

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 BOND REVOCATION HEARING
12 BEFORE THE HONORABLE JUSTIN S. ANAND
13 UNITED STATES MAGISTRATE COURT JUDGE
14 TUESDAY, DECEMBER 22, 2020
15

16 Appearance of Counsel:

17 For the Plaintiff: John Russell Phillips, Esq.
18 Assistant United States Attorney

19 For the Defendant: Pro se
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 12:38 p.m.)

2 THE COURT: Mr. Fayne is here.

3 Mr. Fayne, are you still representing yourself in
4 this matter?

5 I'm sorry?

6 THE DEFENDANT: (Indiscernible audio. Not speaking
7 into microphone.)

8 THE COURT: Okay. Well, I guess -- are you still
9 operating as your own attorney in this case as allowed by
10 Judge Larkins?

11 THE DEFENDANT: Yes.

12 THE COURT: Okay. All right. We're here for a
13 hearing on the petition for revocation of bond.

14 Mr. Phillips, you can proceed.

15 MR. PHILLIPS: Your Honor, would you like me to come
16 to the podium, or stay seated here?

17 THE COURT: Your choice. Either. I think you would
18 be safe with the screen.

19 MR. PHILLIPS: If it's okay with the Court, then,
20 I'll stay here.

21 THE COURT: Yes.

22 MR. PHILLIPS: Your Honor, just a tiny bit of
23 background about this case.

24 A second superseding indictment was returned which
25 charges defendant Fayne, also known as Arkansas Mo, as well as

1 three other people with conspiracy to commit wire fraud. They
2 were also charged with individual counts of wire fraud, and
3 Mr. Fayne and one other defendant were charged with bank
4 fraud.

5 Mr. Fayne was charged with making a false statement
6 to a financial institution, and he was charged with
7 concealment money laundering, transactional money laundering,
8 and aggravated identity theft.

9 And the second superseding indictment also includes a
10 very significant forfeiture provision which seeks to forfeit a
11 lot of property that was obtained with the illegal proceeds of
12 the bank fraud.

13 The indictment alleges that the defendant and his
14 coconspirators participated in a Ponzi scheme which defrauded
15 more than 20 people out of more than \$5 million.

16 And the defendant had a lot of personal spending
17 habits that caused that money to be dissipated, including more
18 than \$5 million that was paid to a casino in Oklahoma.

19 On May 13 of this year, the defendant had a bond
20 hearing before this Court on the original indictment. At that
21 time this Court told the defendant, and I quote, "you're to
22 avoid all contact, directly or indirectly, with anyone who you
23 have reason to believe would be a victim or potential witness
24 in this case."

25 And that's one of the conditions that's set forth in

1 18 U.S.C. Section 3142(c)(1)(B)(5), avoid all contact with an
2 alleged victim of the crime and with a potential witness who
3 may testify concerning the offense.

4 The Court went on to say And I encourage the
5 government to give Ms. Miller, who was then the defendant's
6 attorney, a list of potential witnesses or participants to put
7 Mr. Fayne on as much notice as possible.

8 But, the Court said, however, if they fail to do
9 that, that's not an excuse. If there's someone who is later
10 proven that you knew or very well should have known was a
11 potential witness, meaning anyone who has first-hand knowledge
12 of the facts of this case, you're not to speak to that person
13 about this case yourself or through any intermediary other
14 than your lawyer, or investigators working for your lawyer.

15 And as the Court noted, the defendant has chosen to
16 represent himself, so he doesn't have a lawyer.

17 One of the victims in the case as far as the Ponzi
18 scheme part of it is concerned, the wire fraud, is a woman
19 named Jimia Cain.

20 So the petition for revocation of the pretrial
21 release in this case alleges that on November 9, just a little
22 bit more than a month ago, Jimia Cain received a text message
23 from Fayne telling her to dismiss her case against Fayne.
24 Because she filed a civil lawsuit against him trying to
25 recover the money that she lost as a victim in the Ponzi

1 scheme which is part of this indictment.

2 She is represented by a lawyer named Seth Rosenberg,
3 and the defendant also emailed Mr. Rosenberg and made
4 misleading and other statements to him.

5 So let me start with the communications between
6 Mr. Fayne and Ms. Cain. So she was interviewed, that is
7 Ms. Cain was interviewed by the case agents in this case and
8 she stated that in May of this year, two thugs -- that's her
9 description -- showed up at her house to scare her and try to
10 intimidate her with respect to her claim against defendant
11 Fayne.

12 She then reached out to the middleman who had
13 recruited her to participate in this Ponzi scheme and tried to
14 work out a settlement because she was scared because these
15 people had approached her and threatened her.

16 She was never paid any money and, shortly after that,
17 defendant Fayne was arrested. So she has never gotten back
18 that money.

19 That was May of 2020.

20 Fast forward to November of 2020, sometime during the
21 week of November 2, the defendant texted Ms. Cain and told her
22 to leave Carly Red alone. Carly Red is the defendant's
23 ex-wife, and received a lot of the fraud proceeds in this
24 case.

25 The defendant -- I'm sorry, Ms. Cain replied to the

1 defendant's text, and said I will do everything in my power to
2 help them put you in jail because what you did was wrong.

3 The defendant replied Ha-ha I won't spend a day in
4 jail.

5 About a week later, on November 9, the defendant
6 again texted Ms. Cain and made the following comments. First,
7 he threatened to file a lawsuit against her for harassment and
8 trespassing and hot checks. And he said, quote, I have warned
9 you of the trespass you all are doing. You don't scare me.
10 I'm private trust property.

