

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

4 United States of America,

ZOOM Videoconference

5 vs.

Docket No.

1:20-cr-00228-MHC-JKL

6 Maurice Fayne,

7 Defendant.

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10 TRANSCRIPT OF ZOOM VIDEOCONFERENCE
11 DEFENDANT'S MOTION TO MODIFY CONDITIONS OF RELEASE
12 BEFORE THE HONORABLE JUSTIN S. ANAND
13 UNITED STATES MAGISTRATE COURT JUDGE
14 TUESDAY, SEPTEMBER 8, 2020
15

16 Appearance of Counsel:

17 For the Plaintiff:

John Russell Phillips, Esq.
Assistant United States Attorney

18 For the Defendant (standby)

Mark R. Jeffrey, Esq.
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1 (Court was called to order at 2:17 p.m.)

2 MR. JEFFREY: Please accept my apologies to the
3 Court. Hopefully I'll be able to get visual on, but I'm ready
4 to proceed at this moment.

5 Again, my apologies.

6 COURTROOM DEPUTY: Okay. No problem.

7 Thank you.

8 So I'm just waiting for the Judge to chime in.

9 MR. JEFFREY: Yes, ma'am.

10 COURTROOM DEPUTY: Okay.

11 THE COURT: Hi. Good afternoon. This is
12 Judge Anand. I understand we have everyone here.

13 This is the United States of America vs. Maurice
14 Fayne.

15 We have Mr. Fayne on the line here for himself, and
16 then Mr. Phillips for the government. And it's my
17 understanding we also have Mr. Jeffrey on the line as well, as
18 shadow counsel to Mr. Fayne.

19 We are here on Mr. Fayne's motion for modification of
20 conditions of release.

21 Can you all hear me okay?

22 MR. PHILLIPS: Yes, your Honor.

23 MR. JEFFREY: Yes, your Honor.

24 THE COURT: Mr. Fayne, can you hear me all right?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Okay. Good. It's always important to
2 verify that when we are remote.

3 So let me begin by noting that we are here remotely.
4 This conference is being recorded through the Zoom system so
5 if necessary we could have a court reporter gain access to
6 that to transcribe it, if we needed to.

7 But we are not physically present in the courtroom.
8 We are proceeding remotely as is permitted by statute under
9 the CARES Act of 2020.

10 Mr. Fayne, let me just remind you that you have the
11 right to have court proceedings of this sort occur in court
12 where you and the others are physically present and myself.

13 It's my understanding that you consent to proceed in
14 this fashion and that, as I say, is permissible under the
15 statute.

16 But I want to first confirm that that is your desire
17 and you are consenting to have this hearing occur remotely by
18 videoconference or teleconference means; is that right, sir?

19 THE DEFENDANT: Yes. That's correct.

20 THE COURT: All right. So again, we're here on
21 Mr. Fayne's motion. Mr. Fayne, you are representing yourself,
22 so I'll let you speak directly, although we do have your
23 lawyer -- I mean shadow counsel, Mr. Jeffrey, here on the
24 line.

25 Let me first hear from you as to the nature of what

1 you're asking for by way of relief or modification of the
2 conditions, and then I'll hear from counsel for the
3 government.

4 THE DEFENDANT: Well, your Honor, the motion was just
5 in reference to two things. One, I drive commercial trucks,
6 as well as I film a couple of television stations. I haven't
7 been able to film recently because I can't travel.

8 The main thing for me is so I can be able to work. I
9 have two children and an elderly grandmother that I take care
10 of and for the past four months, I really haven't been able to
11 work.

12 Most of my employees quit. I got trucks kind of
13 scattered all across the country from guys that quit once
14 everything that was put in the media was put out there.

15 And the second modification was I got a couple of,
16 like, United Community Bank, my codefendant, there are a
17 couple of people that I can't contact and I need to be able to
18 cross-examine them, talk to them.

19 United Community bank, for one, to get some bank
20 records for my defense. And then as well as my codefendant
21 and other people, some people that wrote affidavits, I need to
22 be able to cross-examine.

23 But with the guidelines of restrictive communication
24 between certain parties, I'm unable to do that at this time.

25 THE COURT: All right. Let me ask about your work

1 situation. I think when we went over this at your bond
2 hearing, your original hearing, you had said at least at that
3 time that you didn't personally drive the trucks, your drivers
4 do that.

5 I guess what I'm hearing from you now -- and maybe
6 I'm miss-remembering, it's been several months, but in any
7 event, I think what you're telling me now is that you have had
8 folks quit. So is that a change, you driving personally? Or
9 is that something that I --

10 THE DEFENDANT: I don't want to say you
11 misunderstood. I don't recall stating that.

12 I have always drove. Now, I haven't always drove on
13 a permanent basis. I typically drive three to four months out
14 of the year and I have to do that for insurance purposes
15 anyway.

16 But now, given the circumstances with so many
17 employees that quit, the key thing is going -- I have to --
18 well, if you allow me, I would like to drive full term.

19 I still can check in with Mr. Tutor. He's on the
20 line. I'm sure he can tell you that when it comes to
21 communication, whenever he calls, I answer my phone.

22 Last weekend, the system was down. It wouldn't let
23 me check in. I called him, I emailed him. I keep my
24 communication very thorough. I never missed a meeting, no
25 phone call or anything that he has asked of me.

1 And I just -- I really would be honored if you grant
2 the motion.

3 THE COURT: What's the nature of -- where are you
4 going, and how frequently? Like, who are you driving for? Is
5 this for --

6 THE DEFENDANT: I --

7 THE COURT: -- specific customers?

8 THE DEFENDANT: Yes, sir. It would be U.S. Postal,
9 JB Hunt, USA Truck.

10 Now, the routes will vary from time to time. With
11 trucking, it's kind of sporadic, you know, one week I may be
12 going back and forth from Georgia to the Carolinas, or from
13 Georgia to Florida, and the next week I may be going to
14 Alabama or Tennessee or something.

15 I really don't have like a set, like, okay, I'll be
16 here this day, this day, this day ahead of time.

17 Now, a day before, I could always let Mr. Tutor know
18 hey, I'm going to Tennessee; Hey, I'm going to South Carolina;
19 Hey, I'm going to -- however it would see fit for the Court.

20 THE COURT: Do you have contracts for these --

21 THE DEFENDANT: Yes, sir. Yes, sir.

22 THE COURT: In what form? Is it, like, way bills?
23 Or what's the --

24 THE DEFENDANT: Independent contractors.

25 THE COURT: Okay. I asked Mr. Tutor if he had ever

1 been able to verify this business activity of yours. And he
2 said that he had not been able to verify that. And that as
3 far as he understood, you only had a noncommercial driver's
4 license Class C, which, am I right, would not permit you to be
5 engaging in --

6 THE DEFENDANT: No. I have a commercial driver's
7 license out of the state of Arkansas.

8 THE COURT: Okay. So it's not out of Georgia. It's
9 out of Arkansas.

10 THE DEFENDANT: No, sir. It's out of Arkansas.

11 THE COURT: All right.

12 THE DEFENDANT: And Mr. Tutor has never asked me
13 anything with regard to using this or to send him anything
14 or -- so I'm not sure as far as verification, how that went.
15 But him and I have never had that conversation.

