UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 6:21-cr-141-RBD-NWH

EMMET BOWENS

GOVERNMENT'S OPPOSITION TO DEFENDANT'S MOTION TO WITHDRAW GUILTY PLEA

The United States opposes the defendant's motion to withdraw/vacate his guilty pleas because they were knowing and voluntary, as amply demonstrated by his plea colloquy on January 26, 2026. Docs 226 and 227. Defendant's motion for an evidentiary hearing on the matter should likewise be denied, as there is no factual or legal basis supporting the written filing to justify such a hearing. Doc. 229. The totality of the circumstances warrants denial of the defendant's motions.

Procedural Background

1. On November 10, 2021, a federal grand jury returned an indictment charging Defendant with two counts of wire fraud, in violation of 18 U.S.C. § 1343 (Counts One and Two), and four counts of money laundering, in violation of 18 U.S.C. § 1957 (Counts Three through Six). Doc. 1. On December 2, 2021, Defendant was arrested in the Northern District of Georgia. His initial appearance and detention hearing occurred the following day. Docs. 6–8. The United States did not move for detention, and Defendant was released on bond conditions. *Id*.

2. On December 16, 2021, Defendant was arraigned in the Middle District

of Florida. Doc. 10. Afterwards, pretrial discovery and preparation took place over the next few months, with Defendant seeking unopposed continuances. *See* Docs. 25, 27, 28, 38, 39, and 50. By May 5, 2022, Defendant began to file pretrial motions, including a motion to suppress statements, a motion to suppress pretrial and in-court identifications, a motion to dismiss Count Two of the Indictment for lack of venue, and most significantly, a motion for competency examination. Docs. 44–47. The United States responded in opposition to the motions to suppress and the motion to dismiss. Docs. 59–61. A hearing on those motions never occurred due to Defendant's competency proceedings. On October 17, 2025, this Court denied the motions to suppress and dismiss given the significant gap in time since their filing, leaving open the opportunity for the defendant to re-raise those issues. Doc. 157.

3. Meanwhile, back on July 13, 2022, Defendant was found incompetent to proceed with trial and ordered into the custody of the Attorney General for competency restoration. Doc. 78. However, Defendant was left at liberty and ordered to report to the designated facility on the date set forth by the Bureau of Prisons. *Id.* at 3. He did not.

4. On March 21, 2023, the date Defendant was supposed to report for competency restoration, he cut off his ankle monitor and fled. Docs. 100–102. He was not arrested until December 10, 2024, in the Northern District of Mississippi. Doc. 111. After his transfer back to the Middle District of Florida, Defendant was ordered back into the custody of the Attorney General to await competency restoration proceedings. Doc. 116. The parties were directed to file monthly status

reports documenting the progress of those efforts. *Id.*

5. On March 13, 2025, both of Defendant's appointed counsel moved to withdraw. Docs. 121 and 122. By March 31, 2025, Defendant had been designated a space at FMC Butner, to arrive in May 2025. Doc. 131. He was transferred on or about May 12, 2025. Doc. 133. Defendant generally declined to participate in the restoration programs and refused to take medications. Docs. 135, 137, and 139. On September 9, 2025, his evaluation was completed, and a certificate of competency was entered on September 15, 2025. Doc. 141.

6. Defendant was released from the custody of the Attorney General on September 24, 2025. Doc. 142. After several delays caused by the withdrawal of Defendant's various defense counsel, he was determined to be competent on October 10, 2025. Docs. 144–155.

7. Similarly, it took some time to progress through defendant's bond revocation hearing, due to the withdrawal of yet another court-appointed counsel. *See* Docs. 162–178. There was one brief continuance requested by the government due to the illness of a critical witness; however, at the time, Defendant had elected to proceed *pro se*, a decision which he ultimately reversed after the brief continuance. Docs. 163 and 171.

8. Meanwhile, at the status conference on November 13, 2025, Defendant's then-defense counsel requested a one-month continuance due to his recent appointment to the case and the need for time to adequately prepare. Doc. 176. The government did not oppose what seemed a very reasonable request, which

this Court granted, contingent on Defendant signing a waiver of speedy trial. Doc. 175. Defendant refused to sign the waiver of speedy trial. Doc. 184. This was the first time Defendant asserted his right to a speedy trial.[1] The Court initially docketed the case for trial in December but then granted the government's motion to continue based on the unavailability of its case agent, inability to confirm the availability of other witnesses, and other scheduling concerns. Docs. 186, 190, and 193.

On December 11, 2025, this case was set for trial date certain starting January 26, 2026. Doc. 197. On December 12, 2025, Defendant then requested to proceed *pro se*, and on December 16, 2025, Defendant's seventh attorney was redesignated as stand-by counsel. Doc. 208.

