Royce to him.

7           And so those are concerning. So there is some cash  
8 that's unaccounted for. The amount that was wired out of the  
9 account plus the amount that we seized in the various accounts  
10 comes up over the \$2 million, but we don't know what happened  
11 to the other -- to the other money after it was wired to these  
12 individuals.

13           Judging from the fact that the defendant, according  
14 to the interview of Kawanza Wilkins, instructed Ms. Wilkins to  
15 make surreptitious wire transfers on his behalf, it appears  
16 that the defendant was doing that in order to disguise the  
17 source of the money.

18           So again, there is some money missing. We don't know  
19 exactly how much, but a substantial amount that -- that  
20 somebody could use to leave the district if they were so  
21 inclined and the fact that he was actively involved in  
22 depleting some of these accounts at the same time that the  
23 U.S. Attorney's Office and the federal agents, the FBI and  
24 Small Business Administration, LIG were in the process of  
25 trying to get seizure warrants, you know, that's disturbing.

1 It indicates that if we hadn't acted as quickly as we did that  
2 we might not have been able to seize all of the money that we  
3 did, and even more that would have disappeared.

4 So I don't have a specific answer for your question,  
5 but that's what the evidence to date shows. It's not all  
6 accounted for. And a lot of it was moved around in cash and  
7 wire transfers to individuals who could have converted it to  
8 cash. And we're still in the process of trying to track down  
9 all of the bank records related to those transactions.

10 THE COURT: All right.

11 MS. MILLER: May I respond, Judge? Just --

12 THE COURT: You may. And also I wanted to hear a  
13 little bit more about -- from the -- about the defendant's job,  
14 Flame Trucking, is that -- what's the nature of his day-to-day  
15 work? And does that entail travel? Trucking suggests travel,  
16 so --

17 MS. MILLER: Okay.

18 THE COURT: -- so what's the nature of his  
19 involvement in that company and does it involve travel?

20 MS. MILLER: Yes, Your Honor. So let me answer that  
21 question first, and then I guess I'll go back to --

22 THE COURT: Umm-hmm.

23 MS. MILLER: -- my understanding of what might be  
24 going on in the bank account, although, you know, I think that  
25 this investigation is still ongoing and there's still questions

1 about it.

2 For the most part, he is stationed in Atlanta. He  
3 does occasionally do over-the-road driving himself, but that is  
4 a rare -- that's a rarity. He usually does not actually drive  
5 the trucks. There are drivers who drive the trucks. So  
6 certainly, you know, if there is a condition of his bond that  
7 he has to remain in the district, absent specific permission  
8 either from the Court or pretrial services, that is certainly  
9 something that he can comply with.

10 He is -- he is -- his job is not daily driving over  
11 the road, either in the district, outside of the district or  
12 outside of the state. That does happen occasionally, but that  
13 is not the regular, so that I think unless you have more  
14 questions about that, that answers that.

15 THE COURT: Um-hmm.

16 MS. MILLER: Then as the bank account is concerned, I  
17 understand my colleague has questions and he did share with me  
18 that they were still investigating and trying to trace down  
19 where some of these wires went, that some of these wires  
20 appeared to be, at least from the government's perspective, on  
21 initial review, legitimate wires related to business.

22 Then there are other wires that are questionable, as  
23 I understand from the government. However, I also -- it's also  
24 my understanding that many, if not most of these wires, there  
25 may have been seven or something like that, were -- were taken

1 back by the bank. So while the wires may have initially gone  
2 through that -- that all or part of them were then sort of  
3 taken back or frozen by the bank. And then ultimately, the  
4 whole account was frozen.

5           So I'm not saying there isn't some cash that made its  
6 way into his personal account, as the government has indicated.  
7 And I think as he has admitted to the government during the  
8 interview, I'm not sure if that came -- if that was  
9 specifically asked and he answered that, but I just don't -- I  
10 think there are -- I guess my point is, Judge, there are still  
11 questions about where this money has gone.

12           And I don't know that it is completely accurate to  
13 say that \$2 million of it is yet to be accounted for. I just  
14 don't know that that's accurate. And if the government  
15 suspects that, that's one thing, but unless the government  
16 definitely knows that, I think that that's a -- that's a  
17 different issue.

18           They took all the cash that he had in his house.  
19 And, you know, at this point, he -- he -- all his accounts are  
20 frozen. So I'm not sure where he's going to get these funds  
21 from or if there are funds out there that the government can  
22 point to specifically that he has access to. I just don't  
23 know.

24           But I will just offer to the Court, and I guess my  
25 colleague can respond to it, it's my understanding that most of

1 the wires that were suspicious have either been called back by  
2 the bank or those monies have been frozen in some capacity.