16 THE COURT: All right. Mr. Phillips, let me hear
17 what the government's position is.

18 MR. PHILLIPS: Thank you, your Honor.

19 We have some concerns about the defendant's bond
20 being less restrictive than it is at the current time. Some
21 of the things that the defendant stated, I'm not sure are
22 true.

23 For example, he said that he takes care of his
24 elderly grandmother. It's my understanding that she lives in
25 Arkansas, and the defendant lives in Dacula, Georgia. I don't

1 believe he takes care of his elderly grandmother.

2 And he mentioned that he has two children. To my
3 knowledge, neither of those children live with him. I know
4 that he used fraud proceeds from the bank fraud to pay
5 past-due child support in the amount of \$40,000 to a woman who
6 lives in Arkansas. We have evidence of that.

7 When the defendant says that he has contracts for
8 these various routes that he described, including for the U.S.
9 Postal Service, we have never seen any such contracts and, to
10 our knowledge, they don't exist.

11 I have reviewed extensive records relating to the
12 defendant's business and records that we found on his various
13 iPhones and his computer, and they do not show any ongoing
14 contracts.

15 Instead, what they show is that the defendant --

16 THE COURT: We're getting a little bit of feedback.
17 I think, Mr. Jeffrey, if I gather correctly, maybe that looks
18 like you are appearing now by video, but you have hung up your
19 phone. I think it was having the two that was the problem.

20 I think now we're okay.

21 MR. JEFFREY: Your Honor, I apologize for the late --
22 I had some issues first with my laptop here at home and then I
23 got that fixed. But I do I apologize to the Court.

24 And anyway, I'm fully, as you can see, fully in sync
25 at this point.

1 THE COURT: Thank you.

2 I'm sorry. Go ahead, Mr. Phillips.

3 MR. PHILLIPS: Yes, your Honor.

4 I have not seen any evidence that the defendant has
5 any ongoing contracts that would require him to provide
6 services for any set period of time or for any set number of
7 trucks, any set number of drivers, or anything like that.

8 I know from reviewing the defendant's records that he
9 would randomly take loads, from time to time, as he determined
10 that he wanted to, but they were infrequent and they were
11 random.

12 I have never seen a contract between the defendant
13 and the U.S. Postal Service. If the defendant has a contract
14 like that, I would certainly like to see it.

15 The defendant mentioned that he has a commercial
16 driver's license, a CDL, in Arkansas. The defendant has
17 several driver's licenses, including ones that are fake. We
18 have seen evidence of the defendant acquiring fake driver's
19 license's --

20 THE DEFENDANT: Judge --

21 MR. PHILLIPS: -- including the one that he described
22 -- he has a fake commercial driver's license in the name of
23 Duran Porter that's a Georgia driver's license. And we have
24 evidence of it.

25 So the defendant is not being truthful with the Court

1 when he talks about these contracts, when he talks about these
2 licenses, and when he talks about his obligations to take care
3 of his elderly grandmother and children.

4 Those are, in my belief, your Honor, misstatements of
5 the facts.

6 THE COURT: All right. Mr. Fayne, I see you raising
7 your hand and I'm going to let you respond.

8 THE DEFENDANT: First and foremost, I will show the
9 government any paperwork that they want to see regarding the
10 nature of my business. I have had an ongoing business since
11 the beginning of this arrest.

12 Now as far as my driver's license in Georgia, yes, my
13 grandmother lives in Arkansas. Yes, I take care of her
14 financially. Yes, my kids live in Arkansas and I take care of
15 them financially. They don't have to live in Georgia for me
16 to be responsible for them.

17 Just like when I left two weeks ago to go take my
18 grandmom to the hospital so she can have a blood clot removed,
19 then you call talking about a warrant that I supposed to have
20 had in Arkansas, which was false, and me and Mr. Tutor were
21 both able to verify that there was no warrant.

22 Second and foremost, any documentation as far as my
23 business that the government would like to see, reserving my
24 Fifth Amendment right, I have no problem with providing or
25 showing.

1 MR. PHILLIPS: Your Honor, the defendant is breaking
2 up. I can't hear the last minute or so that he said.

3 THE COURT: Mr. Fayne, I heard what you said, but can
4 you -- are you able to repeat --

5 THE DEFENDANT: As far as any documents concerning
6 the nature of my businesses and stuff, I have no problem
7 providing it to the government, you know, reserving my fifth
8 right amendment not to incriminate myself or anything like
9 that.

10 But I have had ongoing business for years and still
11 do to this day. I got a few drivers that actually still
12 working right now to this day. I had a lot of guys that
13 quite, like I stated, at first.

14 As far as taking care of my family, yes, most of my
15 family lives in Arkansas. Because I'm not physically there, I
16 still provide financial support for all of them.

17 And furthermore, like I say, I have no problem with
18 providing the government any documentations proving any routes
19 that I would do or any type of work or anything that I plan to
20 do.

21 THE COURT: Let me ask you about the second issue,
22 which is your desire to contact witnesses. What is it
23 specifically that you wish to be able to do in that regard?

24 THE DEFENDANT: Well, United Community Bank, for one,
25 my whole process with this PPP loan as far as instructions,

1 directions, what were the parameters of the loan, the
2 indictment that the government issued me has a date of August
3 15, as an application date when theoretically I know for a
4 fact that the application date was April the 4th. And that is
5 very key to my entire case because the rules of the Care Act
6 on April 15 were totally different from the rules of April
7 4th.

8 The application states at the time of your
9 application on -- after April 10, you could only -- you
10 couldn't pay 1099 people as far as your fees, as far as before
11 that you could.

12 So getting that understood with the bank, getting
13 bank records, copies of wire receipts that the government
14 alleged that I sent that I know I didn't send, but I have to
15 get the actual certified bank records and that type of stuff
16 to be able to provide for my defense.

17 THE COURT: Now is this the bank you have an account
18 with, or was this --

19 THE DEFENDANT: This is the bank that I did -- that I
20 got the PPP loan for and I have been banking with for about a
21 year prior to receiving the PPP loan. But it's one of my do
22 not contacts.

23 THE COURT: Okay. Is that basically something you
24 are looking to do or looking to contact --

25 THE DEFENDANT: Them, and then, as far as witnesses,

1 like my codefendant, for one. When I became aware that
2 somebody else got charged, I mean, I don't know what his
3 defense is, he don't know what my defense is. You know. If
4 he's, quote, unquote, being from the discovery I have seen,
5 he's been considered the mastermind of everything, but I don't
6 know.

7 It's just a lot of questions that need to be answered
8 for my defense, and these people are the only people that have
9 the answers to those questions. I promise I'm not trying to
10 intimidate anyone or harass anyone. I don't do those type of
11 things.

