

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA)
)
v.) No. 3:17-cr-00082-002
) Hon. Thomas A. Varlan, Chief USDJ
) Hon. C. Clifford Shirley, Jr., Chief USMJ
HEATHER ANN TUCCI-JARRAF)

NOTICE OF FILING

The Defendant **HEATHER ANN TUCCI-JARRAF** hereby files DULY ACCEPTED EVIDENCE OF SEPARATE ACTS DONE BY FOREIGN AGENTS, PURSUANT TO STANDING PRAECIPES #2 and #3 OF DOC 101, TRANSCRIPT OF PROCEEDINGS BEFORE THE HONORABLE C. CLIFFORD SHIRLEY, JR., August 29, 2017, 2:36 p.m. to 3:25 p.m.

Respectfully submitted,

s/ Francis L. Lloyd, Jr.

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CERTIFICATE OF SERVICE

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s/ Francis L. Lloyd, Jr.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

-----)
UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.) Case No.: 3:17-CR-82
)
RANDALL BEANE,)
)
Defendant.)
-----)

PROCEEDINGS
BEFORE THE HONORABLE C. CLIFFORD SHIRLEY, JR.

August 29, 2017
2:36 p.m. to 3:25 p.m.

APPEARANCES:

FOR THE PLAINTIFF: CYNTHIA F. DAVIDSON, ESQUIRE
ANNE-MARIE SVOLTO, ESQUIRE
Assistant United States Attorney
United States Department of Justice
Office of the United States Attorney
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Knoxville, Tennessee 37902

FOR THE DEFENDANT: BOBBY E. HUTSON, JR., ESQUIRE
Federal Defender Services of
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800 South Gay Street
Suite 2400
Knoxville, Tennessee 37929-9714

REPORTED BY:

Rebekah M. Lockwood, RPR, CRR
Official Court Reporter
(865) 210-6698
800 Market Street, Suite 130

1 THE COURTROOM DEPUTY: All rise. This Court is again
2 in session with the Honorable C. Clifford Shirley, Jr., United
3 States Magistrate Judge, presiding. Please come to order and be
4 seated.

5 We are here for a scheduled motion hearing in case
6 3:17-CR-82, United States of America versus Randall Beane.

7 Here on behalf of the government are Cynthia Davidson,
8 Anne-Marie Svolto. Is the government ready to proceed?

9 MS. DAVIDSON: Yes, Your Honor.

10 THE COURTROOM DEPUTY: And here on behalf of the
11 defendant is Bobby Hutson, Jr. Is the defendant ready to
12 proceed?

13 MR. HUTSON: Present and ready, Your Honor.

14 THE COURT: All right. Mr. Hutson, We're here on your
15 motion to, quote, review the attorney/client relationship. And
16 cutting to the chase, it looks like Mr. Beane wants to represent
17 himself as opposed to having you represent him. So tell me
18 about it.

19 MR. HUTSON: Your Honor, may I approach?

20 THE COURT: Please.

21 MR. HUTSON: Thank you.

22 Your Honor, before I begin, I will note for the Court
23 that under Section 5 of my motion, I do indicate that giving
24 additional information could interfere with the attorney/client
25 confidentiality requirement that I have, especially in open

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1 court in a situation that we have today.

2 But what I will say is that Mr. Beane has requested
3 that I file the motion. Mr. Beane asked the Court to remove
4 counsel from his case. He asserts that he does not have
5 confidence in the legal advice provided by myself, and that he
6 does not feel that I am effectively representing him in this
7 proceeding.

8 He has indicated to me that he wishes to represent
9 himself, although there may be slight differences in how he
10 describes that, given our conversation today. He has a
11 different take on representing himself and what that might mean.
12 But in terms of the language that I'm comfortable filing with
13 the Court, he does indicate that he wants to represent himself.

14 There is additional information that he may like to
15 provide to the Court. I feel that it may be best coming from
16 Mr. Beane, given the environment. If Mr. Beane does wish to
17 talk about the attorney/client relationship today, matters that
18 are unrelated to the case in chief, I would ask that counsel for
19 the government be excluded from the courtroom so that he does
20 not further damage any of his interest in the case.

21 THE COURT: All right. Thank you.

22 Ms. Davidson, any comments?

23 MS. DAVIDSON: I would just like to point out that if
24 the defendant represents himself, that any non-lawyer assistance
25 or paralegal filings are -- that would not be permitted. He

UNITED STATES DISTRICT COURT

1 will be representing himself and Ms. Heather Ann Tucci-Jarraf
2 will not be available to represent him. We received information
3 that that is in fact what he wants. And Ms. Tucci-Jarraf is not
4 an attorney, and she's representing herself in this matter.

5 Thank you, Your Honor.

6 THE COURT: All right. Ordinarily, if there's a
7 question of conflict of interest or the dismissal of a lawyer
8 for any reason, the Court has to hold a hearing sometimes where
9 it's just me and the defendant, so that no confidential
10 information is heard by anybody else.

