

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION
4

5 United States of America,

6 vs.

Docket No.
1:20-cr-00228-MHC-JKL

7 Maurice Fayne,

8 Defendant.
9

10
11 TRANSCRIPT OF CHANGE OF PLEA AND BOND MOTION
12 BEFORE THE HONORABLE MARK H. COHEN
13 UNITED STATES DISTRICT COURT JUDGE
14 TUESDAY, MAY 11, 2021
15

16 Appearance of Counsel:

17 For the Plaintiff: John Russell Phillips, Esq.
18 Bernita Malloy, Esq.
Assistant United States Attorneys

19 For the Defendant: Saraliene Durrett, Esq.
20 Saraliene Smith Durrett, LLC
21

22 Judith M. Wolff, CRR
23 Official Court Reporter
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STENOGRAPHICALLY REPORTED, COMPUTER-AIDED TRANSCRIPT

1 (Court was called to order at 3:06 p.m.)

2 THE COURT: Please be seated.

3 This is the case of United States of America vs.

4 Maurice Fayne, Criminal Indictment No. 20-cr-228.

5 Will counsel for the parties please identify
6 themselves for the record.

7 MR. PHILLIPS: Good afternoon, your Honor. Russell
8 Phillips and Bernita Malloy for the United States.

9 THE COURT: Good afternoon, counsel.

10 You can stay seated.

11 MS. DURRETT: Thank you. Good afternoon, your Honor.
12 Saraliene Durrett on behalf of Mr. Fayne.

13 THE COURT: Good afternoon, Ms. Durrett.

14 I understand the defendant wishes to plead guilty to
15 charges 1 through 6 of the second superseding indictment, and
16 that there is a plea agreement; is that correct, Ms. Durrett?

17 MS. DURRETT: That's correct, your Honor.

18 THE COURT: All right. Ms. Beck, could you swear in
19 the defendant, please.

20 And you can remain seated. Just move the microphone
21 close to you.

22 MAURICE FAYNE,
23 having been first duly sworn, testified as follows:

24 THE COURT: Does counsel for the government have the
25 plea agreement?

1 MR. PHILLIPS: I do, your Honor.

2 THE COURT: Could you verify the signatures of the
3 defendant and his counsel, please.

4 MR. PHILLIPS: I will, your Honor.

5 THE COURT: And you can do it -- everyone can stay
6 seated during this proceeding. Just make sure you speak close
7 to the microphone.

8 BY MR. PHILLIPS:

9 Q. Mr. Fayne, are you the defendant who is named in Criminal
10 Case No. 1:20-cr-228-MHC-JKL as Maurice Fayne, also known as
11 Arkansas Mo?

12 A. Yes, sir.

13 Q. Is it your intention to plead guilty to Counts 1 through 6
14 of the second superseding indictment?

15 A. Yes, sir.

16 Q. Have you received a copy of the guilty plea and plea
17 agreement?

18 A. Yes, sir.

19 Q. Are you represented in this case by Saraliene Durrett?

20 A. Yes, sir.

21 Q. And have you reviewed the plea agreement with Ms. Durrett?

22 A. Yes, sir.

23 Q. All right. And after reviewing the plea agreement with
24 her, did you sign the plea agreement on pages 17 and 18?

25 A. Yes, sir. I did.

1 MR. PHILLIPS: And Ms. Durrett, did you sign the plea
2 agreement as counsel for the defendant on pages 17 and 19?

3 MS. DURRETT: I did.

4 MR. PHILLIPS: Your Honor, at this time I tender
5 defendant Maurice Fayne's guilty plea and plea agreement.

6 THE COURT: And Mr. Phillips, just to verify, that is
7 also your signature and Ms. Malloy's signature, as well as
8 your supervising official's signature, on page 17 of the plea
9 agreement; is that correct?

10 MR. PHILLIPS: Yes, your Honor. It is.

11 THE COURT: All right.

12 Q. Mr. Fayne, before accepting your guilty plea, there are a
13 number of questions I must ask you to assure it is a valid
14 plea. If at any time you don't understand any of my
15 questions, please tell me, and I will repeat or rephrase the
16 question because it's essential to a valid plea that you
17 understand each one of my questions before you answer.

18 Will you agree to do that?

19 A. Yes, sir.

20 Q. You have just taken an oath to tell the truth. Do you
21 understand your answers to my questions will be subject to the
22 penalties of perjury or of making a false statement if you do
23 not answer truthfully?

24 A. Yes, sir.

25 Q. Have you been advised by anyone not to tell the complete

1 truth today?

2 A. No, sir.

3 Q. Mr. Fayne, how old are you?

4 A. 38.

5 Q. Where were you born?

6 A. Wynne, Arkansas.

7 Q. Is that Wynne?

8 A. Yes, sir.

9 Q. W-y-n-n-e?

10 A. Yes, sir.

11 Q. How much education do you have?

12 A. Junior year of college.

13 Q. Are you able to speak and understand English?

14 A. Yes, sir.

15 THE COURT: Ms. Durrett, have you been able to
16 communicate with your client in English?

17 MS. DURRETT: Yes, your Honor.

18 BY THE COURT:

19 Q. Mr. Fayne, have you taken any narcotic drugs, medicine or
20 pills, or drunk any alcoholic beverages within the past 24
21 hours?

22 A. The only medicine I have taken is naproxen, which is a
23 pain medicine for my shoulder. Other than that, no narcotics,
24 no drugs or anything else.

25 Q. All right. Is naproxen just over-the-counter, or is it

1 prescribed by a physician?

2 A. It's prescribed.

3 Q. Are you taking the naproxen pursuant to the directions of
4 the physician?

5 A. Yes, sir.

6 Q. All right. Is there anything about taking the naproxen
7 that affects your ability to understand any of my questions
8 today?

9 A. No, sir.

10 Q. Anything about taking the naproxen that would affect your
11 ability to understand this proceeding or anything that happens
12 in the proceeding?

13 A. No, sir.

14 Q. All right.

15 Have you been treated recently for alcoholism or
16 addiction to narcotic drugs of any kind?

17 A. No, sir.

18 Q. Have you been treated recently or hospitalized for any
19 mental illness?

20 A. No, sir.

21 THE COURT: Ms. Durrett, has the defendant told you
22 anything about medication, pills, drugs, alcohol or other
23 factors that might affect his actions today, or do you know of
24 any?

25 MS. DURRETT: No, your Honor. We talked about the

1 pain medication earlier and that's all I knew about.

2 THE COURT: Okay. And you have no other indication
3 that there is anything about taking that pain medication that
4 would implicate his ability to understand what's going on
5 today; is that right?