12 It's just simple questions that I need answers to for
13 my defense.

14 THE COURT: Mr. Phillips, what's the government's
15 position on that?

16 MR. PHILLIPS: Your Honor, we're very much opposed to
17 the defendant contacting his codefendant. His name is Dan
18 Jay, by the way. Mr. Jay is on bond issued in the Western
19 District of Pennsylvania, and one of the conditions of his
20 bond is that he can't communicate with the codefendants
21 either.

22 Mr. Jay is represented by an Atlanta defense counsel
23 named Kamal Ghali. And I'm sure that Mr. Ghali -- well, I
24 can't speak for him, but I doubt seriously that he would want
25 his client talking with Mr. Fayne. So I think that's a bad

1 idea for a lot of reasons.

2 It would certainly violate conditions of Mr. Jay's
3 bond, even if this Court allowed the defendant in this case,
4 Mr. Fayne, that is, to do it. That would not relieve Mr. Jay
5 of his obligations to live up to his bond conditions in the
6 Western District of Pennsylvania.

7 As far as talking directly to the people at the bank,
8 that's one of the reasons, your Honor, that the Court, Judge
9 Larkins, tried so hard to convince the defendant that it was a
10 terrible idea for him to represent himself.

11 Judge Larkins went into detail about why that was a
12 bad idea, and so did others. And he should not get to rewrite
13 the rules for his convenience just because he's pro se.

14 If he were represented by counsel, his attorneys
15 could talk to the witnesses. But for him to try to reach out
16 and do that in violation of the rules, we think that's a
17 terrible idea.

18 THE COURT: The reaching out to the bank for business
19 records --

20 MR. PHILLIPS: That's not really what he's talking
21 about, your Honor. He said he wants to get the facts
22 straight.

23 First of all, we have obtained all of the bank
24 records. Everything. And we have those available in
25 discovery that we're willing to provide to the defendant.

1 And he was supposed to provide us with a hard drive,
2 an external USB hard drive so that we could copy all of the
3 records and give them to him.

4 Instead, the defendant provided a hard drive that has
5 to be installed into a computer. My I.T. people can't do
6 that. That's not what we need. We've asked the defendant,
7 through Mr. Jeffrey, to provide the correct hard drive so that
8 we can give him all these documents. We have them ready to
9 go.

10 We've already provided them to Mr. Ghali for Dan Jay.
11 And in fact, we've provided them to somebody who is not yet
12 indicted through his lawyer. Got a hard drive, just like
13 that, going out to that lawyer today.

14 And so there's no need for him to do that because we
15 have already done it. We have everything that he could
16 possibly get from that bank with respect to his accounts and
17 with respect to the charges against him in this indictment
18 that pertain to the PPP loan that he has described.

19 All of those documents, all of the wire transfers,
20 the loan application, everything having to do with that, it's
21 all in those records.

22 So there's nothing that the defendant would be able
23 to get for himself by going to the bank directly that we don't
24 already have and that we are not ready, willing, and able to
25 provide to him if he will provide us with the appropriate

1 external USB connected hard drive.

2 THE COURT: Mr. Fayne, I see you raising your hand.

3 THE DEFENDANT: Just in response to Mr. Phillips as
4 far as changing the rules, if we go back to the court hearing
5 with Mr. Larkins said -- you said a hard drive. You did not
6 specify USB or what type of hard drive.

7 I provided a hard drive like the government asked me
8 to. And you received it when the government was supposed to
9 receive it.

10 Now unfortunately, it wasn't the type of hard drive
11 that you wanted, but I couldn't read your mind.

12 And as far as the records, if the government has all
13 of these records, then eight or nine of my counts or my
14 charges wouldn't even be standing still because you would know
15 I did not conduct those transactions.

16 So again, for my defense, I need those records to
17 know they are authenticated. The government has lied on the
18 affidavit. The indictment, it's lied on the indictment as far
19 as the date of the application.

20 The arrest warrant that I'm even here for this bond
21 hearing for was unlawful. It wasn't a test, it was written
22 under Rule Criminal 4.1, and it states that a judge must
23 attest in writing, and it was not on the affidavit. And it
24 was not.

25 I have stated all of this to the Court several times.

1 And you have yet to respond to anything. You won't contact me
2 directly. I can send you an email. I can call you. The
3 government would not in at any point in time have one single
4 conversation with me directly.

5 THE COURT: Let me ask you this. You had mentioned
6 in the beginning about the production work, the TV contracts
7 in addition -- I asked you about the trucking, but I didn't
8 ask you about that.

9 What's the nature of that work that's out of state,
10 the frequency, where, and the duration?

11 THE DEFENDANT: Honestly, after the first week or so,
12 I haven't even dealt with the film production company or
13 anything because I wasn't able to travel. They took some
14 trips and I haven't been able to reach out.

15 I had a TV commercial offer from Adidas a couple
16 weeks ago. It required me to travel to California. I didn't
17 even ask the Court to even go.

18 It's several other offers that have come. I can't
19 give you specifics at the moment because I wasn't allowed to
20 travel --

21 THE COURT: Well, use that one as an example, what
22 would that --

23 THE DEFENDANT: Okay.

24 THE COURT: What would that have entailed? How long
25 would that have been for and --

1 THE DEFENDANT: The one in -- for Adidas, that would
2 have been three to seven days out of L.A. And then it would
3 have consist of me flying out to L.A. Being out there three
4 to seven days, depending on COVID. They had different
5 parameters as far as how long it would take and why it would
6 take that long. But it would be a typical three to seven day
7 process.

8 My ex-wife and I, we got an offer for -- oh, what's
9 the name -- Marriage Boot Camp. It starts filming I believe
10 the end of September or early October. Again, I didn't get
11 the contract or anything like that because I couldn't travel.
12 That was going to take at least 20 to 25 days to film.

13 I'm not sure where the location would have been, but
14 like I say, I didn't get all the information because I wasn't
15 allowed to travel so I was trying to get the permission to be
16 able to travel, then I could line up different events and
17 different things that people asked me to be a part of.

18 THE COURT: Okay.

19 MR. PHILLIPS: Your Honor, I need to clarify or
20 supplement something I said about the hard drive. If you
21 would give me a chance to do that.

22 THE COURT: Sure.

23 MR. PHILLIPS: The government produced discovery to
24 the defendant on DVDs. We shipped them to his residence
25 address in Dacula, Georgia, by FedEx overnight.

1 The defendant refused to accept those and instead
2 shipped them back to the U.S. attorney's office by FedEx.

3 So the hard drive, the only reason that we needed the
4 hard drive was because we have large images of the defendant's
5 phones and computer and for various phones that we got from
6 other people involved in this scheme. So we needed the hard
7 drive to be able to copy those.

8 But the defendant has already been provided with and
9 chose not to accept the DVDs that have all of the bank records
10 from United Community Bank that pertain to the bank fraud
11 charges in the indictment.

12 So we have additional discovery that we have acquired
13 since then. I'm happy to put all of that on the appropriate
14 hard drive for the defendant, but my I.T. people can't install
15 the internal hard drive into one of our computers just to copy
16 it for the defendant.