11 He went on to say you all will pay very soon. You
12 can't sue private property. Good luck and trust all courts
13 with see my IPP status.

14 And to explain a little bit about what that means, we
15 can look at the email that the defendant sent later that day
16 to Seth Rosenberg, and he's the attorney for Jimia Cain.

17 And the defendant stated: Trust law. As I stated to
18 you client, Jimia Cain, you all are trying to administrate
19 against private trust property which is illegal and considered
20 trespassing. I have attached to you a copy of notice of
21 surrender achieving IPP status.

22 My duty is to warn you of status and hope you all do
23 the proper thing, close and dismiss immediately. With
24 exclamation points.

25 This is a 72-hour notice. Please forward all

1 dismissal documents within 72s hours before the suit of
2 trespass is given. Trust law. All rights reserved.

3 And then the defendant attached to that a document
4 that I probably should just give to the Court, rather than
5 read the whole thing.

6 I'm going to mark this as Government's Exhibit 1.

7 THE COURT: Well, does Mr. Fayne have a copy?

8 MR. PHILLIPS: I'm going to provide him one, your
9 Honor.

10 THE COURT: Okay.

11 MR. PHILLIPS: Your Honor, the document that I have
12 marked as Government's Exhibit 1 is that email that I just
13 read, from the defendant, and then attached to that is this
14 document that says The Chair of St. Peter foundation, notice
15 of surrender documents for Maurice Johnson Fayne. And it has
16 a table of contents.

17 So the Court can see from looking through that that
18 this is part of the defendant's litigation strategy in this
19 case, which has been called by courts the sovereign citizen
20 litigation strategy.

21 So the defendant thinks this is -- excuse me -- a
22 get-out-of-jail free card and this prevents him from being
23 prosecuted or prevents him from having any legal liability for
24 the things that are alleged in the indictment.

25 Ms. Cain told the case agents when she was

1 interviewed that she felt like she was being threatened by the
2 defendant, so we have asked the Court to revoke the
3 defendant's bond.

4 We think that this is clear and convincing evidence
5 that the defendant has violated his conditions of pretrial
6 release. Specifically, the one that I mentioned earlier about
7 not having contact with an alleged victim or with a potential
8 witness who may testify concerning the case.

9 And as stated, the Court directly instructed the
10 defendant not to have contact with any witnesses or victims.
11 And I'm going to hand the Court a copy of the transcript of
12 the bond hearing.

13 THE COURT: Thank you.

14 MR. PHILLIPS: And the part, your Honor, that I read,
15 the quote from the Court begins at the bottom of page 23, and
16 continues onto 24.

17 THE COURT: Okay. Is that it for the government?

18 MR. PHILLIPS: No, your Honor.

19 THE COURT: Okay.

20 MR. PHILLIPS: Just briefly, I would like to address
21 the statute.

22 18 U.S.C. Section 3148 talks about sanctions for
23 violation of a condition of release, and states that the
24 judicial officer shall enter an order of revocation if, after
25 a hearing, it finds that there is clear and convincing

1 evidence that the person has violated any condition of
2 release.

3 So we have produced the email from the -- I have the
4 text messages -- excuse me -- as well. They are front and
5 back.

6 I believe the evidence is clear and convincing that
7 the defendant did communicate with a potential witness
8 concerning the subject matter of this litigation, this
9 indictment.

10 And then it states that if the Court finds, based on
11 the factors set forth in Section 3142(g), the defendant --
12 excuse me -- it's hard to talk in this mask -- no condition or
13 combination of conditions of release that will assure the
14 person will not pose a danger to the safety of the community
15 or to any other person, or that the person is unlikely to
16 abide by any condition or combination of conditions of
17 release, that that person should be detained.

18 And the factors that the Court should consider under
19 3142(g) include the nature and the circumstances of the
20 offense charged. So I pointed out to the Court the
21 seriousness of these allegations, including various types of
22 fraud, money laundering, and aggravated identity theft,
23 conspiracy.

24 If convicted on those charges, the defendant would
25 certainly be facing more than ten years in a federal

1 penitentiary.

2 The weight of the evidence against the defendant is
3 overwhelming. The bank records, the text messages, the
4 emails, the other business records, records maintained by
5 government agencies, including the Department of
6 Transportation and the Federal Motor Carrier's Safety
7 Administration all show that the defendant committed the acts
8 alleged in the indictment.

9 The text messages and emails from the defendant to
10 coconspirators concerning the Ponzi scheme and the bank fraud
11 to obtain PPP money under false pretenses, it's going to be
12 uncontested. There is no doubt that the defendant authored
13 those communications and obtained the money and obtained the
14 benefit.

15 The next factor is the history and characteristics of
16 the person. And as I said, the defendant has adopted this pro
17 se sovereign citizen litigation strategy. As the Court knows
18 firsthand, he has refused to plead not guilty when requested
19 to do so at his arraignment on the three indictments in this
20 case.

21 The defendant has repeatedly badgered this Court
22 about easing his travel restrictions, allowing him to go to
23 Arkansas. One of the defendant's unindicted coconspirators
24 who participated in the Ponzi scheme and other aspects of the
25 fraud, including the aggravated identity theft, who

1 manufactured the fraudulent documents and fraudulent
2 identifications and filed fraudulent documents for the
3 defendant with various government agencies is a woman named
4 Janell Tubbs that the defendant calls Aunt G.