6 MS. DURRETT: That's right, your Honor.

7 THE COURT: Okay. Do you have any doubt as to the
8 defendant's competence to plead at this time?

9 MS. DURRETT: I do not, your Honor.

10 THE COURT: All right.

11 Q. Mr. Fayne, by pleading guilty, you're giving up a number
12 of rights you have under the constitution and laws of the
13 United States. I have a series of questions I must ask you to
14 be sure that you understand the rights you're giving up by
15 pleading guilty here today.

16 Do you understand that under the constitution and
17 laws of the United States you have the right to plead not
18 guilty, and maintain your plea of not guilty to and through a
19 jury trial?

20 A. Yes, sir.

21 Q. You may want to move that mike a little closer to you.

22 That's great. Thank you very much.

23 Do you understand you're entitled to a speedy and
24 public trial by a jury on the charges pending in the
25 indictment?

1 A. Yes, sir.

2 Q. Do you understand that if a trial occurred, you would have
3 the right to have a lawyer assist you throughout that trial?

4 A. Yes, sir.

5 Q. Do you understand that at a trial you would be presumed to
6 be innocent, and the government would have to overcome that
7 presumption and prove you guilty by competent evidence and
8 beyond a reasonable doubt?

9 A. Yes, sir.

10 Q. Do you understand that at a trial you would not have to
11 prove that you were innocent because the burden would be on
12 the government to prove you guilty beyond a reasonable doubt?

13 A. Yes, sir.

14 Q. Do you understand you would have the right at a trial to
15 subpoena witnesses and to compel their testimony on your
16 behalf?

17 A. Yes, sir.

18 Q. Do you understand that in the course of a trial the
19 witnesses for the government would have to come and testify in
20 your presence?

21 A. Yes, sir.

22 Q. Do you understand that in the course of a trial your
23 lawyer could cross-examine the witnesses for the government,
24 object to evidence offered by the government, and offer
25 evidence on your behalf?

1 A. Yes, sir.

2 Q. Do you also understand that at a trial, while you would
3 have the right to testify if you chose to do so, you would
4 also have the right not to testify?

5 A. Yes, sir.

6 Q. Do you also understand that at a trial, if you chose not
7 to testify or put up any evidence, these facts could not be
8 used against you?

9 A. Yes, sir.

10 Q. Do you understand that you would have the right at a trial
11 to have the jury render a unanimous verdict before you could
12 be convicted?

13 A. Yes, sir.

14 Q. If I accept your plea, do you understand you will waive
15 your right to a trial and the other rights that I have just
16 discussed?

17 A. Yes, sir.

18 Q. Do you understand that by entering a plea of guilty there
19 will be no trial, and I will simply enter a judgment of guilty
20 and you will be sentenced on the basis of your guilty plea?

21 A. Yes, sir.

22 Q. By pleading guilty do you also understand that you will
23 have to waive your right not to incriminate yourself because
24 I'll have to ask you questions about what you did in order to
25 satisfy myself that you are guilty as charged in Counts 1

1 through 6 of the indictment, and you will have to admit your
2 guilt to Counts 1 through 6?

3 A. Yes, sir.

4 Q. Once again, are you willing to waive and give up your
5 right to a trial and the other rights that I have just
6 discussed?

7 A. Yes, sir. I am.

8 THE COURT: At this time I'm going to ask the
9 assistant United States attorney to summarize the terms of the
10 plea agreement, and then I'll ask you, Mr. Fayne, if that's
11 your understanding of the terms of plea agreement.

12 Mr. Phillips.

13 MR. PHILLIPS: Your Honor, the guilty plea and plea
14 agreement in this case consists of 20 pages. The defendant is
15 pleading guilty to Counts 1 through 6 of the second
16 superseding indictment.

17 Paragraph 1 states that the defendant is pleading
18 guilty because he is in fact guilty of the crimes charged in
19 Counts 1 through 6.

20 Paragraph 2 sets forth the rights that the Court just
21 explained to the defendant in detail.

22 Paragraph 3 states that the defendant, by pleading
23 guilty, is giving up all of these rights and there will not be
24 a trial of any kind.

25 Paragraph 4. By pleading guilty, the defendant also

1 gives up his right to pursue any affirmative defenses or
2 Fourth Amendment or Fifth Amendment claims and other pretrial
3 motions that have been filed or could have been filed.

4 Paragraph 5 states that the defendant understands
5 that ordinarily he would have the right to appeal his sentence
6 but, under some circumstances as set forth later in the plea
7 agreement, he's giving up those rights, as well as the right
8 to collaterally attack his conviction and sentence.

9 And I'll go into much more detail about that later in
10 the agreement.

11 In paragraph 6, the defendant states that the --
12 understands that to plead guilty, he may have to answer
13 questions posed to him by the Court, under oath, and that his
14 answers, if untruthful, could result in him being prosecuted
15 for perjury or false statements.

16 Paragraph 7 sets forth the maximum and mandatory
17 minimum penalties as to each count.

18 Sometimes the Court asks the attorney to do that at a
19 later time.

20 THE COURT: That will be the case here. We will go
21 over those penalties later.

22 MR. PHILLIPS: Thank you, your Honor.

23 In paragraph 8, the defendant acknowledges that he
24 understands the Court will consider the United States
25 sentencing guidelines in determining an appropriate sentence

1 for him, but the Court can still sentence him up to the
2 statutory maximum on each count, and that no one can predict
3 his exact sentence at this time.

4 Paragraph 9 applies if the defendant is not a citizen
5 of the United States, and he could be removed if he were not a
6 citizen after being convicted of this felony. It's my
7 understanding that he is a citizen of the United States.

8 Paragraph 11 states that the United States attorney
9 for the Northern District of Georgia agrees not to bring
10 further criminal charges against the defendant related to the
11 charges to which he is pleading guilty.

12 But the defendant understands that this does not bar
13 any other federal, state or local jurisdiction from
14 prosecuting him.

15 Paragraph 12 states that upon entry of the judgment
16 and commitment order in this case, any and all remaining
17 counts against the defendant will be dismissed, but the Court
18 may still consider the conduct underlying those dismissed
19 counts in determining relevant conduct and an appropriate
20 sentence.