17 The defendant, all he has to do is to return that to
18 Amazon and buy the appropriate one and we will fill it up for
19 him with all of the discovery, the things that he rejected
20 that we gave him on DVD, as well as all of the stuff that's
21 too large to go on the DVDs that has to be put on the external
22 hard drive.

23 But part of the problem that the defendant took on
24 when he insisted on representing himself is that he's not
25 familiar with the rules. If Mr. Jeffrey had been asked what

1 kind of a hard drive do you need to give to the U.S.
2 attorney's office, I'm sure, based on his experience, he would
3 have been able to say well, that's the kind that plugs in, an
4 external hard drive.

5 Or if the defendant had simply asked that question in
6 court, instead of just assuming that he knew what to do, we
7 wouldn't be in this predicament.

8 But the defendant can't just stubbornly insist on us
9 copying something to a hard drive that has to be installed
10 into a computer.

11 My I.T. people have lots of work to do and they don't
12 have time to take apart a computer and install a hard drive.
13 We need something that can be plugged in by USB.

14 That's the way we always do it. We do it for all of
15 our cases, your Honor, where we have large data dumps and
16 images of cell phones and computers and so forth. And it's
17 been that way for a long, long time.

18 THE COURT: Let me just remind everyone, and
19 Mr. Fayne specifically, that I'm not the judge who is
20 presiding over the substantive issues in the case. So I'm not
21 managing and issuing rulings on things such as discovery or
22 the manner in which discovery is to be produced or can be
23 produced or the like.

24 So the details of the hard drive or this or that is
25 for Judge Larkins to be dealing with, as is all other disputes

1 of substantive legal issues in the case.

2 I'm just dealing with the bond conditions. The case
3 is otherwise not referred to me or assigned to me for any
4 other purpose.

5 So the discussion is relevant because it relates to
6 the issues with regard to contacting witnesses, but there's a
7 limitation as to how much I'm getting into issues of discovery
8 here which are generally not for me to resolve.

9 My obligations in fashioning conditions of bond are
10 to -- by the way, can everyone still hear me? Just nod.
11 Mr. Fayne? Okay. Great.

12 MR. JEFFREY: I can hear you fine, your Honor.

13 THE COURT: Great.

14 My obligation and the standards that I operate under
15 are to impose the least restrictive conditions necessary in
16 order to reasonably assure the Court that the defendant is not
17 a risk of nonappearance in court and a risk of danger to the
18 community.

19 And also not a risk of undue influence or
20 obstruction as to witnesses or evidence in the case.

21 With regard to the travel, let's talk about that
22 first. It is a standard bond condition that the defendants
23 who are released on bond are restricted to the district in
24 which they reside, which in this case is the Northern District
25 of Georgia. That's the standard bond condition as applies to

1 essentially everyone who is arrested and released on bond.

2 Now that doesn't mean that we can't hear evidence on
3 and fashion exceptions as necessary in order to meet that
4 standard of being the least restrictive necessary.

5 But we start with the idea that that's a standard
6 condition that applies to everybody at least at the outset,
7 without a showing of why this is necessary to not have that.

8 This is a case, if I recall correctly -- and the bond
9 hearing was back in May, so please correct me if I'm incorrect
10 here -- but there was a not immaterial amount of evidence
11 suggesting a risk of flight at arrest.

12 Now the government never moved to detain Mr. Fayne,
13 but I think that there was evidence, if I recall correctly,
14 including evidence of computer internet searches as to
15 researching countries that did not have extradition treatise
16 with the United States, which the Court can only infer was in
17 preparation for being charged in this case.

18 Now the defendant, since being arrested, to my
19 understanding and Mr. Tutor confirmed this when I spoke to
20 him, has behaved appropriately, vis-a-vis, probation and the
21 conditions of bond. He has come to the Court asking for
22 permission to travel.

23 All of that is very appropriate and responsible and I
24 think is in his favor in terms of the facts that I consider.
25 But that was a pretty shocking piece of evidence at the outset

1 with regard to risk of flight.

2 Normally defendants that are Googling where they can
3 flee to without extradition don't get released on bond. But
4 the defendant did and, to his credit, has behaved
5 appropriately while on bond as far as I can tell. But that
6 still concerns me.

7 As is the sheer amount of money that is at issue and
8 alleged to have been obtained and spent in this case. At
9 least as of the time of the initial bond hearing, not all that
10 money had been accounted for and gathered. And that
11 independently raises questions of flight.

12 Now none of this was in the context of any request
13 for consideration by myself to detain the defendant in jail.
14 That was never on the table. But the question is whether I
15 can excuse the defendant from a standard condition of release,
16 travel restriction, to outside the district in light of some
17 of this evidence that was presented.

18 And I have heard more here, which is the government
19 proffering that they found driver's licenses in other
20 identities in the search. That's concerning to me. And I
21 have not heard enough in order to find that there is any real
22 -- it's warranted to reconsider the restriction as the general
23 manner to leaving the district without permission.

24 Now I think there might be a difference with regard
25 to the television production work. And that's why I asked

1 about that.

2 There is a difference between trucking work, which
3 there is -- we would have to lift the condition altogether in
4 order to accommodate that. And that, I don't think is what
5 I'm prepared to do. I don't find that to be warranted.

6 But if there is a discrete, limited trip, a specific
7 trip for a specific project that can be verified by Mr. Tutor
8 in advance through contracts, paperwork or other things to
9 verify that there is a specific commercial or show or
10 whatever, a specific length of time that it would involve and
11 we can perhaps transfer the electronic monitoring and the
12 curfew to wherever the defendant is going to be living, if we
13 can verify where he's going to be, then I have not foreclosed
14 from approving that.

15 To me those seem like something we can deal with
16 under the current bond restrictions. The current bond
17 restrictions contemplate that we can give permission to a
18 specific trip that is required, whether for work or for
19 family. And we have shown that, we have given Mr. Fayne
20 permission to travel, in other words, he traveled at least
21 once with the Court's permission to take care of his
22 grandmother.

23 And I think, if I'm not mistaken, you're in Arkansas
24 now to deal with a court appearance which we gave permission
25 for.

1 So we have given permission for discrete trips and we
2 can do that again. And I'm not foreclosed from doing that in
3 the scenario of let's say a three to seven day commercial
4 shoot, or even if it's a longer thing, 20 days, or whatever,
5 for another show.

6 If there's a specific contract or arrangement that we
7 can verify and we know where you're going to be and where
8 you're going to be living and what you're doing and we can
9 essentially transfer the electronic monitoring over there.

10 The defendant's good conduct and responsible conduct
11 vis-a-vis the bond in terms of his request to travel I think
12 have earned him that.

13 But being able to lift the restrictions all together
14 and allow him to just drive the truck here and there, that's
15 too much for me at this point.

16 I'm also hearing -- it's unclear to me -- I mean, we
17 have to do some substantial verification as to the nature of
18 the trucking business, which I just don't have.

