UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Harold Bennie Kaeding,

Defendant.

Case. No. 21-CR-169 (ECT/JFD)

ORDER DENYING MOTION FOR ACCESS TO WORD PROCESSOR

This case is before the Court on pro se Defendant Harold Bennie Kaeding's Motion for Order for Access to Word Processor. (Dkt. No. 186.) The motion is denied.

Mr. Kaeding is charged with wire fraud, aggravated identity theft, and money laundering for allegedly submitting fraudulent applications for COVID-19 relief loans he was not entitled to receive. (*See* Superseding Indictment 8–11, Dkt. No. 105.) Mr. Kaeding cannot be housed in a typical pretrial detention facility because of his poor health, but his risk of flight and danger to the community counsels against his release, so he is temporarily housed at the Federal Medical Center in Rochester, Minnesota. (Order Regarding Detention Placement 3, Dkt. No. 109; Redacted Order 19, Dkt. No. 176.) His trial is scheduled to begin on April 15, 2024 before the Hon. Eric C. Tostrud. (Trial Notice and Final Pretrial Order 1, Dkt. No. 184.)

Judge Tostrud recently issued an order explaining how he expects to receive trial documents. (*Id.* at 1–2.) It provides:

> All documents must be filed electronically and served on all parties. Two courtesy copies must be delivered to the chambers of Judge Tostrud . . . .The

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> courtesy copies should be ECF-stamped; three-hole punched; unstapled; double-sided, if feasible; and if voluminous, appropriately tabbed and organized within binders. The list of exhibits, proposed voir dire and proposed jury instructions must also be submitted by email, in word-processing format . . . .

(*Id.*) Last week, Mr. Kaeding filed this Motion, which requests not just a word-processor but specifically an "air-gapped computer with word-processing and spreadsheet software" that Mr. Kaeding may keep in his room at FMC-Rochester from now until the end of trial. (Mot. Order Access Word-Processor 3, Dkt. No. 186.) He also asks for the Court to provide "a color printer, a supply of paper, binders, 3-hole paper punch, indexing tabs, Post-It notes and highlighters." (*Id.*) Finally, he asks to have a limited and supervised connection to the internet so he can file and serve documents, send exhibit lists, and submit proposed voir dire and jury instructions. (*Id.*)

Typically, an attorney would file trial-related documents and communicate with the chambers of the presiding judge in a criminal case. Mr. Kaeding is representing himself, which is his right. However, "[w]hen an accused manages his own defense, he relinquishes, as a purely factual matter, many of the traditional benefits associated with the right to counsel." *Faretta v. California*, 422 U.S. 806, 835 (1975). The Eighth Circuit has expressed its "serious doubts whether a pretrial detainee who exercises his constitutional right to represent himself at trial thereby becomes entitled to legal resources over and above what are provided to the general inmate population." *United States v. Beale*, 574 F.3d 512, 520 (8th Cir. 2009) (quoting *United States v. Kind*, 194 F.3d 900, 905 (8th Cir.1999)) (affirming district court's denial of pro se criminal defendant's request for a different

computer). The Court will not provide office supplies or require personnel to supervise Mr. Kaeding while he litigates his case.

Mr. Kaeding is directed to comply with Judge Tostrud's order as closely as he can with the resources available to him. He is further encouraged to confer with his standby counsel to determine which, if any, documents standby counsel can file on his behalf.[1] If Mr. Kaeding and standby counsel agree on a division of labor in this regard, standby counsel is requested to submit a proposed order to the undersigned outlining any changes in his or her responsibilities.

Accordingly, based on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that Mr. Kaeding's Motion for Order for Access to Word Processor (Dkt. No. 186) is **DENIED**.

Date: February 26, 2024

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge

[1] Standby counsel has filed Mr. Kaeding's motions and sent courtesy copies to the Court since Mr. Kaeding elected to represent himself on August 14, 2023.