21 Paragraph 13 sets forth the agreements between the
22 government and the defendant concerning the appropriate
23 sentencing guidelines:

24 The government and the defendant have stipulated and
25 agreed that the base offense level is 7; the amount of the

1 loss resulting from the offenses of conviction and relevant
2 conduct is more than \$3.5 million, but less than \$9.5 million,
3 which results in an 18-level upward adjustment;

4 The offense involved ten or more victims; and the
5 offense resulted in substantial financial hardship to one or
6 more victims, which results in a two-level upward adjustment;

7 The defendant relocated and participated in
8 relocating a fraudulent scheme to another jurisdiction to
9 evade law enforcement or regulatory officials;

10 That the offense involved sophisticated means; and
11 the defendant intentionally engaged in or caused the conduct
12 constituting sophisticated means, which results in a two-level
13 upward adjustment;

14 The defendant derived more than \$1 million in gross
15 receipts from one or more financial institutions as a result
16 of the offense, which results in a two-level upward
17 adjustment;

18 The defendant was an organizer or leader of the
19 criminal activity that involved five or more participates or
20 was otherwise extensive, which results in a four-level upward
21 adjustment;

22 And the defendant willfully obstructed or impeded or
23 attempted to obstruct or impede the administration of justice
24 with respect to the investigation of the instant offense of
25 conviction, and the obstructive conduct related to the

1 defendant's offense of conviction and any relevant conduct or
2 a closely related offense, which results in a two-level upward
3 adjustment.

4 Based on the information known to the government at
5 this time, the government believes that no other sentencing
6 enhancements apply.

7 If the defendant does not engage in conduct that is
8 inconsistent with accepting responsibility after entering his
9 guilty plea, the government will recommend that the defendant
10 receive the maximum adjustment for acceptance of
11 responsibility under Section 3E1.1, which would be a
12 three-level downward departure.

13 The parties understand and acknowledge and agree that
14 there are no agreements between the parties with respect to
15 any sentencing guidelines issues other than those specifically
16 listed in this agreement. That's paragraph 16.

17 Paragraph 17 states that should the government obtain
18 or receive additional evidence concerning the facts underlying
19 any of its recommendations, it will bring that to the
20 attention of the Court and the probation office.

21 And if the additional evidence is sufficient to
22 support a different application of the sentencing guidelines,
23 the government will not be bound to make the recommendation
24 set forth elsewhere in this plea agreement, and it's failure
25 to do so would not result in a violation of the plea

1 agreement.

2 Paragraph 18. Unless the defendant engages in
3 conduct that's inconsistent with accepting responsibility, the
4 government agrees to recommend that he be sentenced to a term
5 of imprisonment of 151 months.

6 Paragraph 19. The government agrees to make no
7 specific recommendation as to the amount of any fine to be
8 imposed.

9 Paragraph 20. The defendant agrees to pay full
10 restitution to all victims of the offenses to which he's
11 pleading guilty, and all relevant conduct, including any
12 counts that are dismissed as a result of the plea agreement.

13 The amount of restitution owed to each victim will be
14 determined at or before sentencing. And the defendant agrees
15 to cooperate fully with the government in its investigation in
16 the amount of restitution, the identification of victims and
17 the recovery of restitution for victims.

18 The amount of restitution to be paid will be due and
19 payable immediately. And if the defendant is placed in
20 custody and does not pay the full amount up front, then the
21 probation office and the custodial agency can come up with a
22 restitution payment schedule which would represent defendant's
23 minimum obligation.

24 The government would be free to pursue other sources
25 of recovery and the defendant agrees to cooperate with the

1 government's effort to collect restitution by any means the
2 government deems appropriate.

3 Paragraph 22. The defendant agrees to forfeit all of
4 the items that are listed in subparagraphs A through B, and
5 that's known as the subject property. The defendant waives
6 and abandons all of his right, title and interest in and to
7 the subject property, and agrees that all of that can be
8 judicially or administratively forfeited.

9 He is also agreeing to sign, have his counsel sign a
10 consent preliminary order of forfeiture, which I have with me
11 and I will present to the Court at the appropriate time.

12 Paragraph 24. The defendant agrees to take all steps
13 necessarily to ensure that the subject property is not hidden,
14 sold, wasted, destroyed or otherwise made unavailable for
15 forfeiture.

16 And he agrees not to file any claim, answer or
17 petition for a measure of restitution, and if he has already
18 filed such a claim, he agrees to withdraw it.

19 He agrees to hold the United States and its agents
20 and employees harmless from any claims made in connection with
21 the seizure and forfeiture of the property in this case and
22 the disposal of that property.

23 Paragraph 26. The defendant understands that he is
24 not entitled to use forfeited assets to satisfy any fine,
25 restitution, cost of imprisonment, tax obligations or other

1 penalty the Court may impose.

2 Paragraph 27. The defendant consents to the entry of
3 the preliminary order of forfeiture.

4 Paragraph 28. The defendant agrees to pay a special
5 assessment in the amount of \$600, which is \$100 per count that
6 he's pleading guilty to. And he agrees to provide proof that
7 he has made that payment to the assistant United States
8 attorneys involved in this case.

9 Paragraph 29 talks about the terms of any fine that
10 the Court might impose and the restitution -- I'm sorry -- the
11 schedule for payment of that fine if the defendant does not
12 pay it in full.

13 Paragraph 30 talks about the defendant's obligations
14 concerning financial disclosure. And he agrees that he will
15 not sell, hide, waste, encumber, destroy or otherwise devalue
16 any asset worth more than \$500 before sentencing without
17 approval of the government. And he understands that his
18 failure to comply with this provision could result in his
19 receiving no credit for acceptance of responsibility.

20 Paragraph 31. He agrees to -- that is the defendant
21 agrees to cooperate fully in the investigation in the amount
22 of forfeiture, restitution, and fine.

23 Paragraph 32. The defendant agrees to complete the
24 Department of Justice's Financial Statement of Debtor form.
25 And he agrees to submit to a financial deposition or interview

1 should the government deem it necessary prior to sentencing.

2 So long as the defendant is completely truthful in
3 those interviews and filling out those forms, the government
4 will not use anything that he says against him in this
5 prosecution.

6 Paragraph 34. The defendant acknowledges that the
7 recommendations that the government is making in this plea
8 agreement are not binding on this Court, and that the Court's
9 failure to follow the government's recommendation would not
10 result in the defendant being allowed to withdraw his guilty
11 plea or to claim a breach of the plea agreement.

12 Paragraph 35 is entitled Limited Waiver of Appeal.
13 And it states: Limited Waiver of Appeal. To the maximum
14 extent permitted by federal law, the defendant voluntarily and
15 expressly waives the right to appeal his conviction and
16 sentence and the right to collaterally attack his conviction
17 and sentence in any postconviction proceedings, including, but
18 not limited to, motions filed pursuant to 28 U.S.C.
19 Section 2255, on any ground, except that the defendant may
20 file a direct appeal of an upward departure or upward variance
21 above the sentencing guideline range as calculated by the
22 district court.

23 Claims that the defendant's counsel rendered
24 constitutionally ineffective assistance are excepted from this
25 waiver.

1 And the defendant understands that this plea
2 agreement does not limit the government's right to appeal.
3 But if the government initiates a direct appeal of the
4 sentence imposed, the defendant may file a cross appeal of
5 that same sentence.