19 Mr. Phillips, you're representing the search yielded
20 no verification of business.

21 It's not helpful, Mr. Fayne, that you don't have a
22 commercial driver's license here in Georgia. That doesn't
23 suggest to me that there is any active business here in
24 Georgia.

25 An old historical license in Arkansas would not seem

1 to be appropriate. Generally speaking, you've got to get a
2 new license when you move. And I'm not sure Arkansas would
3 deem it to be appropriate for you to remain under an Arkansas
4 commercial driver's license long after you've now moved to
5 Atlanta or to Georgia. Usually you have got to get a license
6 where you live and where you're operating your business.

7 So that is not necessarily speaking to me of an
8 actual verified current operation.

9 But in any event, I wouldn't be able to agree to
10 release you from that condition to allow for that sort of
11 thing.

12 The TV business, the here and there, sort of discrete
13 travels, if verified in advance and if Mr. Tutor can get
14 information where you're going to be living and staying and
15 what it's about, I would be favorably inclined to approve
16 those as they come based on the information presented.

17 I think we can do that under the current conditions
18 without the modification. Because the current conditions
19 allow for me, in working with the probation office, to excuse
20 the restriction for specific trips, as we have already.

21 So that deals with the travel.

22 And by the way, Mr. Fayne, I would remind you that
23 the bond condition does allow for you to work. It doesn't --
24 and you may have to find work that is more local in nature.
25 If the work you want to do isn't consistent with the bond

1 conditions, then another solution is to get other work,
2 different jobs that are consistent with the bond conditions.
3 So that is available to you as well.

4 With regard to contacting witnesses, that also is a
5 standard condition and with very, very good reason.

6 It is a very difficult and concerning prospect to
7 have defendants themselves contacting witnesses. It raises
8 significant issues and questions and risks of jeopardizing the
9 integrity of the case opening, frankly, you, Mr. Fayne, up to
10 accusations at some point of obstruction.

11 And there is just very little way for us to verify
12 that those interactions are occurring in an appropriate way.
13 There's an inherent risk of undermining the integrity of the
14 case when you have ordinary witnesses, non-law enforcement
15 witnesses, ordinary people approached by the defendant in a
16 criminal case.

17 There's an inherent risk, whether Mr. Fayne intends
18 to or not to try to intimidate, there's an inherent risk that
19 that will be the effect.

20 And that is something that is just very hard to
21 manage and regulate and fashion conditions to avoid.

22 I wasn't there for the hearing with Judge Larkins.
23 I'm hearing from Mr. Phillips that Judge Larkins mentioned
24 this, but I'll go over it again.

25 This is one of the many areas in which representing

1 yourself, Mr. Fayne, is a bad idea and is something that will
2 not be -- that will probably prejudice your ability to defend
3 yourself. Because I cannot excuse the restrictions that
4 you're under simply because you've chosen to waive your right
5 to a lawyer.

6 Those restrictions exist, again, to protect the
7 integrity of the case, the safety of the public, and your
8 presence in court. And I cannot -- I can't withdraw or excuse
9 you from those simply because you've made the choice to
10 represent yourself and waive your right to counsel.

11 You have the right to have a lawyer and
12 investigators, working under the auspices of your lawyer to,
13 among many other things, investigate your case, interview
14 witnesses, gather evidence and do all of those things.

15 You've waived that and given all of that up. And
16 your choice to do that does not entitle you to get your bond
17 conditions lifted so that you can do all of that yourself.
18 That will remain a restriction.

19 So I urge you to reconsider the self-representation.
20 That's one of the reasons I wanted Mr. Jeffrey on the line
21 here, so that he's up to speed on all this and is aware of
22 what's happening.

23 I urge you to let him come back into the case and do
24 all of the things that you want to do. Get the bank records,
25 interview witnesses to the extent they agree to be

1 interviewed, speak to the codefendant's lawyer and all of
2 those things that Mr. Jeffrey can do which you will not be
3 allowed to do generally speaking.

4 I urge you to let him back in the case to be able to
5 do that.

6 If you don't want that, if you continue to make that
7 choice, you do have to understand that is your choice. And
8 you're -- as Judge Larkins -- whether he went over this part
9 of it or not, he went over many of the things, I'm sure, to
10 tell you that your choice to represent yourself will undermine
11 and prejudice your ability to represent yourself effectively.
12 This is just one way.

13 You will have less ability, probably, to attempt to
14 interact with witnesses than if Mr. Jeffrey were in the case
15 and able to do that for you.

16 So now notwithstanding that -- so I'm going to deny
17 the restriction -- or the request to modify the bond to allow
18 you to contact witnesses.

19 Unless I'm misremembering, because this was back in
20 May, but the government, as I understand it from the original
21 complaint, has evidence that -- now I understand, Mr. Fayne,
22 you may deny this, but the government has proffered evidence
23 that this is a case that involves actual fabricated bank
24 records submitted to the lending bank. Is that right,
25 Mr. Phillips?

1 MR. PHILLIPS: That is correct, your Honor. And
2 there is -- not only that, but there is widespread evidence of
3 the defendant's fabricating all sorts of records. Records
4 related to his phony trucking businesses that he submitted to
5 the Department of Transportation, the Federal Motor Carrier
6 Safety Administration and numerous banks.

7 He had a woman who allegedly worked for him, he calls
8 her Aunt G.

9 THE DEFENDANT: It's --

10 MR. PHILLIPS: Her name is --

11 THE COURT: I'll let you speak in a second,
12 Mr. Fayne. Just let Mr. Phillips finish.

13 MR. PHILLIPS: She lives in Arkansas. And she -- I
14 don't know whether she's a family member or not, but he calls
15 her Aunt G. But she was indicted separately in her own PPP
16 fraud scheme over in Arkansas.

17 So she's currently under indictment and she's one of
18 the people that the defendant wants to meet with when he goes
19 to Arkansas. And she was assisting him in the fraud here.

20 The evidence on the defendant's computer and his
21 phone is just filled, I mean, nonstop conversations by text
22 and by email where he is directing Ms. Tubbs to create and to
23 submit to various insurance companies and banks and the
24 federal government all kinds of fraudulent documents.

25 We have got evidence where the defendant was

1 communicating with somebody about obtaining a fake I.D. Just
2 numerous texts that document the entire process to get that
3 fake driver's license.

4 This is since we indicted and superseded the
5 indictment that found evidence of the defendant engaged in
6 aggravated identity theft and numerous other federal crimes
7 that haven't been charged yet.

8 So the defendant has a long, long history of
9 committing fraud. And it's all documented on his computers,
10 it's all documented in the bank records and the records that
11 the defendant fabricated himself and submitted to these other
12 institutions, including insurance companies and the federal
13 government, including the DOT and the Federal Motor Carrier
14 Safety Administration.

15 His involvement in manufacturing fake records to
16 obtain money is lengthy. It's all going to come out at trial.
17 And it's in the records that I have already described to the
18 Court that we have that we are making available to all of the
19 defendants in the discovery.