3 I suspect the bank could probably answer that  
4 question with relative ease, but I just wanted to offer that to  
5 the Court as well.

6 THE COURT: Okay. All right. Mr. Fayne, I'm going  
7 to grant the bond. And of course there's no request for  
8 otherwise. The government is not moving for detention. I am  
9 going to agree to the condition of locational monitoring. That  
10 is a relatively light condition, and I do think it's suggested  
11 here, the nature of the searches on the phone that were  
12 represented by Mr. Phillips are obviously concerning when it  
13 comes to the question of flight.

14 Now, you know actually fleeing and becoming an  
15 expatriate on the run and living only in non-extraditable  
16 countries is easier contemplated than actually done. But the  
17 fact that it was even contemplated is of concern.

18 The -- I don't know the exact ins or outs on the  
19 monetary situation, which is still being investigated, but I do  
20 hear specific facts to suggest that there's at least some money  
21 paid to third parties for which the circumstances haven't been  
22 entirely identified and so there may be money paid to others  
23 that would still be available to the defendant in some  
24 capacity.

25 But really the very specific and concerning thought

1 process of fleeing to a non-extraditable country in advance of  
2 law enforcement action is enough for me to give significant  
3 pause here. In other circumstances, I think it would be -- and  
4 I've seen the prosecution ask for detention in cases such as  
5 that, and detention to be granted in cases where facts like  
6 that have been presented.

7           Here, that's not being requested and not -- and I'm  
8 not going to -- and I don't think it's appropriate for me to  
9 overrule that. And I think part of the reason is because of  
10 the other facts and circumstances, a lot of which Ms. Miller  
11 has very effectively explained, because it is of great credit  
12 to you, Mr. Fayne and something that the Court very much  
13 considers in your favor that you cooperated, that you appeared  
14 voluntarily, that you very -- you took the responsible step of  
15 hiring counsel, who then contacted the government, and you  
16 cooperated with the surrender, both of the property, the car  
17 and as well as yourself to the warrant and that's of great  
18 credit, and probably the reason why you're not facing a motion  
19 for detention from the government.

20           But I don't think it goes so far as to completely  
21 negate the other circumstances that Mr. Phillips has explained  
22 and that I've described, and I think that that justifies the  
23 step of a locational monitor, at least at this time, so I will  
24 grant that request.

25           The conditions are therefore as follows: It will be

1 a \$10,000 unsecured bond, meaning you're not paying any money  
2 right now. You are just securing the bond with your signature.  
3 In other words, you're promising that you can be -- that you  
4 would forfeit the amount of \$10,000, have that judgment entered  
5 against you, essentially, if you were to violate your bond.

6 But let me just say this, if you were to violate your  
7 bond, that would be, by far, the least of all of the very bad  
8 things that would result from a violation of your bond. Much  
9 more importantly, a violation of bond is grounds to revoke the  
10 bond, you could be revoked, meaning put back in jail for the  
11 remainder of the case.

12 And Ms. Miller, I think, would be the first to advise  
13 you that there's many reasons why that would not be what you  
14 want, even beyond the obvious, that you don't want to be in  
15 jail. First, it would make it far harder for her to work with  
16 you and prepare and defend you in this case. It's much easier  
17 for her to work with you if you're free and out and she can  
18 meet with you in your home or in her office or all of that.

19 Also, if you are revoked on a bond, that can be  
20 considered against you in the event that you are facing a  
21 sentencing from the district judge or you've been sentenced and  
22 the Bureau of Prisons is trying to determine what level of  
23 classification, what sort of institution you might be sentenced  
24 to.

25 Someone on a purely financial crime, it might be that

1 you'd be eligible to be placed at a particular location that  
2 may be of lower security than somewhere else, but if you've  
3 been revoked on a bond, then that could ruin your chances at  
4 that sort of designation and make you have to go to a much more  
5 severe institution, so --

6 Now, that wouldn't be for the Court to decide, that's  
7 for the Bureau of Prisons, but there's any number of reasons  
8 why violating your bond and being revoked would not be what you  
9 want to do. In, also some circumstances, failure to appear for  
10 court while on a bond can be a new and separate crime for which  
11 you can be separately charged and convicted and sentenced. In  
12 fact, even if you're innocent of the fraud charge that you're  
13 facing, you could -- that would be no defense if you were to  
14 commit the offense of bail jumping from my bond. So the  
15 \$10,000 you would forfeit would, as I say, be only the tip of  
16 the iceberg.

