

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.

8
9
10 TRANSCRIPT OF ZOOM VIDEOCONFERENCE
11 ARRAIGNMENT OF SECOND SUPERSEDING INDICTMENT
12 BEFORE THE HONORABLE JUSTIN S. ANAND
13 UNITED STATES MAGISTRATE COURT JUDGE
14 THURSDAY, DECEMBER 17, 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.
Jeffrey Law Group, LLC

19
20
21
22 Judith M. Wolff, CRR
23 Official Court Reporter
24 1914 United States Courthouse
25 75 Ted Turner Drive, S.W.
Atlanta, Georgia 30303
judith_wolff@gand.uscourts.gov

1 (Court was called to order at 9:35 a.m.)

2 THE COURT: This is the case of United States of
3 America vs. Maurice Fayne, Case No. 1:20-cr-228.

4 Representing the United States is assistant United
5 States attorney Russell Phillips. And representing himself in
6 this case is the defendant, Maurice Fayne.

7 I am here in court, open court. We have both
8 Mr. Phillips and Mr. Fayne present by videoconference for this
9 arraignment on the second superseding indictment.

10 So let me first ask Mr. Fayne, first of all, are you
11 still representing yourself in this matter? Or do you have
12 counsel?

13 THE DEFENDANT: No counsel, your Honor.

14 THE COURT: Okay. You have the right to be present
15 here in court for this arraignment with myself and with
16 counsel for the government and to be physically in the
17 courtroom with us.

18 It's my understanding, though, that you have
19 consented -- well, essentially that you're waiving your right
20 to personal appearance here in court and consenting to this
21 proceeding occurring by videoconference, again, with me here
22 in court but you on videoconference along with Mr. Phillips;
23 is that true? Are you consenting to do that?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Okay. I was just informed that

1 Mr. Jeffrey, who was appointed as stand-by counsel, is logging
2 in as well. So let's wait a moment.

3 (Pause.)

4 Well, we'll just go forward, and if he joins us, then
5 we will be -- he'll catch up at that time.

6 Mr. Fayne -- oh. Hello, Mr. Jeffrey. Good morning.

7 Mr. Fayne, have you received a copy of the second
8 superseding indictment bearing the number of this case?

9 THE DEFENDANT: Yes. Yes, your Honor.

10 THE COURT: Okay. It charges you with conspiracy to
11 commit wire fraud in Count 1;

12 With specific acts of wire fraud in Counts 2 through
13 4;

14 With bank fraud in Count 5;

15 With making a false statement to a financial
16 institution insured by the FDIC in Count 6;

17 With several acts of what's referred to as
18 concealment money laundering, in other words, engaging in
19 transactions to conceal the source of money in Counts 7
20 through 16;

21 With transactional money laundering in Counts 17
22 through 19, meaning engaging in transactions with the proceeds
23 of specified unlawful activity;

24 And with aggravated identity theft in count 20.

25 Have you read the superseding indictment and do you

1 have an understanding of what you're charged with?

2 THE DEFENDANT: I read it, your Honor. I mean, I
3 don't understand the nature and the cause of it, but I did
4 read it.

5 THE COURT: Okay. Do you waive formal reading of the
6 indictment here in court?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Okay. As an arraignment, we just need to
9 obtain your not guilty plea to the indictment. Do you in fact
10 enter a plea of not guilty to this indictment?

11 THE DEFENDANT: At this point, your Honor, I do not
12 wish to enter a plea.

13 THE COURT: Okay. I'm obliged to -- okay. So I'm
14 going to direct the clerk to enter your plea of not guilty on
15 the record. That's the only plea that can occur here in this
16 proceeding.

17 Mr. Phillips, is there any new Rule 16 discovery
18 related to any of the changes in this indictment?

19 MR. PHILLIPS: There is, your Honor.

20 THE COURT: Okay.

21 MR. PHILLIPS: And as the Court may know, when we
22 produced discovery at the original arraignment, we shipped it
23 to the defendant's residence by Federal Express. The
24 defendant refused to accept it and he shipped it back to our
25 office by Federal Express.

1 We talked about this on the record with Judge
2 Larkins, and I asked the defendant to provide us with a hard
3 drive so that we could copy the discovery for him if he was
4 interested in that.

5 He provided a hard drive that had to be installed
6 inside a computer, not a USB external hard drive.

7 I explained to him on the record in court with Judge
8 Larkins that we couldn't do that, that our I.T. people could
9 not take apart a computer and install a hard drive for him and
10 that he needed to provide something that could be connected by
11 USB. And, so far, he has refused to do that.

