

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

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

**DEFENDANT’S MOTION FOR RELEASE PENDING SENTENCING AND
BOP DESIGNATION**

Defendant Maurice Fayne now files this request for this Court to reconsider the order of detention issued on December 22, 2020 and to release him pending sentencing and designation. In support whereof, counsel shows the following:

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

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

Doc. 120 at 2. Mr. Fayne was arrested on the petition when he voluntarily appeared for a check-in with his probation officer. The Court then held a hearing on the motion to revoke Mr. Fayne's bond on December 22, 2020, and Mr. Fayne represented himself at the hearing. Doc. 125. His standby counsel was not present at the hearing to advise him. The Court revoked Mr. Fayne's bond after finding that he had contacted a potential witness in this case and that no conditions could be crafted to ensure he would not contact other witnesses. Doc. 145 at 35. Acting *pro se*, Mr. Fayne filed a motion for reconsideration of the Court's order. Doc. 129. The Court held a hearing on that motion after present counsel was appointed but, after the parties presented argument, the hearing was continued for another day. Doc. 156. Defense counsel later cancelled the request for further hearings and withdrew the request for reconsideration of detention due to on-going plea negotiations. Doc. 177.

On May 11, 2021, Mr. Fayne pleaded guilty to counts 1-6 of the second superseding indictment in this case. Doc. 186. At the conclusion of the hearing, Mr. Fayne requested bond pending sentencing and BOP designation. The district

court advised that Mr. Fayne should return to the magistrate court to request bond at this time.

He now asks that he be released subject to this Court's conditions pending sentencing and designation to his BOP facility.

ARGUMENT

Under 18 U.S.C. §3143(a), once a person has been found guilty, he is typically detained unless a judge finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released.

The history of this case supports Mr. Fayne's claim that he is not likely to flee or pose a danger on release. He is a 38-year-old man who has resided in Georgia since 2017. He has finished several years of college and could find gainful employment if released for the next several months¹. He lives with his girlfriend in a house that the probation department has already visited and approved as an appropriate residence while he was on bond. Although the offenses in the case are serious, he has pleaded guilty and accepted responsibility for his actions. The crimes at issue are non-violent and there is no allegation that Mr. Fayne used firearms or weapons in connection with any of the charged crimes.

¹ Mr. Fayne's sentencing date was set for September 8, 2021. It is anticipated that he would not be designated to a BOP facility for at least 4 weeks after that date.

He has now spent 141 days in custody as a result of his bond violation, which will serve as a deterrent against any future violations. The conditions that were in place prior to the revocation *can* assure he will not flee and *can* ensure the safety of other persons and the community. He successfully abided by this Court's conditions from May 13, 2020 through November 9, 2020. His conditions of release were even loosened to remove the curfew and location monitoring conditions in November 2020. Should the Court determine that additional conditions are necessary, Mr. Fayne will abide by those conditions. Mr. Fayne is also now represented by counsel that can address any questions he may have about full compliance with his bond conditions.

Mr. Fayne is requesting release so that he can see a doctor about a shoulder injury that he has had since October 2019. He received surgery on his shoulder in 2019 and he was supposed to receive a second surgery in 2020, but this was put on hold due to the Covid-19 pandemic. He has seen a doctor at the Robert A. Deyton Detention Center and an X-Ray has been taken of his shoulder, but he is awaiting an appointment with an outside orthopedist. Mr. Fayne would like to see an outside doctor sooner rather than later and get any surgery he needs *before* he enters the BOP system.

Additionally, due to his history of Asthma and use of an inhaler, Mr. Fayne is at a higher risk for complications due to Covid-19. Mr. Fayne has been issued an

inhaler at the detention center and he is concerned for his health. He has received one dose of the Covid-19 vaccine at the facility and he is awaiting the second dose. Should he be permitted to bond, he could remain in his residence (like the rest of us) until he can receive the full vaccine. Should he need medical care, he could receive that care outside of the facility at his own expense, rather than requiring tax payers to fit the bill for it.

Finally, Mr. Fayne is requesting release so that he can assist his 18-year-old daughter as she prepares to start college. He would like to see his daughter and spend time with his family prior to entering the BOP system. Permitting Mr. Fayne to be released at this time would also allow him time to organize his day-to-day household affairs prior to entering the BOP system.

For all of these reasons, Mr. Fayne asks this Court to grant his request for bond pending sentencing and BOP designation.

Respectfully submitted this 12th day of May 2021.

s/Saraliene S. Durrett
SARALIENE S. DURRETT

CERTIFICATE OF SERVICE

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

All Defense Counsel

All AUSAs of record

Respectfully submitted this 12th day of May 2021.

s/Saraliene S. Durrett
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