6 Paragraph 36 contains a Freedom of Information Act, a
7 privacy act waiver.

8 And paragraph 37 states that there are no other
9 agreements, promises, representations or understandings
10 between the defendant and the government.

11 Page 18 is an acknowledgment that the defendant has
12 read the agreement, understands the agreement, has consulted
13 with his attorney. And he has signed and dated that.

14 And then paragraph 19 is a similar acknowledgment by
15 his lawyer, that she has read the agreement and that the
16 defendant is making an informed and voluntary decision to
17 plead guilty and enter into the plea agreement.

18 THE COURT: All right. Thank you, Mr. Phillips.

19 Q. Mr. Fayne, the assistant United States attorney has
20 disclosed a plea agreement that you and all counsel have
21 entered into and the terms of that agreement.

22 Do you agree with the description of the plea
23 agreement?

24 A. Yes, sir. I agree.

25 Q. Do you understand the plea agreement?

1 A. Yes, sir. I understand.

2 Q. Do you understand the terms of the plea agreement are mere
3 recommendations to the Court, that the Court can reject the
4 recommendations without permitting you to withdraw your plea
5 of guilty and impose a sentence that may be more severe than
6 you anticipate?

7 A. Yes, sir.

8 Q. Is this the only agreement you've entered into with the
9 government?

10 A. Yes, sir.

11 Q. Has anyone made any promise other than the plea agreement
12 that has caused you to plead guilty?

13 A. No, sir.

14 Q. Has anyone made a promise to you as to what your actual
15 sentence will be?

16 A. No, sir.

17 Q. Other than the plea agreement, has anyone threatened or
18 forced you to plead guilty, or told you that if you did not
19 plead guilty further charges would be brought against you or
20 some other adverse action would be taken against you?

21 A. No, sir.

22 THE COURT: Ms. Durrett, have you advised the
23 defendant concerning the legality of any statements or
24 confessions or other evidence the government may have against
25 him?

1 MS. DURRETT: I have, your Honor.

2 THE COURT: Is the defendant pleading guilty because
3 of any illegally-obtained evidence in the possession of the
4 government, to your knowledge?

5 MS. DURRETT: No, your Honor.

6 THE COURT: Have you made any promise to the
7 defendant of a particular sentence in the event of a plea of
8 guilty?

9 MS. DURRETT: No, your Honor.

10 THE COURT: Do you have any knowledge of any plea
11 agreement or bargain affecting the plea being tendered in this
12 case other than what has been discussed in open court?

13 MS. DURRETT: No, your Honor.

14 THE COURT: Do you know of any reason why the Court
15 should not accept Mr. Fayne's plea of guilty today?

16 MS. DURRETT: No, your Honor.

17 THE COURT: Have you had sufficient time to discuss
18 the matter fully with the defendant prior to his entry of his
19 plea of guilty today?

20 MS. DURRETT: Yes, your Honor.

21 BY THE COURT:

22 Q. Mr. Fayne, do you feel you've had sufficient time to think
23 about and discuss this matter fully with your lawyer before
24 entering your plea of guilty today?

25 A. Yes, sir.

1 Q. Are you satisfied with the representation of your attorney
2 in this case?

3 A. Yes, sir.

4 THE COURT: All right. At this time I'm going to ask
5 the assistant United States attorney to state the elements of
6 the offenses to which you are pleading guilty to, Mr. Fayne,
7 and then I'll ask you whether you understand that those are
8 the matters that the government would have to prove beyond a
9 reasonable doubt in order to convict you at a trial.

10 Mr. Phillips.

11 MR. PHILLIPS: Your Honor, first, the defendant is
12 pleading guilty to Count 1, which charges him with conspiracy
13 to commit wire fraud, in violation of 18 U.S.C. Section 1349.

14 To convict the defendant of that at trial, the
15 government would have to prove beyond a reasonable doubt that
16 two or more persons in some way or manner agreed to try to
17 accomplish a common and unlawful plan to commit wire fraud,
18 and that the defendant knew the unlawful purpose of the plan
19 and willfully joined in it.

20 In addition, the defendant is pleading guilty to
21 Counts 2, 3, and 4, which charge him with wire fraud in
22 violation 18 U.S.C. Section 1343.

23 To convict the defendant of that offense at trial,
24 the government would have to prove beyond a reasonable doubt
25 that the defendant knowingly devised or participated in a

1 scheme to defraud or to obtain money or property by using
2 false pretenses, representations or promises;

3 That the false pretenses, representations or promises
4 were about a material fact; that the defendant acted with
5 intent to defraud; and that the defendant transmitted or
6 caused to be transmitted by wire some communication in
7 interstate commerce to help carry out the scheme to defraud.

8 The defendant is also pleading guilty to Count 5,
9 which charges him with bank fraud, in violation of 18 U.S.C.
10 Section 1344.

11 To convict the defendant of that offense at trial,
12 the government would have to prove beyond a reasonable doubt
13 that the defendant knowingly carried out or attempted to carry
14 out a scheme to defraud a financial institution or to get
15 money from a financial institution by using false or
16 fraudulent pretenses, representations or promises about a
17 material fact;

18 The false or fraudulent pretenses, representations or
19 promises were material; the defendant intended to defraud the
20 financial institution; and the financial institution was
21 federally insured.

22 Finally, the defendant is pleading guilty to Count 6,
23 which charges him with making a false statement to a financial
24 institution insured by the FDIC, in violation of 18 U.S.C.
25 Section 1014.

1 To convict the defendant of that offense at trial,
2 the government would have to prove beyond a reasonable doubt
3 that the defendant made a false statement or a report; the
4 defendant did so knowingly and with intent to influence an
5 action of the financial institution described in Count 6
6 regarding an application or loan; and that the deposits of the
7 institution were insured by the FDIC.

8 BY THE COURT:

9 Q. Mr. Fayne, do you understand the elements of the charges
10 that the government would have to prove beyond a reasonable
11 doubt in order to convict you at a trial?

12 A. Yes, sir.

13 Q. Have you discussed with your attorney the charges in the
14 second superseding indictment to which you are pleading guilty
15 to?

16 A. Yes, sir.

17 THE COURT: At this time I'm going to ask the
18 assistant United States attorney to summarize what the
19 evidence would show if this case went to trial, and then I'll
20 ask you, Mr. Fayne, if you agree or disagree with what the
21 prosecutor has said.

22 Mr. Phillips.

23 MR. PHILLIPS: Your Honor, if this case were to go to
24 trial, the government would prove the following facts beyond a
25 reasonable doubt:

1 From approximately March 2013 through approximately
2 May 2020, defendant Fayne held himself out to be the owner of
3 a profitable trucking business. In truth, however, defendant
4 Fayne's trucking company did not generate enough revenue to
5 cover its expenses. And because defendant Fayne's trucking
6 company repeatedly failed to pay its bills on time, it was hit
7 with multiple tax liens, civil lawsuits, and judgments.