20 THE COURT: All right. My one question -- well,
21 Mr. Fayne, I promised you you could respond.

22 And I know you deny the allegations, but I don't know
23 at this point what the evidence will be and what the findings
24 of the jury will be.

25 Where there is a proffer, a substantial proffer of

1 evidence of past obstruction or fabrication, it gives me a
2 special amount of concern about allowing a defendant to have
3 unsupervised, direct contact with lay witnesses. And that's
4 part of my concern here.

5 But let me let you respond.

6 THE DEFENDANT: I just -- well, Mr. Phillips, was
7 that sworn testimony you were giving just then? I just want
8 to know for the record so if I ever get to my appellate
9 process, I can have this information.

10 Was that -- the statements you just made about them
11 allegations of this and that, is that sworn testimony?

12 THE COURT: This is a bond -- a hearing with regard
13 to a motion to modify bond at which the Eleventh Circuit has
14 approved attorneys proffering evidence in the case.

15 So it's a proffer of evidence, as I understand. It
16 is not sworn testimony.

17 You can respond in kind or tell -- however you feel
18 appropriate. But it is appropriate under the Eleventh Circuit
19 in the context of a bond hearing for the Court to hear proffer
20 of evidence.

21 THE DEFENDANT: I was just asking for record purposes
22 just so, you know, in the future, it's just something that I
23 can come back to.

24 THE COURT: All right. So here's my question, and
25 it's to Mr. Phillips.

1 For all the reasons I have said, I'm not going to
2 permit direct contact or an excuse -- any modification of the
3 bond condition with regard to contacting witnesses.

4 Could there not be, though, an exception for allowing
5 Mr. Fayne to request, through correspondence, copies of bank
6 records from his -- from the bank as anybody would normally be
7 able to just write a letter and request records and pay
8 whatever fee may be quoted?

9 I'm considering allowing him, if it's solely by
10 correspondence to solicit a request for business records as
11 opposed to asking or trying to speak to fact witnesses at the
12 bank about the case or about the records, to at least permit
13 him to do that.

14 Would that not be something that would be
15 appropriate?

16 MR. PHILLIPS: You're talking about a corporate
17 entity, like a bank, as opposed to an individual who may have
18 played some part in one or more of the various crimes --

19 THE COURT: Correct.

20 MR. PHILLIPS: -- that are charged against the
21 defendant?

22 THE COURT: Correct. The bank, and for the bank
23 records, the business records that they have, solely by
24 correspondence, for example.

25 MR. PHILLIPS: As long as it's just restricted to a

1 corporate entity and the defendant is communicating only
2 through written correspondence, then I wouldn't object to
3 that.

4 THE COURT: Okay. So I will permit that, Mr. Fayne.

5 In other words, if what you're wanting to do is get
6 copies of bank records from -- directly to the bank itself,
7 you are permitted to make a request by correspondence to them.

8 So the context would be by written correspondence
9 with the bank. And what I'm contemplating is requesting
10 records, and maybe they quote you back some fee, and then you
11 send in whatever the check, and you get the records. Just
12 like anyone might be able to do with their own bank account.

13 You are permitted to do that. But it's with the bank
14 and by correspondence only.

15 Otherwise, I cannot permit you to have contact with
16 potential witnesses in the case, directly or indirectly, with
17 the exception of -- well, I mean, here's one other compromise
18 that I think -- it's not a compromise. That's not the right
19 word.

20 But here's something that I think I can agree to and
21 I did speak to Judge Larkins, who indicated that he would be
22 agreeable to this under the shadow counsel appointment for
23 Mr. Jeffrey.

24 If Mr. Jeffrey finds appropriate, I'll permit --
25 Judge Larkins will permit Mr. Jeffrey to interview witnesses,

1 have contact with witnesses on your behalf, as he would if he
2 were representing you. But that you're not going to have that
3 contact.

4 So it would be allowing him to serve a little bit
5 more than just shadow counsel role. He can actually speak to
6 witnesses for you and help -- and for purposes of preparation
7 of your case.

8 If there's a particular witness that you would want
9 to talk to but I'm not allowing you to, Mr. Jeffrey can do
10 that like he otherwise would be able to.

11 MR. JEFFREY: Your Honor, I would just need to let
12 the Court know, absent, if you will, a full appointment, I
13 just think that would be problematic because at that point, in
14 order to interview witnesses, I'm having to look at discovery
15 but yet, at the end of the day, I'm not able to make the
16 determination of how we proceed.

17 I know these are always unusual questions, but it
18 would just be very difficult for me to do that knowing -- I
19 mean, Mr. Fayne has been hard to communicate with just in
20 general. Nothing against him, but that -- again, I know that
21 the Court has a very laudable thought in mind, but in
22 practice, I think that would be very hard to effectively do.

23 Either you have to have full control or it's just
24 kind of hard to have control when you don't even have -- to
25 make those calls, when you don't have the discovery.

1 And I have notified Mr. Fayne that I'm happy to
2 represent him. But just to let the Court know -- I don't want
3 to get too deeply into this because I know that the purpose of
4 this hearing is a very limited one, but Mr. Fayne has gone pro
5 se when he discharged his last counsel. I was just brought in
6 as a stand-by. I have not been brought in, at least as of
7 today's date, for a full counsel, if you will.

8 I told him I'm happy to do it. I did mention I'm
9 going to be on leave for a good bit of -- which of course I
10 filed with the Court -- for the next week to ten days,
11 starting on Friday and I probably would need the discovery
12 extension.

13 But I don't have a problem with that per se, but --
14 and again, I know these are not easy questions for the Court.
15 And I'm sure it would be Judge Larkins's overall call, but I
16 needed to address the Court and just note that that would be
17 hard, in my view, for me to interview some witnesses without
18 really being able to take control of the discovery and take
19 control of the case.

20 I just want to throw that out there.

21 THE COURT: I understand what you're saying. And
22 maybe I was thinking a little bit too simplistically.

23 The reality is that we don't have a hybrid system
24 here of a partial representation/partial self-representation,
25 and maybe I was thinking too simplistically that if it's just

1 a question of interviewing Witness A or Witness B, maybe we
2 can make a small exception.

3 But you're right. Maybe that's not so easy. You
4 don't even have the discovery. I had overlooked that. And I
5 had forgotten that you were not the prior counsel.

6 So that may not be, in the end, my brainstorming as
7 to trying to think of other possible solutions here are just
8 that, and maybe that's not appropriate.

9 So for now I'm going to leave it at this: The
10 restrictions are what they are. They're not modified and you
11 are not permitted to have contact with witness, directly or
12 indirectly, with the one exception I just talked about which
13 is you can make, through correspondence only, requests for
14 business records from the banks at issue.

15 Otherwise, I urge you to allow, whether it's
16 Mr. Jeffrey to come in or your prior lawyer to come back in,
17 to reconsider the self-representation decision you've made
18 because it is limiting you in your ability to prepare for
19 trial and defend yourself in this case.