17 You are required to surrender any and all passports  
18 you may have to the pretrial services office. And it sounds  
19 like your lawyer already has the passport. Okay. Great.  
20 You're going to meet with pretrial --

21 Ms. Crawford, do you want them to come to your  
22 office?

23 PRETRIAL SERVICES OFFICER: Yes, they'll come to the  
24 9th floor. He'll come to the 9th floor.

25 THE COURT: So Ms. Crawford with the Pretrial

1 Services Office is who you will meet with and surrender that  
2 passport to. And you'll do it after you're concluded here  
3 today. You'll go -- her office is on the 9th floor, and so  
4 when you -- you're -- Mr. Fayne, you're not going to be  
5 released from this room, the agents here are going to take you  
6 back down to the 16th floor, marshals' lockup, and the marshals  
7 will release you from there on the 16th floor.

8 And that's where your lawyer can meet you. And just  
9 don't leave the building before you go to the 9th floor and  
10 meet with Ms. Crawford from the Pretrial Services Department.  
11 And, again, that's where you'll surrender the passport.

12 Don't obtain or possess or apply for any other  
13 passport or travel documents, whether in your name or anyone  
14 else's name. You must keep your place of residence, your work  
15 and your telephone number -- I guess another way of saying it  
16 is don't change any of those things before first consulting and  
17 notifying the pretrial services officer, who is -- who is  
18 supervising your release. In other words, they need to know at  
19 all times where you're living, working and can be reached.

20 You're to avoid all contact, directly or indirectly,  
21 with anyone who you have reason to believe would be a victim or  
22 potential witness in this case. And I encourage the government  
23 to give Ms. Miller a list of potential witnesses or  
24 participants to put Mr. Fayne on as much notice as possible;  
25 however, if they fail to do that, that's not an excuse. If

1 there's someone who it is later proven that you knew or very  
2 well should have known was a potential witness, meaning anyone  
3 who has any firsthand knowledge of the facts of this case,  
4 you're not to speak to that person about this case yourself or  
5 through any intermediaries other than your lawyer or  
6 investigators working for your lawyer.

7           You're not to possess a firearm, destructive device  
8 or other dangerous weapon or ammunition. You are to refrain  
9 from the excessive use of alcohol, a drink here and there is  
10 not prohibited, but just be careful, very careful, because the  
11 excessive use of alcohol would not only be a violation of the  
12 bond in itself but obviously can also lead to other bad  
13 decisions that would be also violations.

14           You're not to use or unlawfully possess a narcotic  
15 drug or other controlled substance unless it's lawfully  
16 prescribed by a licensed medical practitioner. And you may be  
17 required to submit to drug testing periodically by the Pretrial  
18 Services Office, and Ms. Crawford will go over that with you.

19           As we discussed, I'm going to place you on a  
20 locational monitoring program. I'm going to leave it to the  
21 Pretrial Office to decide the details, including what sort of  
22 device to place you on. It's also going to be required that  
23 you pay all or part of the cost of the program. There is a fee  
24 associated with the use of this technology. And if you're able  
25 to pay or contribute, you'll be expected to do so. And the

1 Pretrial Office will, you know, work with you on that. If you  
2 are unable to pay, then that's going to be excused, but if you  
3 have the ability to pay or contribute, you will do so.

4           The -- with locational monitoring, it would follow  
5 and I think would be appropriate also to assess a curfew.  
6 That's the best way to enforce the locational monitoring, if  
7 you -- if there's a time every night where it's expected that  
8 you're home. I'm going to leave that to the Pretrial Office to  
9 set the appropriate timing based on your work schedule and  
10 things of that sort.

11           The -- you are required to remain in this judicial  
12 district, the Northern District of Georgia, unless you get  
13 prior permission from the Pretrial Services Office or the  
14 Court. The Northern District of Georgia is a large place, it  
15 includes the entire Metro Atlanta area, including Dacula where  
16 you live, and all -- many surrounding counties all the way up  
17 to mostly speaking of the northern borders of the state, but  
18 you'll be expected to know where you can and cannot go.

19           The Pretrial Office will be able to help you with  
20 that, give you a list of counties or a map. Ms. Miller can  
21 advise you as well. It sounds like for work purpose, you  
22 don't -- it's rare you might need to leave. If you have the  
23 need to leave, for work or personal, family, for example, then  
24 you may be able to get permission to do so, but you have to ask  
25 and get that permission in advance.

1           You must report to the pretrial office within 72  
2 hours if you have any contact with law enforcement personnel,  
3 so if you're arrested for something new or even if it's less  
4 than an arrest, you're pulled over for something, whether  
5 you're given a ticket or not, you've just got to report that  
6 within 72 hours to the Pretrial Services Office.