11 But in this case, it sounds like, Mr. Hutson, that
12 Mr. Beane is simply wanting to exercise his right to
13 self-representation. And while the Sixth Amendment clearly
14 provides that a criminal defendant has a right to have an
15 attorney and assistance of counsel to represent him in the case,
16 since the Faretta opinion, there's a corollary rule that also
17 allows him to proceed without counsel, to represent himself.

18 And while that's not an absolute right and that the
19 Court has to first determine that that election is being made
20 voluntarily and intelligently, he still has that right. So I
21 don't see the need to hold a hearing.

22 I'm going to have to ask you some questions, Mr. Beane.
23 Before I do that, I want to remind you what you were told
24 before, among the rights you have is the right to remain silent
25 and not say anything about the charges, about the allegations

UNITED STATES DISTRICT COURT

1 against you or about any matter that might incriminate you.

2 Do you understand that right?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. And do you remember I told you that
5 before?

6 THE DEFENDANT: Yes.

7 THE COURT: So if you can stick to just answering my
8 questions without going off on some diatribe that you want to
9 tell me about, you'll probably be fine.

10 If you do start talking about things, the problem is,
11 you will either think they are beneficial to you or innocuous
12 and the U.S. Attorney's Office may think they are quite
13 incriminating and may use them against you. And you wouldn't
14 want to do that if you didn't have to.

15 Do you understand that?

16 THE DEFENDANT: Yes.

17 THE COURT: All right then. If you'll --

18 MR. HUTSON: Your Honor, may I briefly --

19 THE COURT: Yes.

20 MR. HUTSON: -- note something for the record? We
21 agree with the Court that assessing the Faretta issue can be
22 done in an open environment. I would just ask that the Court
23 reiterate to Mr. Beane that if he should go into issues related
24 to representation, allegations of any kind, that we would ask
25 the Court to handle those matters ex parte as a separate issue,

UNITED STATES DISTRICT COURT

1 because they truly are separate, and the communication issue,
2 the issues related to our interviews, and case strategy, they
3 are an important part of the second issue.

4 So if Mr. Beane, again, could just stick to the
5 original issue of representation under Faretta, that may
6 alleviate any cause for concern to the second issue.

7 THE COURT: Yeah. And I think -- and to be sure
8 everybody understands the position I'm taking is that because he
9 wants to represent himself, whether he loves you or he can't
10 stand you or he's anywhere in between doesn't really matter. So
11 there's no need for him to critique you. There's no need for me
12 to hear any problems he's had. If he's had no problems or he's
13 had myriad problems, that doesn't factor in into a request for
14 self-representation.

15 Those kind of questions, which I usually am faced with,
16 involve when somebody wants to replace an attorney. They say,
17 "I want an attorney, I just don't want this one."

18 That's not what I'm hearing here. So I will avoid
19 those questions, and hopefully he will avoid going into those
20 areas, because they simply don't matter.

21 The question is whether you want to represent yourself,
22 whether you want to give up your right to have a lawyer, and
23 whether you're making that decision voluntarily and
24 intelligently. Do you understand that?

25 THE DEFENDANT: Yes.

UNITED STATES DISTRICT COURT

1 THE COURT: All right. Then let's begin, and we'll
2 start with having you raise your right hand and be sworn in. So
3 like we did before, if you'll have him just raise his right
4 hand.

5 THE COURTROOM DEPUTY: Do you solemnly swear or affirm
6 to tell the truth, the whole truth, and nothing but the truth,
7 so help you God? If so, please say, "I do."

8 THE DEFENDANT: No. Standing due identification
9 correction, I am source of all that is, original, nunc pro tunc,
10 praeterea, pre terea, and I do swear to speak only true,
11 accurate, and complete.

12 THE COURT: Do you know what that nonsense means?

13 THE DEFENDANT: I do.

14 THE COURT: Tell me. Read each line and tell me
15 exactly what it means.

16 THE DEFENDANT: Standing due identification correction,
17 I am here in my original capacity. I am source of all that is
18 original.

19 THE COURT: You're the source of all that is?

20 THE DEFENDANT: I am source of all that is.

21 THE COURT: So you are God? I thought God was the
22 source of all that is. Are you telling me you are God? Is that
23 a yes or a no?

24 If you don't take an oath, I can't let you represent
25 yourself.

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: I am source of all that is.

2 THE COURT: What does that mean?

3 THE DEFENDANT: I am original.

4 THE COURT: We're all original. It's like saying
5 you're a human being. What's that mean? Legally, what's that
6 mean? Do you not know? Do you know what it means legally?

7 THE DEFENDANT: To be a human being?

8 THE COURT: No. To be whatever those words were you
9 used, source original.

10 THE DEFENDANT: Yes, I understand that.

11 THE COURT: What's that mean?

12 THE DEFENDANT: That I am source of all that is.

13 THE COURT: I don't know what that means.

14 THE DEFENDANT: I am source of all that is.

15 THE COURT: I don't know what that means. There's a
16 Kleenex box by you that is a Kleenex box. Are you the source of
17 that?