5 She lives in Arkansas. She was a big part of his
6 fraudulent business. She has been indicted in Arkansas on her
7 own PPP fraud, multi-million dollar fraud. And it's my
8 understanding that she is going to plead guilty to those
9 charges very soon.

10 The defendant was recently charged with aggravated
11 identity theft. He stole the identity of a person named Duran
12 Porter, and then had a fake I.D., a fake Georgia driver's
13 license and a fake Social Security card manufactured in the
14 name of Duran Porter. He used that to obtain credit and to
15 obtain money.

16 There are various communications going back and forth
17 by email and text between the defendant and the person who
18 manufactured or brokered the manufacture of the fraudulent
19 documents for him. We have that entire conversation on text.

20 We have emails going back and forth between the
21 defendant and Aunt G in Arkansas, directing her to use the
22 fraudulent I.D. in the name of Duran Porter.

23 The defendant also posed repeatedly throughout the
24 Ponzi scheme, which went on from 2014 through the time the
25 defendant was arrested in 2020, he posed as a person who

1 worked for Walmart whose name was Marty Blackstone.

2 The defendant alleged that Marty Blackstone -- who is
3 a real person, who actually works for Walmart, who has a
4 high-level executive job, I want to say director of safety or
5 compliance or something like that -- the defendant posed as
6 him in various telephone conversations and texts with victims.

7 He also pretended to be a person named Terrence
8 Miller, who was another employee of Walmart. He has filed --

9 THE COURT: Let me ask you this question. I'm trying
10 to put the chronology together.

11 You've been referring to the Ponzi scheme which is in
12 the second superseding indictment, right?

13 MR. PHILLIPS: It's in the second superseding
14 indictment. It's also in the original indictment and the
15 middle indictment, if you will.

16 It was alleged as a wire fraud scheme from the very
17 beginning. The difference is that various other people have
18 been added to those charges.

19 Originally, the only person who was charged with wire
20 fraud was the defendant, Maurice Fayne. Then we added, later
21 on, Dan Jay, Mike Sargent and Mark Sargent. But they were
22 referred to by their initials in the original indictment as
23 various middle men who worked with the defendant and assisted
24 him in the fraudulent wire scheme, Ponzi scheme.

25 THE COURT: Okay. All right. Thank you. We were

1 talking about charges in the first superseding indictment.

2 MR. PHILLIPS: We are, your Honor. We just fleshed
3 that out. The defendant has always been charged with that.

4 The most recent indictment added a conspiracy charge,
5 but there was always a scheme to defraud under the wire fraud
6 statute, which referred to the same conduct.

7 So now we have charged it as both conspiracy and
8 various individual counts of wire fraud.

9 THE COURT: All right.

10 MR. PHILLIPS: So in addition to those people that
11 the defendant posed as, Duran Porter, Marty Blackstone, and
12 Terrence Miller, he has also posed as Princeton Cunningham and
13 Donovan Wittington in various filings that he fraudulently
14 caused Aunt G to make to the Federal Motor Carrier Safety
15 Administration, the Department of Transportation, and others.

16 And so the defendant, for example, has tried to cover
17 his tracks, he tried to absolve himself --

18 THE COURT: I'm going to let you speak in a minute.

19 MR. PHILLIPS: -- of any liability with respect to
20 various trucking companies that he created in Arkansas, for
21 example, by taking his name off of public records and
22 replacing his name with these fraudulent identities of Donovan
23 Wittington and Princeton Cunningham.

24 So the defendant has a history, a long history of
25 posing as other people.

1 The Court instructed him, clearly, don't have any
2 contact with witnesses or victims. He ignored that.

3 So I know one of the questions the Court will have
4 will be instead of detaining this person, is there some other
5 condition that we can impose on him that would keep the
6 victims and the witnesses safe and that would cause him to
7 abide by the Court's instructions?

8 And I think the answer to that is no. And the reason
9 I say that is if the Court were to, for example, impose some
10 sort of restriction on the defendant's use of electronic
11 devices, his Smartphone, his tablet, his laptop, the defendant
12 could easily comply with those conditions on -- it's like
13 keeping a second set of books.

14 He would have one set of phones and tablets and
15 computers that he could show to probation when they come to
16 check on him, and it's going to show that he complied with the
17 Court's orders.

18 But the defendant has lots of money hidden. He lives
19 a very luxurious lifestyle. He has got plenty of money to go
20 buy a new iPhone, a new computer, a new laptop, a new
21 tablet, whatever, and keep a separate set of books, if you
22 will.

23 So there is no way that the probation officer can
24 enforce that restriction, and so the victims and the witnesses
25 are at their peril.

1 And this is a defendant who has a lengthy history of
2 posing as other people, of trying to intimidate witnesses,
3 engaging in these shenanigans through this sovereign citizen
4 litigation strategy.

5 He is not complying with the instructions of this
6 Court. He has no respect for this Court or for this Court's
7 rules and regulations. He won't even plead not guilty when
8 asked to do so.

9 So we believe that there is no set of conditions that
10 could ensure the safety of the community if this defendant is
11 released, and we ask the Court to detain him.