7           You're -- you're going to be supervised by an officer  
8 from the Pretrial Services Department of the Court. You're  
9 meeting with Ms. Crawford this afternoon, it will likely not be  
10 her personally, but one of her colleagues who will supervise  
11 you on an ongoing basis.

12           That person doesn't work for the prosecution or the  
13 law enforcement, they work for the Court. So you just need to  
14 make sure that you're cooperating with them, that you are  
15 following their instructions and directions. They may come,  
16 for example, to your -- to your home or business, either  
17 announced or unannounced, and you have to be cooperative with  
18 them at all times.

19           All right. So any -- any -- anything further?  
20 Anything I missed? Or any objection to the conditions of bond  
21 as I've read them?

22           MS. MILLER: No, Your Honor. May I just have one  
23 second?

24           THE COURT: Um-hmm.

25           MS. MILLER: No questions, Judge. I think we've got

1 it.

2 THE COURT: Okay. I actually -- I did overlook  
3 the -- two very important conditions that, of course -- and  
4 this should be -- go without saying -- but that you are  
5 required to report for court for all proceedings including  
6 trial or any other proceedings that your attendance is required  
7 for.

8 You also are not to commit any other offenses while  
9 on release, federal, state or local offenses.

10 All right. I'm going to -- I've filled this out with  
11 my electronic signature. And I'm going to print it out or --  
12 let me send it to Ms. Evans who can print it out.

13 MR. PHILLIPS: Judge, may I add one thing before you  
14 do that?

15 THE COURT: Yes. Yes. I'm sorry.

16 MR. PHILLIPS: On behalf of the government, I --  
17 Ms. Malloy has told me that there are different types of  
18 location monitoring. I think I understood the Court to  
19 indicate that by saying that the Court would leave it up to  
20 pretrial to determine what type is used. But we would like to  
21 request that the Court recommend or order pretrial to use the  
22 GPS GEO location monitoring. We understand there are different  
23 types. And Ms. Malloy has had some experience where the other  
24 types didn't work as well, and so we're specifically requesting  
25 that type. Thank you.

1           THE COURT: All right. Well, I'm going to leave that  
2 to Ms. Crawford, her discretion, or her office's discretion.  
3 If there ends up being any -- a specific dispute about that,  
4 then I can get back involved, but I'm going to -- pretrial's  
5 best able to assess and knows the technology better than I do  
6 and it will assess based on the facts of the case and the  
7 situation what is warranted and what the least restrictive  
8 means that would be necessary would be so -- and, you know,  
9 different technologies have vastly different costs as well, so  
10 that -- pretrial's in the best position to balance all of that,  
11 at least in the first instance.

12           So I'm going to send this to Ms. Evans. Or, Bel,  
13 what I'm doing, I'm going to save it to the shared drive. Hold  
14 on one sec.

15           Okay. So it should be in the duty drive -- in the  
16 duty folder. Do you see that?

17           Okay. All right. So she'll print that out and bring  
18 that to you. You've got to sign, Mr. Fayne, and then Ms. Evans  
19 will get you back the copies that you'll need to bring down to  
20 the marshals or she'll send those down to the marshals and that  
21 should be that.

22           So just wait a moment to sign this paperwork and get  
23 the copies and then when we're done here, the agents will take  
24 you down again to the marshals' lockup and that's where --  
25 you'll be released from there.

1 But just remember before leaving the building, you go  
2 meet with pretrial, Ms. Crawford, on the 9th floor.

3 MS. MILLER: Yes, Your Honor.

4 THE COURT: All right. You've still got to sign and  
5 all of that, but I'm going to, otherwise -- unless there is  
6 anything else, I'm going to take my leave. Anything else?

7 MS. MILLER: No, Judge.

8 MR. PHILLIPS: Thank you, Judge.

9 MS. MILLER: Thank you.

10 THE COURT: All right. We'll be in recess. Thanks  
11 very much.

12  
13 (Whereupon, the proceedings were adjourned at 3:06  
14 p.m.)  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## REPORTERS CERTIFICATE

I, Jana B. Colter, Official Court Reporter for the United States District Court for the Northern District of Georgia, with offices at Atlanta, do hereby certify:

That I reported on the Stenograph machine the taped proceedings held in open court on May 13, 2020, in the matter of *United States of America v. Maurice Fayne*, Case Number 1:20-MJ-370; that said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript (29 Pages) is a true and accurate record of the proceedings.

This the 14th day of December, 2020.

/s/ Jana B. Colter, FAPR, RMR, CRR, CRC  
Official Court Reporter