8 In an effort to stay one step ahead of his creditors
9 and to avoid scrutiny by government agencies that regulated
10 the trucking industry, defendant Fayne repeatedly changed the
11 name of his trucking business and its address.

12 Some of those names that the defendant used to
13 operate his company included M-O hyphen G, Mo-G Trucking, LLC,
14 an Arkansas entity; Flame Trucking, LLC, an Arkansas entity;
15 Diamond Freight, LLC, also an Arkansas entity; and finally --
16 or rather, next, Flame Trucking, Inc., which is a Georgia
17 entity; and then finally, C.R. Wilkins Trucking, LLC, an
18 Arkansas company.

19 In approximately 2014, a man named Darron Brown
20 introduced defendant Fayne to the other defendants, Dan Jay,
21 Mike Sargent and Mark Sargent, when they all lived in Texas.

22 Defendant Fayne later moved to Georgia; defendant Jay
23 moved to Pennsylvania; and the Sargent brothers, they are
24 twins, they remained in Texas.

25 Defendant Fayne asked the other defendants to help

1 him recruit people to invest in his trucking company and the
2 other defendants agreed.

3 The defendants caused more than 20 people to invest
4 money in defendant Fayne's trucking company, including various
5 friends and family members.

6 The Sargent brothers also targeted women that they
7 met through on-line dating sites such as Match.com and Plenty
8 of Fish or POF.com.

9 The defendants took money from investors by cash,
10 check, electronic payment, credit card, debt card, and wire
11 transfer. The defendants fraudulently led the investors to
12 believe that defendant Fayne's trucking company was capable of
13 generating enormous profits for investors when, as the
14 defendants knew and had reason to know, that was not true.

15 The defendants also misled investors by providing
16 them with fraudulent documents.

17 In addition, defendant Fayne provided and caused
18 others to provide false and misleading information to various
19 government agencies, including the Arkansas Secretary of
20 State, United States Department of Transportation, and the
21 Federal Motor Carriers Safety Administration, knowing and
22 having reason to know that the information would be viewed
23 online by investors and others who were checking up on his
24 trucking company.

25 Also, the defendants told investors a variety of

1 lies. For example, the defendants fraudulently overstated the
2 number of trucks and drivers that defendant Fayne's trucking
3 company actually had.

4 The defendants also falsely told investors that
5 defendant Fayne's trucking company was on the verge of
6 obtaining a multi-million dollar contract with Walmart.
7 Defendant Jay and the Sargent brothers claimed to be defendant
8 Fayne's partners in the alleged Walmart deal.

9 The defendants falsely told investors that Walmart
10 was ready to sign the contract as soon as defendant Fayne's
11 trucking company paid a particular bill, a bill that in truth
12 did not exist.

13 The defendants asked investors for money to pay the
14 fictional bill and promised to repay the investors in full
15 with a generous amount of interest as soon as the contract was
16 signed.

17 Within a short time after that, the defendants would
18 go back to the investors and ask for more money to pay another
19 nonexistent bill which the defendants would falsely say had to
20 be paid to prevent the alleged deal from falling apart.

21 The investors would usually find a way to come up
22 with the additional money because they were afraid of losing
23 everything they had invested up to that point.

24 That cycle repeated itself time, after time, after
25 time, until the investors either ran out of money or simply

1 refused to turn over any more money because they finally
2 realized that they had been conned.

3 The defendants falsely claimed that a senior Walmart
4 executive whose initials were M.B. -- they used the real name,
5 but I'm using that here -- had invested a large amount of his
6 own money in defendant Fayne's trucking company and was
7 helping defendants secure the contract with Walmart.

8 The defendants even pretended that M.B. was providing
9 them with, quote, insider, close quote, information concerning
10 the status of the contract approval process.

11 Further, the defendants sent investors phony text
12 messages from someone posing as M.B., and someone posing as
13 T.M., a nonexistent Walmart insider.

14 In addition, defendant Fayne disguised his voice and
15 posed as M.B. and T.M. in phone conversations with investors.

16 M.B. is, in fact, a real person and really was a
17 senior executive at Walmart. But neither M.B. nor any other
18 Walmart executive ever invested in defendant Fayne's trucking
19 company and the defendants never even talked to M.B. who
20 worked at Walmart.

21 To prevent investors from discovering the truth about
22 the phony Walmart deal, the defendants told investors not to
23 contact Walmart directly. The defendants falsely claimed that
24 secrecy was necessary because Walmart would cancel the
25 contract if it found out that one of its executives had

1 invested in defendant Fayne's trucking company.

2 During the course of the conspiracy, the defendants
3 acknowledged that they were participating in an illegal scheme
4 to defraud investors.

5 For example, on November 6, 2017, defendant Jay told
6 defendant Mike Sargent that an investor was, quote,
7 "questioning whether he will get payback because the deal
8 doesn't seem real."

9 On June 20, 2018, defendant Mark Sargent told Darron
10 Brown, quote, "There is NO Walmart. Same scam every few days.
11 Just steel [sic] more and more money. It's conspiracy, money
12 laundering, wire fraud!!!! God knows what else the feds are
13 going to charge us all with!!!! Because there is no Walmart
14 deal!!!!"

15 Also on June 20, 2018, that same date, defendant Mark
16 Sargent sent a text message to his brother, defendant Mike
17 Sargent, attaching a screenshot of a bank record showing that
18 defendant Fayne had used investor money to pay his personal
19 expenses.

20 In that same text message, defendant Mark Sargent
21 also told his brother that defendant Fayne, quote, "flies
22 everywhere on the money you steel [sic]." And defendant Mike
23 Sargent responded, "Yes, I saw it."

24 On February 13, 2019, defendant Jay told defendant
25 Fayne, quote, I don't know if investor L.W. is bluffing, but I

1 don't think we need attorneys calling Walmart's legal
2 department.

3 Not all investors were told that the company offering
4 the contract was Walmart. Some were told that it was Amazon
5 or UPS, but defendant Fayne's trucking company did not have a
6 contract with Amazon or UPS either.

7 The defendants falsely told investors that one of
8 defendant Fayne's bank accounts had millions of dollars in it,
9 and they falsely claimed that the IRS had temporarily frozen
10 that account.

11 To further that illusion, the defendants sent
12 investors a fraudulently altered bank record which overstated
13 the amount of money in that account. The defendants then
14 convinced investors to pay expenses related to defendant
15 Fayne's trucking company, promising them that they would be
16 repaid with interest as soon as that account was unfrozen.

17 Defendant Fayne falsely told investor Bryan Alexander
18 that defendant Mike Sargent had purchased 40 trucks for
19 defendant Fayne's trucking company.