18 THE DEFENDANT: I am source of all that is.

19 THE COURT: Are you the source of the sun and the moon?

20 THE DEFENDANT: I am source of all that is original.

21 THE COURT: All right. Well, my guess is we'll have to
22 have another hearing on this. I can't swear him in. We can't
23 have a hearing.

24 He won't swear in, so when are you available next?

25 MR. HUTSON: Your Honor, one other option might be if

UNITED STATES DISTRICT COURT

1 the Court could give me a few moments -- a few moments to
2 discuss with him the implications.

3 THE COURT: I doubt that will have much effect on him.

4 MR. HUTSON: It may not.

5 THE COURT: He's got a litany he needs to say. I'm
6 used to this. I've had dozens of this.

7 MR. HUTSON: He also --

8 THE COURT: And he can keep coming back every few days,
9 say it. We'll keep doing it. Doesn't bother me. I'm here all
10 day every day.

11 MR. HUTSON: I understand, Your Honor. He is also
12 potentially going to want to request some type of detention
13 hearing or update.

14 THE COURT: We can't get started, we can't get to that.

15 MR. HUTSON: Correct, your Honor. And perhaps that may
16 alleviate some of these issues. I would be happy to take a
17 moment to talk to him, or we can reschedule for another day.

18 THE COURT: Well, I'll give you a couple minutes. I
19 just don't like your chances.

20 MR. HUTSON: Duly noted, Your Honor.

21 THE COURT: Okay. How much time you think you need?
22 Want to get -- want to have five minutes?

23 MR. HUTSON: Five minutes is fine, Your Honor.

24 THE COURT: All right. Why don't you make sure that
25 the sound is off so nobody's picking up anything, and I'll step

UNITED STATES DISTRICT COURT

1 out and give you a couple minutes --

2 MR. HUTSON: Thank you, Your Honor.

3 THE COURT: -- so I don't overhear anything.

4 THE COURTROOM DEPUTY: All rise. This honorable court
5 stands in recess.

6 (Recess from 2:48 p.m. to 2:51 p.m.)

7 THE COURTROOM DEPUTY: All rise. This Court is again
8 in session with the Honorable C. Clifford, Jr., United States
9 Magistrate Judge, presiding. Please come to order and be
10 seated.

11 THE COURT: All right. Mr. Hutson, did you have any
12 success?

13 MR. HUTSON: I believe so, Your Honor.

14 THE COURT: All right. We'll try again. Mr. Beane, if
15 you'll stand up and raise your right hand.

16 THE COURTROOM DEPUTY: Do you solemnly swear or affirm
17 to tell the truth, the whole truth, and nothing but the truth,
18 so help you God? If so, please say, "I do."

19 THE DEFENDANT: I do.

20 THE COURT: All right. Have a seat, please.

21 All right. Again, Mr. Beane, I remind you that it
22 would be best for you not to speak or say anything about the
23 charges in this case or about anything other than the questions
24 I'm going to ask you, which are simply about your
25 self-representation. Okay?

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: Okay.

2 THE COURT: All right. Now, as I mentioned to you
3 earlier, the Sixth Amendment and a case called Faretta vs.
4 California provides that you have the right to have legal
5 counsel, but that if you prefer to represent yourself, that you
6 also have that right.

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: Now, Mr. Hutson has indicated to me that
10 that's what you would like to do, that you would like to waive
11 the right to counsel, and to represent yourself.

12 Is that correct?

13 THE DEFENDANT: Yes.

14 THE COURT: Would you like me, then, to terminate
15 Mr. Hutson's services and have you represent yourself?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. Now, I have to decide if that
18 decision that you're making is being made intelligently and
19 voluntarily, so I have to ask you number of questions. Okay?

20 THE DEFENDANT: Okay.

21 THE COURT: And I want you to consider your answers to
22 these questions, and at the end of which, I will also give you
23 my thoughts on the matter. Okay?

24 THE DEFENDANT: Okay.

25 THE COURT: Now, have you ever studied law, Mr. Beane?

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: As in school?

2 THE COURT: Sure.

3 THE DEFENDANT: No.

4 THE COURT: Have you ever represented anyone in a
5 criminal case?

6 THE DEFENDANT: No.

7 THE COURT: Have you ever represented yourself in a
8 criminal case?

9 THE DEFENDANT: No.

10 THE COURT: Have you ever represented yourself in any
11 case?

12 THE DEFENDANT: Yes.

13 THE COURT: Where and when?

14 THE DEFENDANT: South Carolina.

15 THE COURT: And was that a civil case?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. Do you realize the difference in a
18 civil case and a criminal case?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you know that a civil case is usually
21 one in which somebody sues somebody else for money, so either
22 you sued somebody or somebody sued you and it was about money,
23 whereas in a criminal case, the government is essentially
24 charging you with having committed a criminal offense?

25 Do you understand the differences?

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: Yes.