20 So that will be -- to sum up, I'm not modifying the
21 travel restriction, but I have indicated that I wouldn't be
22 foreclosed from agreeing to a specific trip here and there for
23 purposes of a TV shoot, hypothetical. But we would have to
24 verify that and cross that bridge with the facts that are
25 presented to us when that occurs.

1 And so, Mr. Fayne, you will have to give us some
2 notice of that. We can't just be told on a Friday you're
3 going to leave on a Sunday sort of thing.

4 And then the witness request is denied except with
5 the limited exception that you can, through correspondence
6 only, make contacts to request records from the banks that are
7 relevant in this case.

8 All right. That's all I had on my agenda. Anything
9 else for today? Mr. Fayne, I see you raising your hand.

10 THE DEFENDANT: Yes, sir. Your Honor, I had spoke
11 with Mr. Tutor about this on Friday. I was trying to contact
12 the Court. How can I get direct communication with the Court?
13 I have provided an email address I have provided a telephone
14 number, I have provided mailing. Everything. And I get no
15 direct communication.

16 Mr. -- I can't think of his name right now. He's
17 going to be on vacation for the next 10 days or 11 days, so if
18 anything comes, I may not have the ability to know because,
19 like I say, I don't get any emails.

20 The mail stuff they send, I do get it, but just like
21 this hearing, I didn't receive anything in the mail. I didn't
22 -- if it weren't for Mr. Tutor or the attorney, I wouldn't
23 have even knew about it.

24 But -- and my second thing, my grandmother is having
25 another surgery tomorrow. I talked to Mr. Tutor about this on

1 Friday. I tried to call the Court on Friday. Again, I didn't
2 get an answer. I left several voice mails.

3 But to extend my travel to just come back next
4 Wednesday.

5 They removed her blood clot the last time we were
6 here. This procedure here, she's not getting blood
7 circulation in her legs, so they don't know if they are going
8 to amputate it or not, but they removed the blood clot which
9 was a success but she was not getting circulation, so we don't
10 know if we have to install a ramp at her house.

11 We really don't know until she goes go back to the
12 doctor tomorrow and then figure out the exact plan, if they
13 can find a way to get circulation to her leg.

14 MR. PHILLIPS: Your Honor, I would like to respond to
15 that.

16 THE COURT: I'll let you respond, but first let me
17 make sure I know the specifics.

18 You were otherwise supposed to return when?

19 THE DEFENDANT: Tomorrow.

20 THE COURT: And what you are proposing is to return
21 next Wednesday?

22 THE DEFENDANT: The following -- yes, sir.

23 THE COURT: The following Wednesday. Okay.

24 All right. Mr. Phillips. I'm sorry.

25 MR. PHILLIPS: Thank you, your Honor.

1 I just wanted to say that Judge Larkins made it clear
2 to the defendant at the status conference that we had recently
3 that any delays in receiving notice because the defendant has
4 chosen to go pro se and chosen to direct the clerk of the
5 court to submit mail to an address that the defendant provided
6 in Oklahoma City is on him.

7 Judge Larkins said if you want to do that, I'm going
8 to let you do it, I think it's a bad idea, but I'll let you do
9 it. But let's be clear, if there is any delay, if you miss
10 any court appearance because you didn't get notice because of
11 this system that you insisted on, that's on you.

12 So here we are, just a few weeks into this and the
13 defendant is already complaining that it was only fortuitous
14 that he got notice of this hearing, that if it hadn't been for
15 Mr. Tutor telling him, he wouldn't have known about it.

16 So that's a problem that the defendant created for
17 himself. And we can't guarantee that Mr. Tutor or somebody
18 else is going to find out about a hearing and then think to
19 tell the defendant.

20 That's not Mr. Tutor's responsibility. It's not my
21 responsibility. It's the defendant's responsibility to get
22 those notices.

23 So this is a problem that Judge Larkins already
24 foresaw and told the defendant that he would have to bear the
25 consequences of insisting on getting notice in the fashion

1 that he has.

2 MR. JEFFREY: Your Honor, if I may just follow up on
3 that.

4 First of all, I want to let the Court know and
5 Mr. Phillips know, I did relay, gladly, the notice I got from
6 the court regarding this hearing. I certainly don't have a
7 problem with that.

8 But Mr. Fayne has told me -- of course we are all
9 communicating via email, and certainly I understand he wants
10 the mail to be sent to his post office box. Again, this only
11 peripherally concerns your Honor because your Honor of course
12 was just presiding over the bond and pretrial detention issue,
13 but to the extent the Court, I do believe it's appropriate
14 that he be able -- he certainly has not been disagreeable to
15 me from that standpoint.

16 I do believe he should be permitted -- and I have
17 notified this to Mr. Phillips, I really can't be responsible
18 for being a conduit for communications from the government's
19 office to Mr. Fayne, but I would think since he is acting in a
20 sense as his own lawyer, I would respectfully submit he is
21 entitled, and I would ask to make it easier on everyone here,
22 that he be permitted to email -- of course in a civil,
23 appropriate fashion with the Court, with the government, and
24 so forth.

25 I think that's what he is asking for.

1 The problem I have is sometimes I may be so busy, if
2 Mr. Phillips or even if the Court says hey look, notify him of
3 this, there may be a little bit of a delay. And then of
4 course, being the stand-by counsel, I feel hey, look, why is
5 this on me to do the notification?

6 But I think he's just asking to have access to email,
7 which I would request to the extent --

8 THE COURT: Here's the thing, though. Here's the
9 thing. We don't, as a general matter in the court, accept
10 correspondence by email. There may be individual
11 circumstances where we might invite a particular discussion by
12 email or for logistical reasons we may use email.

13 That is not license for email to be a method of
14 official communication with the Court.

15 It is not a method of official communication with the
16 Court. And generally speaking we also only accept phone calls
17 and speak to individuals or lawyers even in limited
18 circumstances.

19 Generally speaking, it's not appropriate and we do
20 not have ex parte communications, meaning just speaking to one
21 side that happens to call.

22 In most cases, we have an obligation to speak to both
23 sides together.

24 Now, that is not a hundred percent because it could
25 just be a logistics -- it could just be a nonsubstantive

1 thing, so we do occasionally have conversations.

2 But that's not a license for informal communication
3 with the Court, whether by phone or by email as a general
4 matter.

5 MR. JEFFREY: Your Honor, the --

6 THE COURT: The communications with the Court are
7 through filing of official motions and the receipt of orders.

8 MR. JEFFREY: Your Honor -- I didn't mean to -- when
9 the Court is finished. I'm sorry.

10 THE COURT: As it relates to us, because the majority
11 of -- I mean, you know, most of this case is in front of other
12 judges -- as it relates to us, I know there has been delays,
13 Mr. Fayne, in hearing this motion and I apologize for that.

14 We were on criminal duty for the majority of the
15 month of August, and so unable to get to this matter earlier.
16 That wasn't because I wasn't aware of it, but it was because
17 of my schedule and criminal duty for the majority and much of
18 August dealing with new arrests and bond hearings.