12 Thank you.

13 THE COURT: Mr. Fayne.

14 THE DEFENDANT: First, your Honor, I guess I will
15 start with the reason why we are supposed to be here in this
16 situation is because if you go to the court documents, to the
17 original hearing, you said that the potential witness in this
18 case, Jimia Cain has a total separate civil case that she is
19 suing my ex-wife, myself, and a former company that I owned.

20 All of the text messages are not clear. She actually
21 reached out to me first.

22 There was one communication, this is in May, this
23 happened in November, I believe -- I'm not really sure of the
24 exact date because I can't even say exactly what it is. It is
25 familiar, but I can't say exactly what it is.

1 And my only conversations with Ms. Cain had nothing
2 to do with this case, whatsoever. Not one single word,
3 conversation. It was strictly on a civil case that we have.

4 THE COURT: Is she not a potential witness in this
5 case?

6 THE DEFENDANT: That I knew of, no, sir. No, sir.
7 We had a separate, total civil matter going on in Washington
8 prior to this indictment.

9 And so she reached out to me, mentioned me -- I don't
10 see it here, I see -- excuse me, I think the government is not
11 being thorough with its text messages, but her original text
12 to me I believe -- I don't have it in front of me because I
13 don't have a cell phone, but her original text to me was she
14 is willing to work with I believe was Agent Oliver. I'm not
15 really sure, don't quote me on that, your Honor, because I
16 don't have it in front of me.

17 But I know this is not the full texts because she had
18 reached out to me first, I didn't reach out to her. I didn't
19 wake up one day and said hey, I'm going to contact Jimia Cain.
20 She had contacted me.

21 And then, as far as the other set of communications,
22 that went to her attorney and that was in reference to the
23 civil case. Not -- nothing to do with this indictment or in
24 any form or fashion, but an attorney of hers.

25 Now, the government has sit here and said many

1 things, made false allegations of things that I have done and
2 supposedly done. I can assure this Court I respect this
3 Court.

4 Ever since the original release in May, I have not
5 violated any bond conditions. I have -- everything they told
6 me, my probation officer, Mr. Tudor, gave me a list of people
7 that I do not need to contact and I have followed that list
8 thoroughly.

9 I have not contacted one single person on that list
10 not one single time.

11 Anything Mr. Tudor asked me to do, call, be present
12 for court hearings, I have done it. The arrest from
13 yesterday, he called me last week asking me to come in for my
14 routine -- monthly routine. I came in, we set a time, at 12
15 o'clock, I was there at 12 o'clock yesterday.

16 I have not had one single conversation with anyone
17 regarding this case, a potential witness or potential that has
18 anything to do with this case, whatsoever. Not anything.

19 That's why these text messages, it's about a legal
20 suit. She is not suing me in this indictment. This is not
21 her versus me, or anything. It has nothing to do with this
22 case, whatsoever.

23 THE COURT: What does it have to do with? What's the
24 case --

25 THE DEFENDANT: Two things. She had a crush on me,

1 she was wanting to be intimate with me. I was not interested.
2 At the time I was separated from my wife. She actually helped
3 me with a few business things while my wife and I were
4 separated.

5 Then me and my wife reconciled at that point in time,
6 earlier this year. I don't know the exact dates. Right
7 around -- I believe it was maybe January or February of this
8 year.

9 And ever since then she has been on a witch hunt.
10 She has contacted the DOT. She has been all over social media
11 trying to do different things.

12 And so my response to her -- the whole thing in my
13 response to her is telling her to leave my ex-wife out of
14 this. She has nothing to do with any of the lawsuits she was
15 trying to claim.

16 She actually -- it's two \$50,000 fraud in this case.
17 She sent over money that she actually deposited two \$50,000 of
18 bad checks into my bank account at some point last year, in
19 2019. I don't know the exact date.

20 Like I said, I'm here. I don't know where my standby
21 counsel Mr. Jeffrey is. I don't have all the dates and times,
22 you know what I'm saying. But I can assure this Court I'm not
23 threatening anyone.

24 Mentioned something like someone, thugs visiting I
25 her home or something.

1 First and foremost, in her civil suit that she is
2 doing in Washington, she said that my wife sent them to her
3 house. Me and my ex-wife were separated at the time.

4 Like I said, if I had the opportunity to have all of
5 my information present, I would show that to the Court that
6 it's been an ongoing thing for about a year, year and a half
7 now. It has nothing to do with this case whatsoever.

8 Now I'm sure once everything went out in the media,
9 she is going to try to jump on board now, you know.

10 Donovan Wittington is my nephew which he actually had
11 his own trucking company. She's saying that I had other
12 people -- that I allegedly asked other people -- I, myself, I
13 can't disguise my voice. I was on television, so it's not
14 like I could walk into a room and say hey, I'm Tim Turner and
15 somebody go no, you know, you're Maurice Johnson Fayne or
16 you're Arkansas Mo, you know, because they done seen my face
17 whether on social media or whatever.

18 But that's the original thing here. The list that
19 Mr. Tudor gave me, I have not had any communications with.

20 Now, I understand that the fine print that if you
21 don't -- if the Court fails to show me, you know, a person
22 that's not on the list, well, there is not one single thing.

23 This is a total separate civil matter in the State of
24 Washington. It has nothing to do with the PPP loans. It has
25 nothing to do with -- all my response is simply about her

1 trying to sue -- I believe she actually had sued myself and my
2 ex-wife.