12 So he has not indicated a desire to receive the
13 discovery.

14 We stand ready, willing, and able to provide that as
15 soon as he will provide us with the necessary external USB
16 hard drive so that we can copy it for him. We have a large
17 amount of discovery and we're ready to provide it.

18 THE COURT: All right. Matters of discovery and any
19 disputes about the method of production obviously are for
20 Judge Larkins, not for myself.

21 But Mr. Fayne, you've heard Mr. Phillips say there is
22 additional discovery and actually original discovery that they
23 are ready to produce to you and available to produce to you.
24 That's something I leave for you to work out with counsel for
25 the government and, if there are disputes, that goes to Judge

1 Larkins.

2 But on the subject of discovery, I'll add that
3 pursuant to the Due Process Protections Act and Federal Rule
4 of Criminal Procedure 5(f), the government is ordered to
5 adhere to the disclosure obligations set forth in Brady vs.
6 Maryland and it's progeny, and to provide all materials and
7 information that are arguably favorable to the defendant in
8 compliance with those obligations.

9 Exculpatory material shall be provided sufficiently
10 in advance of trial to allow a defendant to use it
11 effectively, and is not limited to information that would
12 constitute admissible evidence.

13 The failure of the government to comply with its
14 Brady obligations in a timely manner may result in serious
15 consequences including, but not limited to, the suppression or
16 exclusion of evidence, the dismissal of some or all counts,
17 adverse jury instructions, contempt proceedings, and other
18 remedies that are just under the circumstances.

19 That's all for purposes of this arraignment.

20 Anything else at this time, for the Court?

21 THE DEFENDANT: May I address the Court, your Honor?

22 THE COURT: Yes, sir.

23 THE DEFENDANT: Speaking of discovery and things, I
24 brought the issue to Mr. Russell Phillips before, I believe
25 that this presumed prejudice with the discovery some emails

1 and text messages between my former counsel and I, privileged
2 information, was shared with the codefendant's attorney.

3 I brought that up to Mr. Phillips. He asked me why
4 did I feel the way I felt, but I really would like to move the
5 Court or ask the Court to do a full investigation to see how
6 the privileged information ended up in discovery.

7 As recently as about two days ago, I was contacted by
8 a news blog that somebody was trying to sell -- I didn't get
9 to see just who yet, it was a news source -- that someone was
10 trying to sell the email exchange between my former attorney
11 and I for the public to see.

12 THE COURT: Well, Mr. Fayne, I'm going to direct you
13 to address any such issues you have about discovery or
14 anything else relating to the substance of your case to Judge
15 Larkins, who is the magistrate judge assigned to your case.

16 I know it's confusing, you've dealt with different
17 judges. But I am here on duty, meaning I'm handling all
18 arrangements and initial proceedings in any new cases
19 including, in this case, a superseding indictment. That's my
20 sole role here.

21 And as it happened, I also was the judge on duty when
22 you were initially arrested so I issued your bond, so issues
23 of bond have come to me in your case.

24 But substantive issues in your criminal case,
25 including issues you have with regard to discovery, the

1 documents and the merits of your case go to different judges.

2 Judge Larkins is the magistrate judge assigned to
3 your case; Judge Cohen is the district judge before whom
4 ultimately any trial would occur.

5 So those are the judges handling the substantive
6 issues in your case. Not me.

7 So I'm going to decline -- it's not my role to be
8 addressing any of those things you have just raised. Those
9 would be something you raise in front of these other judges.

10 Okay?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: All right. We will be in recess.

13 Thank you very much.

14 MR. JEFFREY: Your Honor, I briefly want to say I
15 apologize for -- apparently there was an earlier link. But I
16 apologize for joining late.

17 I just want to let the Court to know that I thought
18 there was another link coming. I apologize for any
19 inconvenience to the court very much.

20 THE COURT: No problem. We appreciate your presence
21 here even, though you're not formally representing Mr. Fayne.
22 I appreciate your presence.

23 MR. JEFFREY: Of course, your Honor.

24 THE COURT: And I'll wish everyone happy holidays and
25 hope everyone stays healthy and safe.

1 MR. JEFFREY: Thank you, your Honor. You too.

2 MR. PHILLIPS: Thank you, Judge.

3 THE DEFENDANT: Thank you, your Honor.

4

5 (Proceedings were adjourned at 9:48 a.m.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

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

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 Thursday, December 17, 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;

And that the foregoing transcript is a true and
accurate record of the proceedings.

Date: October 18, 2021

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