2 THE COURT: All right. Do you realize that in this
3 case, you are charged with the crimes of -- I don't have the
4 indictment in front of me. Remind me, is it wire fraud and bank
5 fraud and money laundering?

6 MS. DAVIDSON: Yes, Your Honor. It's wire fraud and
7 money laundering.

8 THE COURT: Okay. Wire fraud and money laundering.
9 And what are the potential range of penalties for that -- those
10 two charges?

11 MS. DAVIDSON: Yes, Your Honor. Because this wire
12 fraud involves a bank scheme, it's not more than 30 years, a
13 million-dollar fine, three years supervised release.

14 With regard to the conspiracy to commit money
15 laundering, it's not more than 20 years, a \$500,000 fine, or
16 double the actual loss, which in this case is over a million
17 dollars, and three years supervised release.

18 THE COURT: Do you realize that if you are found guilty
19 of either of those crimes or both of those crimes, that you
20 could be sentenced up to those amounts?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you realize that if you are found guilty
23 of more than one count, that is if you are found guilty of two
24 or more crimes, that those sentences could be ordered to be
25 served consecutively? That means on top of each other.

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: Yes.

2 THE COURT: Do you realize that if you represent
3 yourself, that neither I nor any other judge can give you any
4 help, that you're on your own, and that we can't advise you what
5 to do, how to do it, or how to try your case?

6 THE DEFENDANT: Yes.

7 THE COURT: So are you familiar with the Federal Rules
8 of Evidence?

9 THE DEFENDANT: No.

10 THE COURT: Do you understand that when the court
11 determines what evidence can come into the record, what evidence
12 can be introduced at trial or any other hearing, that they have
13 to comply with the Federal Rules of Evidence?

14 THE DEFENDANT: I would understand that -- that it
15 would, yes.

16 THE COURT: All right. What I'm saying is, you
17 understand that the Federal Rules of Evidence are going to
18 determine what comes into evidence and what doesn't?

19 THE DEFENDANT: Okay.

20 THE COURT: So it would be important to know those,
21 because it might be that you couldn't get a piece of evidence in
22 just because you didn't know how to do it.

23 THE DEFENDANT: Okay.

24 THE COURT: You didn't know the rule.

25 Do you understand that?

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: Yes.

2 THE COURT: Are you familiar with the Federal Rules of
3 Criminal Procedure?

4 THE DEFENDANT: No.

5 THE COURT: Do you realize that those rules govern the
6 way a criminal action is tried in federal court?

7 Do you understand that?

8 THE DEFENDANT: Yes.

9 THE COURT: So how we actually proceed and the
10 procedures are contained in those rules, and you could run afoul
11 of those if you don't understand those rules.

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you realize that if you decide to
15 testify, that is if you choose to take the witness stand and
16 testify, that you would not only be giving up your right to
17 self-incrimination and be subject to being cross-examined, but
18 that you would also have to present that testimony by basically
19 asking yourself questions?

20 THE DEFENDANT: Yes.

21 THE COURT: As opposed to just getting up and giving
22 some long narrative.

23 THE DEFENDANT: Yes.

24 THE COURT: All I can say, Mr. Beane, is I would advise
25 you that, in my opinion, you would be much better served to be

UNITED STATES DISTRICT COURT

1 represented by a trained attorney, one who is very familiar with
2 the Federal Rules of Evidence, one that is very familiar with
3 the Federal Criminal Rules of Procedure and one who understands
4 how to try a case in this court, and I believe you would be much
5 better off to be defended by such a person rather than by
6 yourself.

7 I also think it is very unwise of you to try to
8 represent yourself when you're not familiar with the law, when
9 you don't know the rules of evidence and you don't know the
10 rules of criminal procedure.

11 I would strongly urge you not to try to represent
12 yourself, particularly in light of the potential severe penalty
13 that the assistant United States attorney has told you could
14 occur if you were found guilty of these charges.

15 Now, in light of the penalty that you might suffer, if
16 you're found guilty and in light of all the difficulties I've
17 just mentioned in representing yourself, is it still your desire
18 to represent yourself and give up your right to be represented
19 by a lawyer?

20 THE DEFENDANT: Yes.

21 THE COURT: Is that decision entirely voluntary on your
22 part?

23 THE DEFENDANT: Yes, it is.

24 THE COURT: Is anybody else telling you to do that?

25 THE DEFENDANT: No.

UNITED STATES DISTRICT COURT

1 THE COURT: Seems to me that Mr. Beane has knowingly
2 and voluntarily waived his right to counsel, and I'm inclined to
3 allow him to -- permit him to represent himself.

4 Ms. Davidson?

5 MS. DAVIDSON: Your Honor, I would have to agree with
6 you.

7 THE COURT: Okay. Mr. Hutson?

8 MR. HUTSON: We defer to the Court on that ruling, but
9 it does appear that he understands those issues, Your Honor.
10 Thank you.

11 THE COURT: Before I make that actual ruling, I do want
12 to cover one thing that Mr. Hutson said earlier, that you might
13 have some kind of a different idea of what representing yourself
14 means.