20 The defendants falsely promised other investors that
21 their investment proceeds would be used to purchase new trucks
22 for defendant Fayne's trucking company and that they would
23 receive a steady income stream from the profits generated by
24 those trucks.

25 In an attempt to make defendant Fayne's trucking

1 company appear legitimate and to lull investors into a false
2 sense of security or prevent their complaints to law
3 enforcement, the defendants paid "make-believe" profits to a
4 few investors. In other words, the defendants returned a
5 small amount of the investors' own money to certain investors
6 and told them, falsely, that it was from profits earned by
7 defendant Fayne's trucking company.

8 But most investors never received any of their
9 investment proceeds back, much less the huge profits that they
10 were promised.

11 Instead, the defendants used most of the investors'
12 money to pay their own personal debts and expenses and to fund
13 a lifestyle for themselves that they otherwise could not have
14 afforded.

15 Defendant Fayne, the organizer and leader of the
16 fraudulent scheme, kept the majority of the fraud proceeds for
17 himself. During the course of the conspiracy, defendant Fayne
18 transferred more than \$5 million to the Choctaw Casino and
19 Resort, in Oklahoma, to cover his personal gambling and
20 entertainment expenses.

21 The defendants, having devised this fraudulent
22 scheme, caused interstate wires to be sent for the purpose of
23 executing the scheme, including the ones identified in Counts
24 2, 3, and 4. And those are set forth in detail in the
25 indictment.

1 Count 2 states that a \$175,000 wire transfer was sent
2 from United Community Bank, Account No. 1408, held in the name
3 of Flame Trucking, Inc., to Navy Federal Credit Union, Account
4 No. 6082, in the name of Tyrece Vaughn. And that's dated
5 April 23, 2020.

6 Count 3 alleges that on the following day, April 24,
7 2020, a \$30,000 wire transfer was sent from United Community
8 Bank, Account No. 1408, held in the name of Flame Trucking,
9 Inc., to JPMorgan Chase Bank, N.A., Account No. 0180, held in
10 the name of Daniel E. Jay.

11 And finally, Count 4 states that on or about May 1,
12 2020, a \$25,000 wire transfer from United Community Bank,
13 Account No. 1408, held in the name of Flame Trucking, Inc.,
14 was sent to Bank of America, N.A., Account No. 2851, held in
15 the name of Michael Sargent.

16 In late 2018 or early 2019, defendant Fayne relocated
17 the fraudulent scheme to Georgia to evade law enforcement and
18 regulatory officials.

19 United Community Bank participated as a lender in the
20 Paycheck Protection Program, also known as the PPP, a loan
21 program created by the United States Small Business
22 Administration to help small businesses pay payroll costs,
23 including benefits, interest on mortgages, rent and utilities
24 during the COVID-19 pandemic.

25 On March 29, 2020, defendant Jay suggested to

1 defendant Fayne that defendant Fayne obtain a PPP loan under
2 false pretenses and use the loan proceeds for an illegal
3 purpose, specifically, to make payments related to the Ponzi
4 scheme described in Count 1 and Counts 2, 3, and 4.

5 Defendant Jay later said to defendant Fayne, quote,
6 if we can somehow justify 100-plus drivers on 1099 for Flame,
7 we have something, close quote.

8 Defendant Jay then helped defendant Fayne create
9 fraudulent documents to support a PPP loan application.

10 On April 15, 2020, defendant Fayne signed and
11 submitted to United Community Bank a PPP loan application in
12 the name of Flame Trucking, Inc., which requested a loan in
13 the amount of \$3,725,500, and which falsely represented that
14 Flame Trucking, Inc., had 107 employees and an average monthly
15 payroll of \$1,490,200.

16 After the loan was funded, defendant Jay admitted to
17 a witness whose initials are E.B. that he had falsified bank
18 statements to help defendant Fayne get the PPP loan.

19 Defendant Jay also admitted to E.B. that he had made
20 up a list of fake employees for Flame Trucking, Inc., and that
21 defendant Fayne had submitted that list to United Community
22 Bank in connection with the PPP Loan application.

23 Defendant Fayne used the PPP Loan proceeds to pay his
24 own personal debts and expenses, including the following:

25 \$40,000 for past due child support; \$50,000 for

1 restitution owed in a previous fraud case; \$65,000 in cash
2 withdrawals; \$85,000 for custom-made jewelry; \$136,000 to
3 lease a new Rolls Royce;

4 \$230,000 in Ponzi payments; and \$907,000 for start-up
5 expenses related to a new company called C.R. Wilkins
6 Trucking, LLC, which was not incorporated until after
7 defendant Fayne applied for the PPP loan.

8 At all times material to this case, the accounts of
9 United Community Bank were insured by the FDIC.

10 On April 24, 2020, defendant Fayne knowingly made a
11 false statement for the purpose of influencing the action of
12 United Community Bank with respect to Flame Trucking's PPP
13 loan application when he sent an email to United Community
14 Bank attaching what he represented to be October, November,
15 and December 2019 bank statements for Flame Trucking's account
16 at Arvest Bank.

17 In truth and in fact, as defendant Fayne knew, those
18 bank statements were phony because Arvest Bank had shut down
19 Flame Trucking's account in September, 2019.

20 THE COURT: All right.

21 Ms. Durrett, do you have any material disagreements
22 with the assistant United States attorney's summary of the
23 evidence the government could prove if this case went to
24 trial?

25 MS. DURRETT: We don't have any material

1 disagreements.

2 The amounts that the government listed as far as
3 payments that went out from the PPP loans, I don't have reason
4 to doubt those. I just don't have them in front of me.

5 THE COURT: All right.

6 Q. Mr. Fayne, do you degree with the prosecutor's summary of
7 what you did?

8 A. Yes, sir.

9 Q. And with respect to Count 1 of the indictment, which
10 charges you with conspiracy to commit wire fraud, do you agree
11 that you committed conspiracy to commit wire fraud in
12 basically devising a scheme to defraud investors in your
13 trucking company?

14 A. Yes, sir.

15 Q. And with respect to Counts 2 through 4, which charge you
16 with wire fraud, it is true that as part of this scheme to
17 defraud investors, that there were three different wire
18 transfers sent from United Community Bank, from an account
19 held in the name of Flame Trucking, to three different
20 recipients?

21 A. Yes, sir.

22 Q. And with respect to Count 5, which charges you with bank
23 fraud, it is true that in order to obtain loans from United
24 Community Bank, you falsified or were aware of falsified bank
25 statements that were submitted to United Community Bank in

1 conjunction with a loan application in order it get that loan?