3 THE COURT: I mean, did the allegations of that case
4 have anything to do with investing in your trucking company?

5 THE DEFENDANT: Well, that's the thing. She invested
6 in it. She loaned -- not even loaned. She more so --

7 THE COURT: And I'm trying to be careful here for
8 your benefit. Because, don't forget, you have the right to
9 remain silent and I don't want you is speaking about the facts
10 of your case.

11 So I worded it as to the allegations --

12 THE DEFENDANT: I don't want to get into the merits,
13 but --

14 THE COURT: Yes. Are the allegations in her lawsuit
15 --

16 THE DEFENDANT: -- she deposited two \$50,000
17 fraudulent checks into my bank account.

18 THE COURT: And does her allegation in the Washington
19 case or in any case she has made against you involve her
20 investing in your trucking --

21 THE DEFENDANT: Allegedly.

22 THE COURT: Right. So she alleges that she invested
23 in your company; you're saying those were with fraudulent
24 checks?

25 THE DEFENDANT: Yes. Fraudulent checks. I don't

1 want to go on record saying an exact date because I might say
2 May when it's actually June. You know.

3 But I think this whole ordeal deal right now with the
4 government trying to --

5 THE COURT: Let me ask you this, though. Why does
6 that have nothing to do with this case when the indictment --

7 THE DEFENDANT: The original indictment --

8 THE COURT: -- the so-called --

9 THE DEFENDANT: -- has nothing to do --

10 THE COURT: Well, we're talking about the first
11 superseding indictment, which was the one that was in place
12 during these communications.

13 THE DEFENDANT: The indictment --

14 THE COURT: And the wire fraud scheme involved
15 soliciting investors --

16 THE DEFENDANT: She wasn't --

17 THE COURT: -- to pay for your trucking company.
18 Remember, I'm not asking you to tell me facts about the case
19 --

20 THE DEFENDANT: -- was not listed --

21 THE COURT: Was not listed, but --

22 THE DEFENDANT: But she has done, quote, unquote
23 allegedly done this. Her name is not listed.

24 I actually got a new list from Mr. Tudor because
25 something came up with the bank, I wanted to contact the bank.

1 And then we actually -- I can't remember exactly who it was
2 that I wasn't aware who I can't contact (indiscernible audio).

3 But I can assure the Court, I'm not harassing
4 anybody, I have never threatened anybody and I have abided by
5 every single -- I mean every single circumstance.

6 My travel. Everything. I communicate properly with
7 my probation services guy.

8 I believe -- and this is just my opinion, but I
9 believe the government is here right now because the
10 government has been unethical with a lot of the things they
11 put in discovery.

12 Regardless of the extension, I can show the emails
13 about that. You said you don't know anything about the
14 pretrial motions and stuff, but I believe all of this, again,
15 they have been unethical. They sent me an email telling me
16 what they done wrong and how it can be corrected.

17 So I believe this whole thing is a charade or
18 retaliation or punishment to keep me from having the proper
19 defense of myself. As well as Mr. Phillips time after time
20 pertaining to the same thing to my stand-by counsel that
21 should actually be sent to me directly because my stand-by
22 counsel can't make any decisions. (Indiscernible audio.)

23 I don't have a problem (indiscernible audio) with
24 Mr. Phillips or anything, but I think this whole revoke bond
25 and how it is is just a charade. I have not -- there is no --

1 nothing in the world that I have threatened anybody about
2 nothing regarding this case.

3 And I had I known Ms. Cain was going to be a part of
4 the government's strategy, I wouldn't have responded to her.
5 I didn't reach out to her. She reached out to me. So I don't
6 know if that's something that her and the government got
7 together and this is another quote, unquote, trap. Just like
8 the trap they got me with yesterday when there was an arrest
9 warrant sent out there. (Indiscernible audio) there was an
10 arrest warrant, I wouldn't have appeared. But it was supposed
11 to be my pretrial monthly thing, you know, and instead I got
12 arrested. I don't know who signed off on it.

13 I was under the impression that the government would
14 let me know, like I said, when this one here came, I had an
15 attorney. So I don't know how this all works, but I was under
16 the impression on my own that if anybody that I wasn't
17 supposed to talk to, whether the government themselves would
18 tell me or that's the reason I got a Pretrial Service
19 (indiscernible audio), if there were any changes in my case,
20 that it would be brought do my attention.

21 Unfortunately, Ms. Miller hadn't been the part of
22 anything since May.

23 THE COURT: All right.

24 MR. PHILLIPS: May I respond just briefly, your
25 Honor?

1 THE COURT: Yes.

2 MR. PHILLIPS: I talked to Jimia Cain's attorney
3 yesterday, Mr. Rosenberg. He told me that the actual amount
4 that Ms. Cain invested in the defendant's trucking business is
5 approximately \$700,000. So --

6 THE DEFENDANT: Hearsay. Hearsay. No.

7 Actually, again, your Honor, the government is
8 badgering me.

9 THE COURT: Mr. Fayne, I'm going to overrule the
10 hearsay objection because hearsay doesn't apply in a
11 proceeding such as this.

12 You have also proffered out-of-court statements as
13 well. I'm allowed to consider information proffered by the
14 parties.

15 Now what weight I apply to any statement is a
16 different question, but your objections to hearsay, I'm going
17 to overrule that.