On December 19, 2025, defendant filed an omnibus motion requesting various remedies, including dismissal of the indictment and suppression of evidence Doc. 209. Those requests were denied. Doc. 218.

Jury selection occurred the morning of January 26, 2026, as scheduled. Doc. 222. By lunchtime, a jury was selected. Throughout the proceedings, defendant's stand-by counsel was presented and seated behind the defendant.

Over the lunch break, stand-by counsel coordinated with the defendant to secure him appropriate shoes for the trial. At the beginning of the lunch break, stand-by counsel informed the undersigned that the defendant had asked him questions about whether he would still receive acceptance points under the sentencing

[1] In fact, the record shows several instances where Defendant *waived* his right to speedy trial. Docs. 29 and 36.

guidelines if he were to change his plea to guilty. The undersigned confirmed the government's position that the defendant would be entitled to two acceptance points, but not a third.

When the parties assembled in the courtroom after lunch, undersigned approached stand-by counsel to inquire whether trial would proceed. Stand-by counsel was unsure. Undersigned counsel then requested this Court inquire with the defendant as to his intent to persist in his plea of not guilty and go to trial. What followed was defendant's change of plea and knowing and voluntary waiver of his right to trial.

This Court first asked the defendant whether he wanted more time to consider changing his plea. Transcript of Plea Colloquy ("Tr.") at 2. Defendant said, "[y]es sir. I want to change my plea to plea out at this time." *Id.* A short time later, defendant was placed under oath and swore to tell the truth. Tr. at 4. The Court ensured the defendant was aware of the significance of the oath. *Id.* The defendant then denied taking medications, suffering from any mental or emotional illness (either at the time or in the past), or consuming any intoxicating substance. Tr. at 5-6. When asked, [d]o you understand where you are, what you're doing, and the importance of this proceeding," he responded, "yes." Tr. at 6.

The Court then informed the defendant that he would be asking questions to ensure the defendant understood "the consequences of pleading guilty and that [his] decision to plead guilty [was] made freely and voluntarily." Tr. at 7. The defendant agreed. *Id.* The Court also informed the defendant he could take a moment and

discuss with his stand-by counsel if he had questions; he never did.

The Court discussed defendant's trial rights with him. Tr. at 8-9. Defendant said he understood. Tr. at 9. Defendant said he understood the distinction between admitting the truth of the charges (pleading guilty) and denying the truth of the charges (pleading not guilty). *Id.* The Court then explained the rights defendant would give up with a plea of guilty; again, defendant stated he understood. Tr. at 9-10.

The Court explained in general terms how the calculation of defendant's guidelines range would work and clarified that the guidelines are advisory, and the defendant could be sentenced up to the maximum based on his guilty plea. Tr. at 11. Defendant stated he understood. *Id.*

The Court ensured the defendant had a copy of the Indictment and discussed it with him. Tr. at 13. Undersigned counsel announced the maximum penalties associated with the offenses. *Id.* Defendant said he understood the potential consequences of his decision to plead guilty. Tr. at 14. The Court then explained the elements of the offenses to the defendant. *Id.* Defendant said he understood. Tr. at 14-15. The Court inquired if defendant had questions; he did not. Tr. at 15. The Court then asked the defendant directly how he pled to each of the six counts of the Indictment; he responded, "[g]uilty." Tr. at 16.

The following exchange then occurred:

> THE COURT: And do you understand that pleading guilty means that you admit the truth of the charges against you?

DEFENDANT: Yes.

THE COURT: And do you now admit that you committed the acts that are set forth in the Indictment?

DEFENDANT: Yes.

THE COURT: Is your plea entered with an understanding of what you're doing here today?

DEFENDANT: Yes.

Tr. at 16-17.

Undersigned counsel then recited the factual basis for the offense. Tr. at 17-28. Defendant admitted the facts described what he did. Tr. at 28.

Standby counsel then placed on the record his discussions with the defendant about acceptance points and how they might apply to this case. Tr. at 28-29. This Court informed the defendant that it would ultimately decide the issue of whether to give defendant credit for pleading guilty but placed the government's position on the record. Tr. at 30. The Court then asked "[h]as anyone threatened you, coerced you, or forced you in any way in connection with your decision to change your plea, Mr. Bowens?" *Id*. The defendant responded, "[n]o, sir." *Id*. The Court further inquired as follows:

THE COURT: Is it your own independent decision to plead guilty?

DEFENDANT: Yes, sir.

THE COURT: Is your plea freely and voluntarily made?

DEFENDANT: Yes.