2 A. Yes, sir.

3 Q. And finally, with respect to Count 6, which charges you
4 with false statements made to an FDIC-insured financial
5 institution, that you, again, in connection with a loan
6 application on behalf of Flame Trucking, sent an email which
7 attached bank statements which were phony; is that correct?

8 A. Yes, sir.

9 THE COURT: All right. I find that there is a
10 factual basis for the plea of guilty to Counts 1 through 6 of
11 the second superseding indictment in this case.

12 At this time I'll ask the assistant United States
13 attorney to state the maximum penalty and fine that can be
14 imposed on these charges and any mandatory minimums that might
15 apply at sentencing.

16 MR. PHILLIPS: Your Honor, as to each count to which
17 the defendant is pleading guilty, that is, Counts 1 through 6,
18 the maximum term of imprisonment is 30 years. There is no
19 mandatory minimum term of imprisonment.

20 The term of supervised release is zero to five years.
21 The maximum fine is \$1 million, or twice the gain or twice the
22 loss, whichever is greatest, due and payable immediately.

23 Full restitution due and payable immediately to all
24 the victims of the offenses and relevant conduct.

25 There is a mandatory special assessment of \$100 as to

1 each count, due and payable immediately.

2 And forfeiture of any and all proceeds obtained
3 directly or indirectly from the commission of the offense.

4 I will note that this Court has previously signed an
5 order of forfeiture with respect to a default judgment that
6 was entered against certain property that was seized in this
7 case. So that is not included in this forfeiture section of
8 this agreement or in the consent preliminary order of
9 forfeiture because this Court has already dealt with that.

10 But we do have a consent preliminary order of
11 forfeiture that pertains to additional property that was not
12 included in the default judgment.

13 THE COURT: All right. Ms. Durrett, do you agree
14 with Mr. Phillips's statement?

15 MS. DURRETT: I do, your Honor.

16 BY THE COURT:

17 Q. Mr. Fayne, do you understand the maximum and minimum
18 penalties that may be imposed as a result of your guilty plea?

19 A. Yes, sir.

20 THE COURT: Ms. Durrett, is your client a United
21 States citizen?

22 MS. DURRETT: He is, your Honor.

23 THE COURT: So there are no immigration consequences
24 to this plea; is that correct?

25 MS. DURRETT: That's correct.

1 BY THE COURT:

2 Q. Mr. Fayne, the United States Sentencing Commission has
3 issued guidelines which judges are obligated to consider in
4 determining a sentence in a criminal case.

5 Have you and your attorney talked about how the
6 sentencing guidelines might apply to your case?

7 A. Yes, sir.

8 Q. Do you understand it's not possible to determine the exact
9 guidelines for your case until after a presentence report has
10 been completed and you and the government have had a chance to
11 object to the facts as reported by the probation office?

12 A. Yes, sir.

13 Q. Do you also understand that after it has been determined
14 what guidelines apply to a case, the Court has the authority
15 to impose a sentence that may be more severe or less severe
16 than that called for by the guidelines?

17 A. Yes, sir.

18 Q. Do you also understand that as part of your plea
19 agreement, with three narrow exceptions which I'll review with
20 you in a moment, you're giving up the rights you would have to
21 appeal the sentence that is imposed in this case?

22 A. Yes, sir.

23 Q. Specifically, unless there has been what's called an
24 upward departure or variance from the guidelines, in other
25 words, if I sentence you to a term of imprisonment that was

1 higher than that called for by the guidelines, you can appeal
2 that sentence.

3 Or if the government took an appeal from the sentence
4 that I imposed, you could file a cross appeal to their appeal.

5 Or if you had a claim your lawyer rendered
6 constitutionally ineffective assistance, you can raise that as
7 a ground for appeal.

8 But aside from those three narrow exceptions, you are
9 giving up your right to appeal, which means you will be bound
10 by the Court's determination as to your sentence.

11 Do you understand this?

12 A. Yes, sir.

13 Q. Do you understand you are also giving up what's called the
14 right to collaterally attack your conviction and sentence in a
15 postconviction proceeding?

16 What that means is that after you are convicted, you
17 can never file a complaint which says there was some defect in
18 the prosecution of your case that justifies your release from
19 incarceration.

20 Do you understand that?

21 A. Yes, sir.

22 Q. Other than the plea agreement, has anyone made any promise
23 to you that has caused you to give up your right to appeal
24 your sentence?

25 A. No, sir.

1 THE COURT: Ms. Durrett, have you and the defendant
2 discussed the appeal waiver and determined it's in Mr. Fayne's
3 best interest to agree to the waiver?

4 MS. DURRETT: We have, your Honor.

5 BY THE COURT:

6 Q. Mr. Fayne, do you also understand that parole as been
7 abolished and, if you are sentenced to prison, you will not be
8 released on parole?

9 A. Yes, sir.

10 Q. Do you understand you may be sentenced to a term of
11 supervised release, and if you violate any of the terms or
12 conditions of that supervised release you can be sent back to
13 prison for the entire term of the supervised release?

14 A. Yes, sir.

15 Q. Do you understand you will be ordered to pay a special
16 assessment of \$600, which is \$100 for each of the charges you
17 are pleading guilty to?

18 A. Yes, sir.

19 Q. Do you understand you may be ordered to pay restitution to
20 any victim of these offenses?

21 A. Yes, sir.

22 Q. Do you understand that the offenses to which you're
23 pleading guilty to are felonies, and that if your plea is
24 accepted, you will be judged guilty of those offenses, and
25 that such adjudication may deprive you of valuable civil

1 rights, such as the right to vote, the right to hold public
2 office, the right to serve on a jury, and the right to possess
3 a firearm?

4 A. Yes, sir.

5 Q. Do you understand that if the sentence is more severe than
6 you expected, you will still be bound by your plea and you
7 will have no right to withdraw it?

8 A. Yes, sir.

9 Q. The government has agreed to make certain recommendations
10 as a part of your plea agreement. Do you understand if the
11 Court does not accept the sentencing recommendations contained
12 in your plea agreement, you will still be bound by your plea
13 and you will have no right to withdraw it?

14 A. Yes, sir.

15 Q. Is there anything I have said or any of the questions I
16 have asked you this afternoon that you did not understand or
17 you would like for me to review with you again?

18 A. No, sir.

19 THE COURT: All right. Thank you.

20 Ms. Durrett, is there anything else you wish for me
21 to address with your client at this time?

22 MS. DURRETT: Not before you accept the plea, your
23 Honor.

24 I would like to address the issue of bond.

25 THE COURT: Okay. Sure.

1 Mr. Phillips, do you believe there are any other
2 inquiries of the defendant I should make before announcing my
3 findings concerning his plea?