15 What do you think representing yourself means?

16 THE DEFENDANT: What do I think it means?

17 THE COURT: Yes.

18 THE DEFENDANT: It means representing myself. I mean,
19 what else would it mean?

20 THE COURT: Well, I don't know. Mr. Hutson seemed to
21 think that you might have a different idea of what that means
22 from what he told you it meant, which what I would have expected
23 him to say was what you just said.

24 Ms. Davidson seemed to think that you might be of the
25 notion that your codefendant in this case, Ms. Tucci-Jarraf,

UNITED STATES DISTRICT COURT

1 might be able to represent you, and I can assure you she cannot.

2 THE DEFENDANT: Right.

3 THE COURT: Do you want to discuss with him whatever
4 issue he had and see if he wants to raise that, Mr. Hutson?

5 MR. HUTSON: Your Honor, I'm happy to take a moment to
6 speak with him about that issue.

7 THE COURT: Why don't you do that. I'm going to sit
8 right here for this one.

9 MR. HUTSON: Thank you. I would note that some of
10 these issues do relate to confidentiality issues, and so
11 therefore I'm not sure how much I will be able to relate to the
12 Court, but I will certainly try to clear up --

13 THE COURT: I'm not asking you to relate. I just want
14 to know -- I want to be sure he understands that he's
15 representing himself and what that means.

16 MR. HUTSON: Yes, Your Honor.

17 THE COURT: Nothing else.

18 (Discussion off the record.)

19 MR. HUTSON: Your Honor, we're ready to proceed.

20 THE COURT: All right. I guess the way I would phrase
21 that, Mr. Beane, is, do you have any questions or concerns --

22 THE DEFENDANT: I do have some questions.

23 THE COURT: Okay.

24 THE DEFENDANT: I need -- I would like to represent
25 myself, but be able to have someone who can file, since I'm not

UNITED STATES DISTRICT COURT

1 in the capacity to do that, of course.

2 THE COURT: Okay. We have a position that's either
3 called standby counsel or elbow counsel that we can provide.
4 That person can do those things for you, and that person can
5 explain to you and hopefully enforce the basic rules of
6 courtroom protocol, procedure, and decorum.

7 That person can file things for you. You have to
8 prepare them yourself. That person can help you overcome
9 certain procedural or evidentiary obstacles, like advising you
10 how to introduce the evidence. But you have to do it yourself.
11 And can provide you basically technical assistance in the --
12 presenting your defense and preserving the record.

13 Do you understand that?

14 THE DEFENDANT: I do. But I need someone who can help
15 me prepare, since I'm not in a capacity to do that as well.

16 THE COURT: What do you mean by help you prepare?

17 THE DEFENDANT: The documents. I can't -- there's no
18 way I can prepare documents from jail.

19 THE COURT: You can't handwrite them?

20 THE DEFENDANT: We're not allowed to have paper or
21 anything in jail. So how can I write anything, if I'm not
22 allowed paper?

23 THE COURT: Well, that would kind of surprise me, as
24 many pro se filings as I get every day from the jail. You're
25 the only person --

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: I've been trying to order paper for the
2 past four weeks, and we're not allowed to order paper.

3 THE COURT: What do you know about that, Mr. Sanchez?
4 You ever heard of them telling them, "You can't have paper"?

5 MR. SANCHEZ: No, Your Honor. That's the first time
6 I've heard of that.

7 THE COURT: Yeah. Me too. I get filings by people
8 over there all day every day, so prisoners are filing stuff from
9 there. I'm not saying I don't believe you --

10 THE DEFENDANT: Okay.

11 THE COURT: -- and you're not telling me the truth.
12 What I'm telling you is my experience. There's a whole lot of
13 people over there with paper and pencils, because I'm getting
14 the results of their efforts.

15 So how would you propose to go about that?

16 THE DEFENDANT: Someone who can help me and prepare
17 documents.

18 THE COURT: Well, how are they going to do that?

19 THE DEFENDANT: How would you propose they do that?

20 THE COURT: I was asking you. I mean, you're thinking
21 they're going to sit in the jail with you?

22 THE DEFENDANT: I understand there's a capacity of
23 someone who can help me in submitting and preparing documents,
24 since --

25 THE COURT: Well, they are. You hand them the document

UNITED STATES DISTRICT COURT

1 and they will help you file it.

2 THE DEFENDANT: Okay. But can they type it?

3 THE COURT: I guess that's possible.

4 THE DEFENDANT: Okay.

5 THE COURT: That's, you know --

6 THE DEFENDANT: I can't type in jail, so --

7 THE COURT: Well, I'm not saying you type. I'm just
8 saying you can write. Can you write?

9 THE DEFENDANT: I can write. But I would prepare -- I
10 would like the documents to be typed.

11 THE COURT: Well, we'd all like a lot of things.

12 THE DEFENDANT: Right.

13 THE COURT: That's part of what you may give up by
14 representing yourself --

15 THE DEFENDANT: Okay.

16 THE COURT: -- is the ability to have that.

17 THE DEFENDANT: Okay.

18 THE COURT: Now, if it might help and Mr. Hutson has
19 that potential, I guess he can do it.

20 Would you want Mr. Hutson to be that elbow counsel or
21 that --

22 THE DEFENDANT: No.

23 THE COURT: -- standby counsel?

24 THE DEFENDANT: No.

25 THE COURT: All right. You want somebody else?

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: Yes.