> THE COURT: Has anyone given you any assurances or made any promises to you in order to induce you to plead guilty?
>
> DEFENDANT: No, sir.
>
> THE COURT: Are you relying upon any promise, assurance, or understanding with anyone about the sentence that you'll receive?
>
> DEFENDANT: No, sir.
>
> THE COURT: And has anybody promised that you'd be given a light sentence or somehow be rewarded for your decision to plead guilty?
>
> DEFENDANT: No, sir.

Tr. at 30-31.

Finally, a short time later, after specifically discussing the role of stand-by counsel, the Court asked defendant, "do you have any concerns about the way you've been treated by the Court *or anyone else, for that matter,* that's influenced your decision to plead guilty?" (emphasis added) Tr. at 32. Then, "[d]o you have any complaint about [stand-by counsel] or the way that [stand-by counsel] has represented you in his very limited capacity?" Tr. at 32. Response, "[n]o, sir."

The Court then stated its findings on the record, ending with this: "I further find that your decision to plead guilty is freely, voluntarily, knowingly, and intelligently made, and that you've had the advice and counsel of a competent lawyer with whom you say you are satisfied. Do you agree with those finding, Mr. Bowens?" Response, "[y]es, sir." Tr. at 33-34.

On February 9, 2026, defendant filed his motions, requesting an evidentiary hearing and to withdraw/revoke his guilty plea. Docs. 226, 227, and 229.

In defendant's Motion to Withdraw Verbal Guilty Plea, defendant claims that his plea was "verbal only and not knowingly, intelligently, or voluntarily made." Doc. 226. He further states – despite saying repeatedly to the contrary during the plea colloquy – that he "did not fully understand the consequences of the plea" and that he "was coerced by counsel." *Id*. Defendant fails to explain what consequence he did not understand or how he was coerced by his stand-by counsel. *Id*.

In defendant's Motion to Vacate his Plea, he claims his verbal plea was "unconstitutional" without explaining how. Doc. 227. He further alleges, "the plea lacked informed consent and a valid waiver of constitutional rights. No written plea agreement exists and no meeting of the minds occurred. The plea is void and must be set aside." *Id*.

Law and Argument

Pursuant to Fed. R. Crim. P. 11(d)(2)(B), a defendant may withdraw a guilty plea upon showing a "fair and just reason for requesting the withdrawal," but "there is no absolute right to withdraw a guilty plea prior to imposition of a sentence." *United States v. Buckles*, 843 F.2d 469, 471 (11th Cir. 1988). "The decision to allow withdrawal is left to the sound discretion of the trial court." *Id.*

In determining whether the defendant has met his burden to show a "fair and just reason," the Court "may consider the totality of the circumstances surrounding the plea." *Id.* at 471–72. In the course of this inquiry, the Court considers "(1) whether close assistance of counsel was available; (2) whether the plea was knowing and voluntary; (3) whether judicial resources would be conserved; and (4) whether

the government would be prejudiced if the defendant were allowed to withdraw his plea." *United States v. Brehm*, 442 F.3d 1291, 1298 (11th Cir. 2006) (quoting *Buckles*, 843 F.2d at 472). Moreover, if a defendant does not satisfy the first two factors of the *Buckles* analysis, the Court need not "give particular attention" to the remaining factors. *United States v. Gonzalez-Mercado*, 808 F.2d 796, 801 (11thCir. 1987).

Statements made during the plea colloquy—declarations made under oath and in open court—carry a strong presumption of verity. *See United States v. Medlock*, 12 F.3d 185, 187 (11th Cir. 1994). "[W]hen a defendant makes statements under oath at a plea colloquy, he bears a heavy burden to show his statements were false." *United States v. Rogers*, 848 F.2d 166, 168 (11th Cir. 1988). In the end, "[t]he good faith, credibility and weight of a defendant's assertions in support of a motion [to withdraw a guilty plea] are issues for the trial court to decide." *Buckles*, 843 F.2d at 472.

A. Whether Close Assistance of Counsel Was Available

A theme throughout the proceedings in this case has been defendant's dissatisfaction with his attorneys. However, that does not mean that he did not have the advice of competent counsel available to him. Indeed, despite his repeated assertions that he wanted to represent himself, the defendant still had stand-by counsel available on the first day of trial to answer any questions he might have. Defendant now claims the very attorney whose advice he rejected and affirmed he had no use for, somehow managed to coerce him into changing his plea during several very brief interactions on the first day of trial. Common sense tells us that these claims, without any specific factual basis, lack veracity. Defendant merely

attempts to do what he has done all along, blames his dissatisfaction with his predicament on his attorney (or in this case, his stand-by counsel).