19 So it wasn't a question of just emailing or calling
20 us wouldn't have gotten you a quicker hearing.

21 But, in any event, I cannot give permission, blanket
22 permission to have official communications with the Court by
23 email or phone.

24 There can be specific conversations where that may be
25 permitted or even instituted or invited by us. But I don't

1 want to say sure, just email us whenever you want.

2 That's not the official -- that's not the manner of
3 communication. And generally speaking, the communication with
4 the Court needs to also be with opposing counsel.

5 MR. JEFFREY: And your Honor, I just want to assure
6 the Court -- and I don't mean to interrupt. I'm simply
7 talking about very perfunctory scheduling notices. That's it.

8 And I apologize --

9 THE COURT: Well, I mean, the scheduling notice is
10 the same thing. If you had a lawyer -- and I think this is
11 what Mr. Phillips's point was and it sounds like Judge
12 Larkins's point was, if you have a lawyer, lawyers are
13 permitted to have access to the electronic filing system of
14 this court. They would get electronic notice through that
15 system. Not through email.

16 We don't email lawyers, generally, as to informal
17 anything, but through the electronic system.

18 As a party representing yourself in a case, you would
19 get a mailing. And as Mr. Phillips pointed out, it sounds
20 like Judge Larkins pointed out, you would be responsible for
21 getting that mailing.

22 If that mailing comes a little slower than the
23 electronic communication that would have come to your lawyer,
24 or if there is some imperfection in getting your mail, all of
25 that is part of the choice you're making by representing

1 yourself.

2 While you are representing yourself, to the extent
3 there is any communication from us that we would have
4 otherwise sent to Mr. Jeffrey of a communication matter by
5 email, we will send that to you by email along with
6 Mr. Phillips.

7 But I just want you to understand that is not usually
8 how we communicate. And we are not committing to sending you
9 reminders or notifications by email. That's not how we give
10 you those notices.

11 If there is something where we're initiating an email
12 or say are you available for a call on this date or this date,
13 and that's something we would be sending to Mr. Jeffrey or
14 Mr. Phillips by email, we'll send that to you since you're
15 representing yourself and we have your email, by email.

16 But that's not the sum total of all the notifications
17 that you are going to get.

18 You will get orders in the mail. They may include
19 notices of hearings or deadlines. We're not emailing you any
20 of that, necessarily. And you're going to be responsible for
21 what comes in the mail.

22 That's the best I can do. If it's a Friday, and
23 we're trying to set something up on the Monday, we know it's a
24 practical matter and the only way to reach you is by email,
25 then we will CC you on an email with Mr. Phillips. But that's

1 not the majority or the norm of how the Court is going to be
2 communicating with you.

3 It will be by you filing motions and us issuing
4 orders that get mailed to you to whatever address you give us.

5 MR. JEFFREY: Thank you, your Honor. I think that
6 answers pretty much my question.

7 And I would simply ask if the Court does propose a
8 conference, certainly I'm glad to be a part of that. But if
9 the Court is emailing, you know, proposing a date, are you
10 available on such-and-such a date, mailing -- emailing, I'm
11 sorry -- to Mr. Fayne whatever address he may give the Court.
12 But just limited to that.

13 Again, if the Court is comfortable with that.

14 THE COURT: Yeah. I mean, look, I'm not going to say
15 something that can be interpreted as altering the Court's
16 procedures.

17 Email is not the official way of communication. It
18 is something that is a tool we sometimes may use, especially
19 if it's a short-notice thing.

20 But not every time might it be set by email. The
21 lack of an email will not necessarily excuse noncompliance.

22 If there was otherwise an order that got mailed to
23 wherever it was supposed to get mailed, Mr. Fayne is going to
24 be responsible for.

25 So it's hard for me to say anything. I don't want to

1 be interpreted -- I want to be very clear that merely checking
2 your email is not going to be all you got to do here to keep
3 up with what's going on in the case.

4 And a failure to receive an email from us on
5 something, or a failure to respond to an email from you is not
6 -- I mean, that is what it is. We do not use email as an
7 official mode of communication. It is an occasional tool that
8 we may use in specific circumstances.

9 Last word, Mr. Fayne, because we have been at this
10 for a while and I have got another hearing.

11 THE DEFENDANT: Okay. I think we kind of got off
12 track there.

13 I wasn't referring to -- for Mr. Phillips's purpose,
14 I wasn't referring to my orders or anything that I'm not
15 receiving.

16 What I was referring to is communication back and
17 forth for Mr. Jeffrey, like hey, are you available for this
18 date for this hearing, where that was an email that was sent
19 that I could have been cc'd on.

20 There wasn't a mailing. There was no order. I
21 haven't missed an order or filing or anything due to my
22 mailing being in Oklahoma, which you're referring to. That's
23 not the issue that we're speaking of.

24 We're just speaking of, like, I didn't know the Zoom
25 login info. That wasn't something that was mailed or

1 anything. That's all I was referring to.

2 And then --

3 THE COURT: Mr. Fayne --

4 THE DEFENDANT: I was asking the Court --

5 THE COURT: That sort of thing, that sort of thing,
6 we will endeavor to email you on as you are representing
7 yourself.

8 That sort of thing, if -- if we're emailing
9 Mr. Jeffrey as your lawyer, we will include you on if it's
10 something that's appropriate to include you on. So I
11 appreciate you letting me know that. And we will do that.

12 But I got to otherwise -- I have to call an
13 adjournment here, unless there is anything else specific that
14 we have missed.

15 All right. I'll get out a written order on the
16 motion, but I think what I have said was otherwise clear.
17 We'll get out a written order of that that formally denies the
18 motion, but at least modifies the ability to contact the
19 banks.

20 All right. Thank you all very much. We'll be in
21 adjournment.

22 MR. JEFFREY: Thank you, your Honor.

23 MR. PHILLIPS: Thank you, Judge.

24 (Proceedings were adjourned at 3:35 p.m.)

25 THE DEFENDANT: What about the return for Wednesday?

1 The return for Wednesday?

2 COURTROOM DEPUTY: Yeah. I don't think he addressed
3 that. Let me reach out to Judge, and then I'll get back with
4 you on that.

5 THE DEFENDANT: Okay.

6 COURTROOM DEPUTY: All right.

7 Thank you. Bye.

8

9 (Proceedings were adjourned at 3:35 p.m.)

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TRANSCRIBER'S CERTIFICATION

I, Judith M. Wolff, a Certified Realtime Reporter,
with offices in Atlanta, Georgia, do hereby certify:

That I transcribed the proceedings digitally recorded
on Tuesday, September 8, 2020, in the matter of USA vs.
Maurice Fayne, aka Arkansas Mo, Case No. 1:20-cr-00228-MHC;

That said audio recording of the proceedings were
reduced to typewritten form by me;

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Date: October 18, 2021

s/ JUDITH M. WOLFF, CERTIFIED REALTIME REPORTER
Signature of Transcriber