2 THE COURT: Okay. All right. Is there any other
3 questions you have about representing yourself or standby
4 counsel?

5 THE DEFENDANT: Not at this point, no.

6 THE COURT: All right. My point to you is, if you
7 represent yourself, just like you said, it means you represent
8 yourself. Okay?

9 THE DEFENDANT: Right.

10 THE COURT: The lawyer doesn't represent you. The
11 lawyer doesn't provide you with legal advice. You represent
12 yourself.

13 THE DEFENDANT: Right.

14 THE COURT: And that's your choice.

15 THE DEFENDANT: Yes.

16 THE COURT: All right. While I've noted to you that I
17 think that is a very poor decision, it's nonetheless a decision
18 that you're entitled to make. While I think it's the wrong
19 decision, again, you have the right to make a wrong decision.

20 So I find that you have knowingly and voluntarily
21 waived your right to counsel and that you should be permitted to
22 represent yourself. I don't have any other lawyer here today
23 present to appoint -- to represent you as standby counsel.
24 However, I will endeavor to locate one and we'll have them
25 contact you as soon as possible.

UNITED STATES DISTRICT COURT

1 THE DEFENDANT: All right.

2 THE COURT: All right? All right. Now, I think with
3 that, Mr. Hutson, you will be relieved of your duties. And
4 going forward, you will have no further obligations as to
5 Mr. Beane.

6 Now, have you received any discovery from the
7 government?

8 MR. HUTSON: I have, Your Honor. I provided Mr. Beane
9 with one copy. He also through written correspondence over the
10 past two weeks has asked me to provide a second copy to someone
11 who is here today on his behalf. Usually if -- if elbow counsel
12 is taking on the case, I would like to give them the second
13 copy, but I will proceed however Mr. Beane would like me to
14 proceed today.

15 THE COURT: He can give it to anybody he wants. But
16 you understand that they don't represent you, Mr. Beane?

17 THE DEFENDANT: Yes, I understand that.

18 THE COURT: And anybody and their brother, I guess, can
19 give you advice. But the old adage "you get what you pay for"
20 probably stands no more truer than in this case.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: All right. You do with it what you want.
24 I would expect either you or Ms. Davidson to provide standby
25 counsel with a copy as well. I don't know how voluminous it is.

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1 But if you've got -- is that your only copies?

2 MR. HUTSON: Your Honor, I have three total copies. I
3 have actually four. One for Mr. Beane that was given to him
4 initially, a digital copy, a copy for my file, and a fourth copy
5 for the individual that Mr. Beane would like this to go to
6 today.

7 THE COURT: All right. Do you have any objection to
8 him giving a copy to an individual?

9 MS. DAVIDSON: I mean, Mr. Hutson can do what he wants
10 to, but I do object to a non-attorney representing Mr. Beane. I
11 mean --

12 THE COURT: No.

13 MS. DAVIDSON: -- the non-attorney has made attempts at
14 filing things on his behalf, which the Court struck from the
15 record before I had an opportunity to make a motion to strike,
16 but --

17 THE COURT: No non-attorney is going to represent
18 Mr. Beane.

19 MS. DAVIDSON: Okay. Thank you, Your Honor.

20 THE COURT: Can't make that any clearer. Nobody can
21 file -- somebody tried to file an appearance for you. We
22 don't -- there's no such thing as that.

23 And that's my concern for you, is a lot of things I
24 think you've been told or things that people have said, they
25 don't exist. So there's no such thing as one person appearing

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1 for another person. There's no such thing as somebody filing
2 something on your behalf. Particularly in a criminal case, the
3 only person who can do that is you or your lawyer.

4 And you can see why. If somebody didn't like you, they
5 could start filing things on your behalf and really mess up your
6 case. So we wouldn't know, John Doe filed something, I don't
7 know what their relationship is with you. So we just don't let
8 anybody do that. That's the law.

9 Unfortunately, a lot of people come in here, have a
10 pretty crazy view of what the law is, because other people have
11 told them things that simply aren't true. And I don't want you
12 to get caught that way. And that's why I'm wanting to appoint
13 you elbow counsel or a lawyer who can tell you fact from
14 fiction.

15 THE DEFENDANT: With elbow counsel, will it be possible
16 for them to get to me in the jail and have documents signed as
17 appropriately needed?