18 MR. PHILLIPS: Thank you, your Honor.

19 So that's the amount that he told me, it was
20 approximately \$700,000.

21 In addition, having reviewed a lot of the defendant's
22 bank records and records that Jimia Cain and her attorney
23 provided to the case agents in the investigation, it's my
24 recollection that those documents show hundreds of thousands
25 of dollars that Ms. Cain invested in defendant Fayne's

1 trucking business, not limited to the two \$50,000 checks that
2 the defendant says she gave him which bounced. There is a lot
3 more than that.

4 And all of the money that she gave to the defendant
5 was for the purpose of investing in the same trucking company
6 that's referred to in the indictment, from day one of the
7 indictment.

8 That is the wire fraud scheme, sometimes referred to
9 as a Ponzi scheme that's described in the indictment. She is
10 one of those victims.

11 So if the defendant says she's not on the list that
12 was originally provided to him, that is true because, at the
13 time, we didn't know about her. But our investigation was
14 ongoing and we continued to find more victims and more
15 witnesses.

16 And we provided discovery, including all of the 302s
17 and all of the MOIs. We didn't hold any of that back.

18 We sent the discovery by Federal Express to the
19 defendant's residence in Dacula. The defendant rejected that
20 discovery and sent it back to the United States Attorney's
21 Office by Federal Express.

22 So he chose not to receive that discovery. And Judge
23 Larkins warned him, when he was telling him how dangerous it
24 was to proceed pro se, that he was going to be responsible for
25 all communications with the Court, all official notices and

1 everything else.

2 The defendant wanted to have us ship all of his
3 discovery and all official court documents to some post office
4 box in Oklahoma City. And we objected to that and told the
5 Court that that would just create more delay and that there
6 was no reason to do that, that the defendant needed to provide
7 an address in Georgia. So the defendant did that.

8 All of the communications that we have with him that
9 we send out in writing go to that address that the defendant
10 provided, and we copy Mark Jeffrey who is the defendant's
11 stand-by counsel.

12 I think that the things the defendant was referring
13 to earlier that he says went to Mr. Jeffrey and not him were
14 communications concerning the ongoing forfeiture claim in this
15 case.

16 So Mike Brown's forfeiture section in our office sent
17 various notices to the defendant and to Mr. Jeffrey concerning
18 the forfeiture aspect of the case. But the defendant was
19 copied on that. We haven't left him out of any of that.

20 And so even though Jimia Cain was not on that
21 original list, who better than the defendant himself to know
22 who he took money from? If you took hundreds of thousands of
23 dollars from a person, including what you claim were two bad
24 checks for \$50,000, you know that person.

25 I mean, let's face it, they fought. You don't get

1 that kind of money from somebody just having met them for 15
2 seconds. They have an ongoing relationship. He knows full
3 well who she is. He knows exactly what her situation is, what
4 her status is.

5 And he knew that she was an investor in the same
6 trucking company and the same alleged fraudulent scheme
7 described in the indictment. He knew that when he
8 communicated with her.

9 And if you look at his communications with her and
10 her lawyer, it's clear that he is trying to use his status as
11 a sovereign citizen to get out of paying her money related to
12 the same claim that's alleged in the indictment.

13 That's all I have, your Honor.

14 THE COURT: Just briefly, sir.

15 THE DEFENDANT: Okay. First and foremost
16 (indiscernible audio) or anything like that.

17 My stuff with her strictly (indiscernible audio) she
18 is suing me personally. It's not a company. She is coming
19 after us as individuals.

20 And it's my own communication with her. It's civil.
21 My ex-wife has nothing to do with anything that's going on.
22 It is nothing about -- nothing else, your Honor. Nothing to
23 do with -- nothing other than me and my ex-wife, she has
24 nothing to do with any of this.

25 I wasn't harassing anybody. I wasn't -- nothing. I

1 was -- as far as what I have read and have been told about the
2 private property, you have to let people know, you have to put
3 them on notice so they know.

4 Same thing I did in the courtroom. (Indiscernible
5 audio.) Yes, I sent back a package because after I had gave
6 the Court my address where I was receiving my mail. I didn't
7 know it was from the Court because it was just FedEx. So the
8 FedEx, I have a note on my door return all packages back, no
9 matter (indiscernible audio) and that kind of stuff.

10 So I just wasn't opening any mail at my address. So
11 I have a third-party receiving all of my mail so it can be
12 scanned and copied. That way I know I have got every single
13 document.

14 So I did get the discovery that he's talking about,
15 however I hadn't got the bulk of the discovery and this is
16 something that (indiscernible audio) sorry about that, with
17 the other judge, because he went on record and said hey, we
18 need a hard drive. I gave him a hard drive. Now he wants a
19 USB.

20 That's not -- if you look at the transcript, in the
21 transcript it doesn't say a USB. It said a hard drive. And I
22 provided him with a hard drive and to this day I am waiting
23 for discovery because he is saying the government don't have
24 the ability.

25 Now, the United States government don't have the

1 ability to put the discovery on a hard drive that I provided
2 to him, which is exactly what he's asked for.

3 Now, now he says he wants a USB, but that's not what
4 he said. So I got what he said. So as far as some type of
5 discovery, I see no reason (indiscernible audio) if I had
6 known just like any of this or anything that he had told me, I
7 have not had any involvement with any person, not one single
8 person that I have been told not to contact, to communicate
9 with. I mean, in any to form or fashion. Not one single
10 person.

11 THE COURT: All right.

12 So I find -- I do find the defendant has violated his
13 conditions of release. The conditions stated that the
14 defendant was not to have contact, directly or indirectly,
15 with anyone who would be a potential witness in the case.