B. The Defendant's Pleas Were Knowing and Voluntary

"[T]here are three core principles that must be addressed by a court accepting a guilty plea: '(1) the guilty plea must be free from coercion; (2) the defendant must understand the nature of the charges; and (3) the defendant must know and understand the consequences of his guilty plea.'" *United States v. Jones*, 143 F.3d 1417, 1418–19 (11th Cir. 1998) (quoting *United States v. Siegel*, 102 F.3d 477, 481 (11th Cir. 1996)). All three principles were satisfied in this case.

1. The Plea Was Free From Coercion

This Court specifically asked the defendant if he was pleading guilty freely and voluntarily and he answered "yes." When asked if he had been coerced, he said "no." When specifically asked whether he was dissatisfied with anyone – including specifically his stand-by counsel – he said, "no." Defendant now makes blanket assertions that his constitutional rights were violated, and that he was "coerced" without explaining how. "Mere conclusory allegations do not warrant the withdrawal of a guilty plea." *Buckles*, 843 F.2d at 473.

Defendant's rationale for changing his plea was likewise clear from the record – he wanted the benefit of the reduction in his sentence associated with acceptance of responsibility. This shows a knowing and intelligent decision made because he believed it to be in his best interest. It also shows an understanding of the guidelines and how they might apply to defendant's case.

This Court need not waste time with evidentiary hearing. The defendant should have described the alleged coercion in his written filing such that the government could adequately respond to the allegation and the Court could make a proper determination. He has failed to do so, likely because – as he said during his plea colloquy – no such coercion occurred.

2. The Defendant Understood the Nature of the Charges

Again, the defendant was on ample notice of the nature of the charges in this case. He was informed of the charges and the elements during the plea colloquy. Further, undersigned counsel read a lengthy and detailed description of the defendant's criminal conduct into the record at the hearing. In response, the defendant agreed those facts accurately described what he did.

3. The Defendant Knew and Understood the Maximum Penalties

Again, the record confirms that the defendant knew and understood the consequences of his guilty plea because those consequences could not have been more plainly stated at his hearing. After informing the defendant he was charged with wire fraud and money laundering, undersigned counsel announced the maximum penalties for those offenses, including a maximum of 20 years in prison on counts one and two, and a maximum of 10 years in prison on counts three through six. Tr. at 13-14. The defendant was likewise informed of those penalties at his initial appearance, arraignment, and *Faretta* hearings.

C. The Government Will be Prejudiced and Judicial Resources

The defendant does not address in his filing whether the government would be prejudiced if his motion is denied. The government's case is largely a paper case, its witnesses, either law enforcement or records custodians. However, enough judicial resources have been expended in this case. In *Buckles*, the court noted that while there need not be prejudice to the government before a district court can deny a defendant's motion to withdraw, "the district court was justified in considering the time, money, and effort the government would have to devote to reassembling witnesses and evidence that were allowed to scatter after the acceptance of the guilty plea." *Buckles*, 843 F.2d at 474.

In the days leading up to January 26, 2026, the government had numerous individuals working to prepare hundreds of pages of exhibits and prepping an anticipated 14 witnesses. By the day trial commenced, six of those witnessed had either traveled from other states/districts or were stranded *en route* to Orlando due to the recent snowstorm. This was a significant cost, in money and the time of government personnel, law enforcement, and civilian witnesses. Were this defendant allowed to withdraw his guilty plea and proceed to trial, the government would have to devote the same amount of time and money to prepare and travel those same witnesses who have been inconvenienced once already.

Further, this Court spent the entire morning with over 40 potential jurors, many of whom woke very early in the morning to report for jury duty in Orlando in a timely fashion. Those individuals gave up their precious time – whether it would

have been spent at work, with family, or for other pursuits – to fulfill their civic duty. It was only after that process had concluded that the defendant chose to change his plea.

Conclusion

Given the procedural history of this case, including delays attributable to the defendant, enough time and resources have been devoted to this case. In light of the crystal-clear record created by this Court during the plea colloquy, defendant knowingly and intelligently and voluntarily waived his right to trial.

The defendant has not met his burden of showing a fair and just cause to withdraw from his guilty plea. Further, his motion lacks any factual basis to warrant an evidentiary hearing on the matter.

Respectfully submitted,

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U.S. v. Emmet Bowens **Case No. 6:21-cr-141-RBD-NWH**

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

Michael Nielsen
Stand-by counsel for the defendant

I hereby certify that on March 9, 2026, a true and correct copy of the foregoing document and the notice of electronic filing were sent by United States Mail to the following non-CM/ECF participant(s):

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