18 THE COURT: Yes.

19 THE DEFENDANT: Okay. That's not been the case this
20 far.

21 THE COURT: I don't think anybody prohibited
22 Mr. Hutson, unless he tells me otherwise.

23 MR. HUTSON: That is correct, Your Honor.

24 THE COURT: Okay. Now, we've spent enough time with
25 the jailers and things. Access is available. And I will tell

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1 you that in the past, other people have sat there and told me
2 the same things, and I have called in the particular jailers and
3 the sheriff and had everybody testify, and find out that the
4 person sitting there wasn't telling me the truth. And that
5 would not bode well for you if that were the case.

6 So all I'm saying is, before you make statements and
7 accusations, be careful, because I take that stuff very serious.
8 Because I've got hundreds of defendants who have to have access
9 to their lawyer, and they know that. And if I were to find out
10 that access was not being provided, they would know that would
11 be a serious problem.

12 So when you make those accusations, they better be
13 true. And my guess is they're not. I'm not going to take it up
14 at this point. What I'm telling you is that standby counsel
15 should have that opportunity. They always have. And my
16 position, they always will. Okay? So they'll be able to see
17 you --

18 THE DEFENDANT: Okay.

19 THE COURT: -- and get that information. Now, having
20 said that, there's always exceptions.

21 Go ahead.

22 MS. DAVIDSON: Your Honor, I just wanted to point out
23 one thing. When I prepared the discovery with it going to
24 Mr. Hutson and to the defendant, I may or may not have redacted
25 all personal information, like Social Security numbers. I don't

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1 know that there's any privileged or Social Security number
2 information on there, but there is a lot of bank records and
3 such.

4 And in this case, the codefendant has been publishing
5 everything that has been provided to her. And so we believe
6 that it's possible that all of this will immediately be
7 published once it's turned over to whoever it is. And I just
8 wanted to point that out to the Court.

9 We provided Jencks material to Ms. Tucci-Jarraf for her
10 identity hearing, and she published the grand jury transcript on
11 the Internet. And I'm just hesitant about that information
12 being provided to a non-attorney at this point.

13 I would like the opportunity perhaps to look over it
14 again to make sure that there's no Social Security information
15 or the like that goes -- I mean, the defendant already has it,
16 but if Mr. Hutson is providing it to outside parties, I'm a
17 little uncomfortable.

18 THE COURT: Well, I mean, I can't think of a case where
19 a defendant didn't get to see his own discovery, and I can't
20 think of a case where I've ever limited what they did with it.
21 Now, if other people choose to start publishing other people's
22 Social Security numbers, bank numbers, you know, they run their
23 own danger in that. And, you know, there's -- that's their own
24 problem.

25 So if he gives it to them, that may be his problem, and

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1 if they do anything with it to publicize it, that could be their
2 problem, and we might be seeing them, but --

3 MS. DAVIDSON: Yes, Your Honor. I just wanted to bring
4 it to the attention of the Court.

5 THE COURT: Okay. Well, everybody has to do what they
6 want to do, and all I can do is advise them not to. You know,
7 if there's other people's Social Security numbers on there, you
8 know, you have a right not to have yours publicized, and so does
9 everybody else.

10 And personal identifiers are usually redacted here so
11 people can't get ahold of that information and do nefarious
12 things with it. We protect people's identity. We protect
13 people's medical records. We protect things like that. And so,
14 you know, if you start doing other things or people do that on
15 your behalf, you'll be running afoul of the law.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: Yeah. And I hope those all within
19 listening distance of me understand that as well.

20 I don't expect that. But if that happens, then we'll
21 have to handle it however we have to handle it.

22 So I will get you elbow counsel who hopefully will come
23 out to see you posthaste. You currently have a trial date of
24 October the 3rd. You've talked to me about wanting to make some
25 filings. I assume you want to file some motions?

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1 THE DEFENDANT: Yes.

2 THE COURT: Your motion -- time for filing motions has
3 already run.

4 You've got a trial date in just over a month. Would
5 you like to continue that trial date?

6 THE DEFENDANT: Does that further extend the time to
7 file motions?

8 THE COURT: Yes.

9 THE DEFENDANT: Yes.

10 THE COURT: Yes, it would.

11 THE DEFENDANT: Yes.

12 THE COURT: Now, in your codefendant's case, who I
13 believe you're familiar with, Ms. Tucci-Jarraf, I went ahead and
14 reset a new trial date for January 23rd of next year. I set a
15 deadline for filing motions for September the 29th. That will
16 give you just about exactly a month to get those filed. The
17 government will have until October 13th. They'll have a couple
18 weeks to file a response. And then I've set a motion hearing to
19 hear any of those motions on October the 18th at 9:30. And
20 that's also your what we call reciprocal discovery deadline.

21 The government is giving you discovery. Under certain
22 situations, you have to give the government discovery. You
23 probably have no idea what that means, but the rules provide it.
24 And hopefully your elbow counsel can explain it to you.

25 And then I set a plea deadline -- that means a deadline

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1 for you to determine if you want to enter into a plea or not --
2 of December 21st of this year.