16 And I was very clear. I was extremely clear.
17 Mr. Phillips, you read it here this morning -- I didn't need
18 him to because it's what I say in every case -- but I was very
19 clear as to what I meant by that.

20 I encouraged the government to give you a list, but I
21 was very clear that that list was not the complete list of the
22 folks you were supposed to avoid. It was to give you, as much
23 as they could, a list. But I also made very clear it was to
24 include anyone else, whether listed or not, whether named in
25 the indictment or listed by the government in this listed or

1 not, that you knew were potential victims or participants or
2 had knowledge, firsthand knowledge about the facts of the
3 case.

4 So your focus this morning on it wasn't on the list,
5 I wasn't told, so if I wasn't told not to talk to them that I
6 could talk to them.

7 That's not the order or the condition of release that
8 was in place. It didn't work that way and I could not have
9 been clearer.

10 I know you had a lawyer then, but you chose not to
11 have a lawyer. And both Judge Larkins and I have gone over
12 that with you at multiple times that that was a bad choice.

13 You were there, though, to hear it. And what I said
14 wasn't legalese. It was crystal clear. You don't speak to
15 anyone, directly or indirectly, about this case that's a
16 potential victim or witness. That was not limited to the
17 people that they give you a list of.

18 So then the question is is this person, Ms. Cain, a
19 potential victim or witness? And I believe she is. That has
20 been established here.

21 You don't -- that her -- yes, the communications that
22 have been provided appears to be in the context of a private
23 case, but the private case, as far as I understand here, are
24 allegations of a victim in a private civil case that mirror
25 the claims in this criminal case.

1 In other words, what she is alleging in her civil
2 case is that she was lied to in giving or investing money and
3 that may be overlap between the civil claim that she's
4 bringing and the allegations and her role in this criminal
5 case, but that is the subject matter of the first superseding
6 indictment which was the indictment that was in place at the
7 time of the communications.

8 So the specific wording in the back and forth is
9 about the civil case. Drop the case, you know, counter
10 lawsuit. Those are references to a civil process. I
11 understand that.

12 But they are also referring to the claims that this
13 person has been making. She even makes this direct reference
14 to wanting to be part of an effort to put you away. So she's
15 clearly referring to this more than just by a civil claim.

16 But in any event, the statements are broader than
17 just about the civil case. They are saying you have made
18 false statements, false claims, you are harassing me.

19 And all of that to a witness about the subject matter
20 of the information that she may be a witness in the criminal
21 case. That is exactly 100 percent what you were ordered not
22 to do.

23 And I can't find that you weren't on notice that this
24 was a potential victim because, from what I'm hearing, the
25 subject matter of her claim is exactly the subject matter of

1 the fraud scheme that's in the complaint.

2 She is even referencing being a part of the group
3 that's going to put you away. So she's clearly referencing
4 that she's involved in criminal matters against you.

5 But that the government didn't give the name to you,
6 I could not have been clearer, is not the excuse. It just
7 makes it where we have a harder burden for the government to
8 show that you should have been on notice that this person is a
9 witness.

10 It puts you in better notice if they give you the
11 name. It's better if they give you all the names they can.
12 But I couldn't have been clearer that that wasn't going to be
13 enough.

14 In other words, that the provision of the name was
15 not a requirement for there to be a bond violation. Because
16 whether you got the name or not, if it was someone who you had
17 reason to believe was a witness, a potential witness in the
18 criminal case, and for all the reasons I said before, I
19 believe that's been established.

20 Now there are no overt threats of violence,
21 certainly. And I'm trying not to overstate this here. Talk
22 about countersuit and trespass and legal terms. But where you
23 have a criminal defendant who is making threatening
24 statements, even if they're threatening legal recourse, that
25 can have a chilling effect on witnesses. And witnesses might

1 reasonably not take it as limited to a legal threat.

2 Here, the language that's used, there are some
3 ambiguities. "This is a 72-hour notice." Now, the defendant
4 may have a belief that that means something under the legal
5 theories that he's operating under, personal property and all
6 that, but I don't know that an ordinary person wouldn't get
7 that and be concerned that that's a threat of some action to
8 be taken within 72 hours.

9 These are the things that even if not necessarily
10 intended as a threat of violence or intimidation could be
11 construed that way, reasonably. And that's one of the reasons
12 why there is not to be any contact, direct or indirect, with
13 potential witnesses. So that things even if construed wrong
14 by the witness don't get turned into a problem.

15 That's why it's prophylactic to some degree that the
16 defendant is not to have contact, direct or indirect, with a
17 potential witness in the case.

18 So I believe that that has been established here,
19 that that is what has happened. That there has been a
20 violation of a bond condition, a very important bond
21 condition. One of the foundational bond conditions to not be
22 engaging in conduct that would potentially corrupt the
23 integrity of the case.

24 The question then is is revocation and detention
25 necessary, or are there other conditions to be applied that

1 could address this or prevent this from going forward?

2 And that is hard -- I mean, that's -- I cannot
3 identify bond conditions here to address the situation like
4 this. Meaning that no bond conditions I can issue would
5 prevent the defendant from communicating with individuals.

6 Nothing I can order can better state what the rules
7 are, and I can't force the defendant to hear or understand
8 those.