4 MR. PHILLIPS: No, your Honor.

5 THE COURT: All right.

6 At this time I find the defendant understands the
7 charges and the consequences of his plea of guilty. I have
8 observed the defendant during this proceeding and he does not
9 appear to be under the influence of any substance which might
10 affect his judgment or actions in any manner.

11 The Court finds that the offer of the plea of guilty
12 of the defendant to Counts 1 through 6 of the second
13 superseding indictment has a factual basis. It is free of any
14 coercive influence of any kind.

15 It is voluntarily made with full knowledge of the
16 charges against him and the consequences of his plea.

17 I find that the defendant is competent to understand
18 these proceedings and to enter a knowing plea of guilty.

19 I find there have been no promises of any kind made
20 to him by anyone except as incorporated into the plea
21 agreement as set out in open court.

22 It is hereby ordered that the plea of guilty of the
23 defendant to Counts 1 through 6 of the second superseding
24 indictment in Case No. 20-cr-228 is accepted and entered.

25 Mr. Fayne, you are hereby adjudged guilty of Counts 1

1 through 6 of the second superseding indictment in this case.

2 The clerk will set the date for sentencing.

3 COURTROOM DEPUTY: Wednesday, September 8, 2021, at
4 10:00 a.m.

5 THE COURT: All right. There has been an order of
6 detention previously entered in this case. Ms. Durrett, do
7 you want to speak as to that?

8 MR. PHILLIPS: Excuse me. I apologize for
9 interrupting. One thing before we turn to a different issue.

10 I would like to present the preliminary order of
11 forfeiture.

12 THE COURT: Yes. Come up and I'll sign that.

13 MR. PHILLIPS: (Handing.)

14 THE COURT: All right.

15 The record should show I have signed the consent
16 preliminary order of forfeiture in this case.

17 Ms. Beck just pointed out, on page 18 of the plea
18 agreement in this case, Mr. Fayne's signature under the waiver
19 says, I have read the "information" against me, instead of the
20 "indictment" against me.

21 Should we change that and have the parties initial
22 that?

23 MS. DURRETT: Yes. I thought I marked that out. I
24 did not initial it.

25 MR. PHILLIPS: That's my fault, your Honor. We

1 should have caught that in proofreading.

2 THE COURT: All right. We will get that taken care
3 of.

4 All right. Good catch, Ms. Beck.

5 MR. PHILLIPS: Your Honor, I would note for the
6 record I initialed that change from "information" to
7 "indictment."

8 MS. DURRETT: And so did I.

9 MR. PHILLIPS: Defense counsel initialed it, and
10 defendant initialed it as well.

11 THE COURT: All right. That is done. I appreciate
12 it.

13 All right. Ms. Durrett.

14 MS. DURRETT: Thank you, your Honor.

15 I know it's an unusual posture to be asking for bond
16 after a defendant has pleaded guilty, but I think that 18
17 U.S.C. 3143 permits the Court to release a defendant at this
18 stage if the Court finds by clear and convincing evidence that
19 he's not liking to flee or pose a danger to the community.

20 Mr. Fayne had been on bond initially in this case and
21 an unsecured bond for about seven months. And that bond was
22 revoked due to the fact that he had contact with a witness in
23 the case. There was a detention hearing about the
24 circumstances surrounding that.

25 At that point in time Mr. Fayne was represented -- or

1 he was representing himself in this case and he had stand-by
2 counsel, and stand-by counsel was not available to him at that
3 detention hearing so he represented himself at that hearing.

4 Then when I came on board, we raised the issues of
5 bond again, and then we started discussing a resolution of the
6 case so that was -- we let that go at that point in time.

7 I have discussed with the government over the last --
8 however long we have been negotiating -- the fact that
9 Mr. Fayne has an injury to his shoulder that resulted from a
10 2019 ATV accident.

11 He received surgery on that shoulder in October of
12 2019, and was supposed to go back to have another surgery in
13 2020, but then things kind of went haywire.

14 So he would like to be released to be seen by another
15 outside doctor and to go and get that surgery, if he can do
16 that. He is on pain medication.

17 I have obtained his medical records from the
18 detention center up until about February of this year. That
19 was the last request I had, and I put in another request to
20 get more recent records. But I have submitted to the
21 government information about the x-ray that they did on his
22 shoulder.

23 It's my understanding the government objects to bond,
24 I'll put that right up front. But I do think he is a good
25 candidate for bond. He was released for seven months without

1 issue until that issue came up with contacting witnesses.

2 I think he can abide by the conditions of the Court.
3 I don't think he's likely to flee. He has been in a long-term
4 relationship with a woman named Jasmine Fisher. They live in
5 the same residence that they have been living in.

6 Probation has been to that residence while he was on
7 release and has approved that residence.

8 So I think that especially now that he has this plea
9 agreement in place and the acceptance of responsibility in
10 play and wanting to make sure he gets that, he would certainly
11 comply with any conditions of this Court.

12 He really just wants to get out, get the surgery or
13 at least be seen by an outside doctor to figure out what can
14 be done.

15 His daughter is also 18 years old and will be
16 starting college in the fall. He wants to work with her on
17 any financial aid or anything else that she might --
18 applications that she might need as she's getting ready to do
19 that.

20 So he would ask the Court to permit him to be on bond
21 pending either sentencing or designation to his facility so he
22 can handle those things.

23 THE COURT: All right. I was looking through the
24 docket here to see who had originally set bond and then who
25 revoked the bond. I think it was Magistrate Judge Anand.

1 MS. DURRETT: That's correct.

2 THE COURT: What I would ask you to do is to go back
3 to Judge Anand and present your motion to grant him bond at
4 this stage.

5 Because Judge Anand is the one that set the bond and
6 then revoked the bond, I think it's more appropriate that it
7 go back to him first.

8 Obviously, if you are dissatisfied with what Judge
9 Anand does, you can file a motion for review of that order.

10 MS. DURRETT: Thank you, your Honor. I appreciate
11 it.

12 THE COURT: All right. Anything further, on behalf
13 of the government?

14 MR. PHILLIPS: No, your Honor.

15 THE COURT: Anything further, on behalf of the
16 defendant?

17 MS. DURRETT: No, your Honor.

18 THE COURT: All right.

19 Court stands in recess.

20 (Proceedings were adjourned at 4:02 p.m.)

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REPORTER'S CERTIFICATE

I, Judith M. Wolff, Certified Realtime Reporter and 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 proceedings held in open court on Tuesday, May 11, 2021, in the matter of USA v Maurice Fayne, Case No. 1:20-cr-00228-MHC;

That said proceedings in connection with the hearing were reduced to typewritten form by me; and that the foregoing transcript is a true and accurate record of the proceedings.

This the 24th day of June, 2021.

/s/ Judith M. Wolff, RPR, CRR
Official Court Reporter

Tuesday, May 11, 2021

Change of Plea