

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

UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE No.
	)	1:20-CR-228-MHC-JKL
	)	
MAURICE FAYNE,	)	
Defendant.	)	

**SUPPLEMENT TO DEFENDANT’S MOTION FOR RECONSIDERATION
OF BOND (DOC. 129)**

Defendant Maurice Fayne now files this supplement in support of his request for this Court to reconsider the order of detention issued on December 22, 2020. In support whereof, counsel shows the following:

Mr. Fayne was initially charged via complaint on May 12, 2020. Doc. 1. He voluntarily appeared for arraignment with his retained attorney. Doc. 7. He was granted a non-surety bond on May 13, 2020, subject to certain conditions. Docs. 8, 9. Curfew and location monitoring conditions were removed from his bond conditions on November 9, 2020. Doc. 95. He voluntarily appeared for arraignment on his superseding indictment on December 17, 2020. Doc. 123. Mr. Fayne remained on bond with no incidents or allegations of non-compliance until a petition for revocation was filed with the Court of December 15, 2020. Doc. 120. The petition alleged:

On November 9, 2020, Jimia Cain a potential witness in the investigation and or prosecution of Maurice Fayne received a text from Fayne's number, 501-909-0875, telling her to dismiss her case against Fayne. On the same day, Cain's attorney, Seth Rosenberg, received an email from Fayne's email address, arkansamo@gmail.com. The email advises Rosenberg to dismiss Cain's case against Fayne or be sued for trespass.

Doc. 120 at 2. Mr. Fayne was arrested on the petition when he voluntarily appeared for a check-in with his probation officer. The Court then held a hearing on the motion to revoke Mr. Fayne's bond on December 22, 2020, and Mr. Fayne represented himself at the hearing. Doc. 125. The Court revoked Mr. Fayne's bond after finding that he had contacted a potential witness in this case and that no conditions could be crafted to ensure he would not contact other witnesses. Doc. 145 at 35. Acting *pro se*, Mr. Fayne filed a motion for reconsideration of the Court's order. Doc. 129.

The Court has set a hearing on that motion for reconsideration for February 4, 2021. Doc. 129. After Mr. Fayne filed his motion for reconsideration, this Court appointed present counsel to represent him.

Counsel is now filing the attached text messages between Mr. Fayne and Ms. Cain to supplement Mr. Fayne's motion. (See attached text messages.) It appears that the texts filed by the government are not the full extent of the text

chain and it appears that Ms. Cain contacted Mr. Fayne first on November 9th¹. Counsel also asserts that, even though Mr. Fayne was instructed not to have contact with victims or witnesses in this case, there is some ambiguity in the instructions Mr. Fayne received from probation. In light of these facts and in light of the fact that Mr. Fayne has now spent 44 days in custody as a result of this violation, he asks this Court to reconsider its previous detention order.

ARGUMENT

Under 18 U.S.C. §3148, a judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer—

(1) finds that there is—

- (A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or
- (B) clear and convincing evidence that the person has violated any other condition of release; and

(2) finds that—

- (A) based on the factors set forth in section 3142(g) of this title [18 USCS § 3142(g)], there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

¹ Counsel asked counsel for the government for any text messages that were allegedly sent the week of November 2nd (as stated at the bond revocation hearing), but it appears that Ms. Cain did not produce any other messages than those that were presented at the hearing. It also appears that neither the text messages saved in Mr. Fayne's phone nor those produced by Ms. Cain contain a complete list of all messages sent between the two.

(B) the person is unlikely to abide by any condition or combination of conditions of release.

The history of this case supports Mr. Fayne's claim that he *is* likely to abide by this Court's conditions. And the conditions that were in place prior to the revocation *can* assure he will not flee and *can* ensure the safety of other persons and the community. There is no allegation that Mr. Fayne ever contacted any other victim or witness other than Ms. Cain or that he did anything else inappropriate while on bond. He was clearly abiding by this Court's conditions from May 13, 2020 through November 9, 2020. His conditions of release were even loosened to remove the curfew and location monitoring conditions in November 2020. He was clearly attempting to follow all of the Court's rules.

Mr. Fayne admits that he did have contact with witness Jimia Cain on November 9, 2020. He understands that he should not have done so, but he does want the Court to understand what led him to that error in judgment. He points out that although the Court notified him orally at the bond hearing that he should not be in contact with any victims or witnesses, the written bond conditions did not contain the names of any victims or witnesses. Doc. 9 at 2. Further, the list that Mr. Fayne later received from his probation officer included only the following names:

UCB Bank Victims
Sharon Thompson

Greg Snell
Jay Rajee
Michael Sargent
Daniel Jay
Jamaal Shepard
Cornelius Hood
Cawanza Wilkins
Tyrice Vaughan
Carrie Capote

(See attached text message.) Mr. Fayne should not have engaged with Ms. Cain on November 9, but it was his belief that he was responding to her about a lawsuit she had filed against him in Washington state and about the current threats she was making to work with law enforcement related to her claims against him – not about the current federal case here. He asserts that he was in no way attempting to influence her actions in this case because he did not know she was involved in this case².

Given the ambiguity in the list of people he was not permitted to contact, and the fact that Mr. Fayne has made no effort to contact any other witness or victims in the case, he asserts that there are conditions that can be crafted to ensure that he complies with all bond conditions in the future. He has now spent 44 days in custody in this violation, which will definitely serve as a deterrent against any future bond violations. Should the Court determine that additional conditions are

² Counsel asserts that it was completely appropriate for Mr. Fayne to contact Ms. Cain's attorney regarding the Washington civil case because he is not represented by an attorney in that case.

necessary, Mr. Fayne will abide by those conditions. Additional conditions could include home detention, change of phone number for Mr. Fayne, blocking any numbers that may be associated with Ms. Cain or other witnesses, requiring that Mr. Fayne to use only one phone and regularly producing that that phone to be searched by his probation officer for improper conduct.

Mr. Fayne is now represented by counsel that can address any questions he may have and who can also reach out to government counsel and/or witness' attorneys to conduct any witness interviews that may be necessary in preparation for trial. Finally, due to his history of Asthma and use of an inhaler, Mr. Fayne is at a higher risk for complications due to Covid-19. Mr. Fayne has been issued an inhaler at the detention center and he is concerned for his health³. Should he be permitted to bond, he could remain in his residence (like the rest of us) until he can receive a vaccine. Should he need medical care, he could receive that care outside of the facility at his own expense, rather than requiring tax payers to fit the bill for it. For all of these reasons, Mr. Fayne asks this Court to grant his request to reconsider his order of detention.

Respectfully submitted this 3rd day of February 2021.

s/Saraliene S. Durrett
SARALIENE S. DURRETT

³ Counsel has submitted a release for his medical information to the facility, but the records have not yet been provided.

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date electronically filed the foregoing supplement with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to the following attorney(s) of record:

All Defense Counsel

All AUSAs of record

Respectfully submitted this 3rd day of February 2021.

s/Saraliene S. Durrett
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