9 The defendant likely personally knows many of these
10 folks, because Mr. Phillips is right, you don't invest this
11 sum of money without some relationship. So there is very
12 little I can do to prevent Mr. Fayne from reaching out to
13 folks through social media, through phone, through email. And
14 even if I were to restrict electronic devices, electronic
15 devices are ubiquitous and easily obtained in our economy. So
16 there is very little I can do to prevent that.

17 So I really don't see any way for me to avoid
18 revoking your bond, Mr. Fayne. And this was a hard decision
19 in the first place. The government moved to detain you -- or,
20 no. You did not move to detain.

21 But there was a substantial amount of evidence about
22 travel and the money. And it was a very difficult -- it was
23 very unusual case. It was not a cut-and-dried case for
24 fashioning conditions of release.

25 I have not taken offense to any request to travel or

1 -- Mr. Phillips used the sovereign citizen terminology, and
2 certainly there are terms that are being used here that are
3 not -- that are legally frivolous, personal property and the
4 like. But I don't take any of that to be, in itself,
5 suggestive of a bond issue. So I disagree that that's the
6 consideration.

7 But the lack of verifiable ongoing and concrete
8 employment, the substantial travel was an issue from the
9 beginning. This is a concern that I just have very -- a lot
10 of difficulty with.

11 The complaint originally involves allegations, I
12 understand the government's case involves allegations and
13 evidence of altered or manufactured financial documents. So
14 there is an allegation in the case already described in the
15 complaint as to acts of obstruction, manipulating material as
16 part of the evidence in the case. And that's always been a
17 concern of mine.

18 I also recall that this has come up repeatedly. You
19 asked when you first began representing yourself for
20 permission to contact witnesses and you explained well, if I'm
21 representing myself, I have to be able to contact witnesses.
22 And I said no, that was your choice to represent yourself,
23 it's a bad choice and it does not get you out of any bond
24 conditions and certainly not the avoid contacting witnesses.

25 So we've discussed this repeatedly, over and over

1 again, not to have any contact with potential witnesses in the
2 case.

3 So I'm going to order revocation here and detention
4 of the defendant.

5 I'll let you have a final word.

6 THE DEFENDANT: Well, your Honor, (indiscernible
7 audio) when I'm told don't do this, don't do this
8 (indiscernible audio).

9 Now when I had Ms. Miller, I was under the impression
10 that the government was (indiscernible audio). When I had
11 her, she told me to contact the bank. And I did.

12 And then I got emails from like I (indiscernible
13 audio).

14 THE COURT: Okay.

15 THE DEFENDANT: So now that I didn't have Ms. Miller
16 anymore, I was under the impression I would get the list.

17 THE COURT: Well, Mr. Fayne, all I can do is go back
18 to what I told you.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: You were sitting right there. I was
21 sitting right here.

22 And I remember this, but it doesn't matter because we
23 have the transcript. I told you exactly, and in no unclear
24 language, that the list -- and maybe I should stop saying
25 anything about a list. I mean that to try to be helpful

1 because where the government can give a list, then there is no
2 question.

3 But I could not have been clearer when I said not
4 getting the list -- someone's name on the list will not be an
5 excuse.

6 If their name is not on the indictment or you didn't
7 get it on a list does not mean you can contact them. If it's
8 someone who you knew was a victim or had something to do with
9 this case -- and I couldn't have said that more clearly.

10 And that's part of the problem here because in order
11 for me to find bond conditions to be effective, I have to
12 believe you will comply. So here, a basic and clear condition
13 was not even registered. And that was not ambiguous. That
14 was not something that I believe had anything to do with
15 Ms. Miller or anything like that.

16 I told you clearly myself, looking in your eyes, that
17 you cannot contact potential victims or witnesses. And it
18 does not matter whether they are listed, that does not make it
19 right if they are not.

20 THE DEFENDANT: I just didn't know she was a
21 potential witness or it had nothing to do with this case.

22 THE COURT: Well again, but --

23 THE DEFENDANT: Nothing to do with it.

24 THE COURT: -- my understanding, and I asked you
25 directly, you said --

1 THE DEFENDANT: She is saying -- I'm telling you that
2 she is suing me personally, trying to have a relationship
3 together. This is --

4 THE COURT: Right. But she is saying "trucking."

5 THE DEFENDANT: When? When?

6 THE COURT: Is that not in the allegation in the case
7 that she made?

8 THE DEFENDANT: I don't have that in front of me.
9 That's what I'm saying. I don't have that in front of me.

10 THE COURT: Has she not alleged that money that she
11 gave --

12 THE DEFENDANT: I haven't seen her lawsuit. Now, my
13 ex-wife --

14 THE COURT: You haven't seen her lawsuit?

15 THE DEFENDANT: No, sir. I have not.

16 THE COURT: So how do you know it has nothing to do
17 with the case?

18 THE DEFENDANT: Because my ex-wife told me.

19 THE COURT: All right. I have made my ruling and I'm
20 going to order the defendant to be detained pending trial in
21 this matter.

22 Anything further?

23 MR. PHILLIPS: No, your Honor.

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

25 (Proceedings were adjourned at 1:40 p.m.)

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, December 22, 2020, in the matter of USA vs.
Maurice Fayne, aka Arkansas Mo, Case No. 1:20-cr-00228-MHC;

That "indiscernible audio" designations are the
result of technological limitations beyond my control;

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 to the best of my skill and
ability.

Date: October 18, 2021

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