3 Are all those dates good with you?

4 THE DEFENDANT: Yes.

5 THE COURT: All right. Then we will give him a new
6 motion filing deadline, September 29th. And we'll hear those
7 motions on October the 18th at 9:30. The trial will be moved
8 till January 23rd. I believe for the reasons I stated this
9 morning, because I anticipate these motions to be dispositive in
10 nature, that the Court will need up to 30 days to make a ruling
11 on it.

12 If Mr. Beane doesn't like my ruling, he'll want to
13 appeal or object. If the government doesn't like my ruling,
14 they'll want to appeal or object. Whoever doesn't like what I
15 rule always objects. And then the district judge will have up
16 to 30 days to rule on it. And then everybody still needs time
17 to prepare for trial.

18 So I believe in my calculation that mid to late January
19 is the earliest we can set this under the Speedy Trial Act, and,
20 therefore, I find that all the time to be fully excludable for
21 Speedy Trial Act purposes.

22 Would you agree with that, Ms. Davidson?

23 MS. DAVIDSON: Yes, Your Honor, I would.

24 THE COURT: You may not be familiar with that,
25 Mr. Beane. Speedy Trial Act in federal court means you have the

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1 right to have a speedy trial. And if you ask for time to file
2 motions, that time is excluded. The time the court has the case
3 under advisement, that time is excluded. And so it looks like
4 that's the earliest I could set you a hearing. And so I think
5 that's as speedy as we can do it. We could set it off into the
6 spring, but I don't think that would be very speedy.

7 Do you have any objections to that?

8 THE DEFENDANT: No.

9 THE COURT: Okay. We will put those dates down and
10 everything in order, and you will get a copy of that so you will
11 have those dates in writing, so that you can know what those
12 are. Okay?

13 THE DEFENDANT: Okay.

14 THE COURT: I'm just telling them to you now and maybe,
15 Mr. Hutson, if you wanted to jot those down real quickly, he
16 could take them with him. I don't think he has a writing
17 utensil there. The trial date is January 23rd, 2018. Deadline
18 to file motions, September 29th, this year. Motion hearing is
19 October 18th at 9:30. The plea deadline is December 21st.

20 MR. HUTSON: Thank you, Your Honor.

21 THE COURT: All right. All right. The only advice I
22 will give you -- and it's not in the nature of legal advice,
23 it's in the nature of judicial advice -- is that you have
24 already filed a large stack of documents, you know, your UCC
25 filings and purported trust documents and such things. You

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1 don't need to refile those again.

2 THE DEFENDANT: Okay.

3 THE COURT: If you file a motion, you can just refer to
4 those.

5 THE DEFENDANT: Okay.

6 THE COURT: And, you know, if you refer to them however
7 you want, as specifically as you want, for whatever purpose you
8 want, just don't file them again, because I don't need that big
9 of a stack a second, third, and fourth time. Your codefendant's
10 also filed a similar stack, and I told her the exact same thing.
11 Okay? Just refer to them, but don't refile them.

12 THE DEFENDANT: Okay.

13 THE COURT: Okay. All right. Anything else we need to
14 take up or can take up today, Ms. Davidson, on behalf of the
15 government?

16 MS. DAVIDSON: No, Your Honor.

17 THE COURT: Okay. Anything else, Mr. Beane, you want
18 to take up today?

19 THE DEFENDANT: No, sir.

20 THE COURT: All right. Mr. Hutson is going to be
21 removed as your counsel. You've already provided him with the
22 discovery. It's up to you what you do with the rest of it, the
23 other copies.

24 I would request that when I do appoint standby counsel,
25 that I'll probably tell them to contact you, and I would expect

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1 you to provide them with a copy as well. But other than that,
2 do as you see fit. But you no longer have any responsibility in
3 this case.

4 And with that, Mr. Beane, you'll be remanded back to
5 the custody of the United States Marshals. And at this point,
6 I'll plan to see you back on October 18th at 9:30 for the motion
7 hearing unless I order you back sooner. Okay?

8 THE DEFENDANT: Can I have Mr. Hutson hand the
9 discovery to Patricia Crawford in the courtroom?

10 THE COURT: That's fine with me.

11 Court stands adjourned.

12 THE COURTROOM DEPUTY: All rise. This honorable court
13 stands adjourned.

14 (Proceedings adjourned at 3:25 p.m.)
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CERTIFICATE OF REPORTER

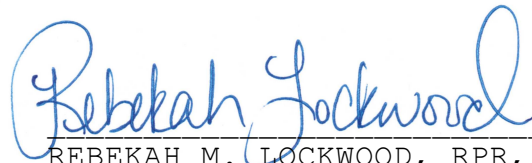
STATE OF TENNESSEE

COUNTY OF KNOX

I, Rebekah M. Lockwood, RPR, CRR, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings; and that the foregoing pages constitute a true and complete computer-aided transcription of my original stenographic notes to the best of my knowledge, skill, and ability.

I further certify that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand at Knoxville, Knox County, Tennessee this 5th day of September, 2017.



REBEKAH M. LOCKWOOD, RPR, CRR
Official Court Reporter
United States District Court
Eastern District of Tennessee