

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

UNITED STATES OF AMERICA

v.

KRISTOPHER LEE DALLMANN,

DOUGLAS M. COURSON,

FELIPE GARCIA,

JARED EDWARD JAUREQUI,
a/k/a Jared Edwards,

PETER H. HUBER, and

YOANY VAILLANT,
a/k/a Yoany Vaillant Fajardo

Defendants.

Crim. No. 1:19-CR-253

The Honorable T.S. Ellis, III

**GOVERNMENT'S MOTION FOR ISSUANCE OF BENCH WARRANTS AND TO
PROCEED WITH MOTIONS HEARING BY PERMITTING
DEFENDANTS TO APPEAR REMOTELY**

On July 9, 2020, the Court is scheduled to hold a hearing on pretrial release violations by Defendants Kristopher Lee Dallmann and Jared Edward Jaurequi, and a hearing on three pending motions: one filed by the government, one by Mr. Dallmann, and one by Mr. Jaurequi.

Beginning around 5:00 p.m. yesterday, counsel for the defendants notified the Court that American Airlines did not permit their clients to board a commercial flight from Las Vegas, Nevada, to Ronald Reagan Washington National Airport. Counsel for both defendants have proffered that American Airlines forbade their clients from boarding the flight because each had not yet received the results of a COVID-19 test taken on July 1, 2020.

This turn of events is unsurprising. The defendants have repeatedly sought to use purported health concerns as a basis for refusing to comply with this Court's orders and instructions from their pretrial services officers, and as grounds for seeking indefinite continuations of hearings on pretrial release violations and motions. Yet, as the Court previously has observed in the course of denying the defendants' continuance motions, the defendants are required to appear for *at least* the hearings on their pretrial release violations. The defendants' assorted health claims do not provide them license to refuse to submit to any pretrial supervision.

Apparently, the defendants believe the Court is powerless to stop or punish their pretrial release violations so long as they avoid coming to Alexandria. Mr. Dallmann's violations are particularly brazen given their incontrovertible nature: he has refused to show up as required for random drug tests, to call in for drug testing information, to provide basic medical information, or to participate in supervision by videoconference. Mr. Dallmann even declared during a May 5, 2020 call with Mr. Jaurequi's pretrial services officer that nothing can be done to enforce compliance with the Court's order to drug test. He also disparaged the officer during this call, calling her a liar. This conduct, simply put, reflects a remarkable level of contempt for this Court and the pretrial services officers.

Mr. Jaurequi appears to share Mr. Dallmann's view. The Court has twice detained Mr. Jaurequi for his admitted drug use and failures to report to his pretrial services officer. Yet, every time Mr. Jaurequi returns to Las Vegas from custody, his conduct goes downhill. Mr. Jaurequi has admitted that, following his release from the Alexandria Detention Center on January 17, 2020, he used methamphetamine a mere four days later on January 21, 2020, and then again on February 1, 2020. Worse, he continues to violate the conditions of his release by

refusing to report and by ignoring the Court's orders and instructions from his pretrial services officer. He may as well not be under any supervision at all.

So, now the defendants' latest gambit to avoid punishment and continue living in Las Vegas with no oversight is to claim that American Airlines barred them from flying because they did not yet have results from their week-old COVID-19 test. This excuse is threadbare.

To the government's knowledge, American Airlines does not bar people from flying merely because they have a pending COVID-19 test. Instead, since June 30, American Airlines has asked "travelers during check-in to confirm they have been free of COVID-19 symptoms for the past 14 days." See <https://www.aa.com/i18n/travel-info/coronavirus-updates.jsp> (last visited July 8, 2020). News reports, moreover, indicate that U.S. airlines (including American Airlines) are presenting prospective passengers with health questionnaires that inquire whether they are "experiencing covid-19 symptoms such as fever, shortness of breath and others such as a cough, loss of taste or smell, chills, muscle pain and sore throat" and whether "they have been exposed to someone who tested positive or had symptoms of covid-19 in the last 14 days." See Luz Lazo, U.S. Airlines Will Ask Travelers to Submit to Covid- 19 Health Questionnaires at Check-In, *Washington Post*, available at <https://www.washingtonpost.com/transportation/2020/06/29/us-airlines-will-ask-travelers-submit-covid-19-health-questionnaires-check-in/> (last visited July 8, 2020).

The defendants thus should not have been barred from flying simply because of a pending COVID-19 test. Their filings do not indicate that they tested positive, nor do their filings indicate that they have been in contact with anyone who has tested positive. The defendants' filings also are silent as to whether they are experiencing any symptoms associated with COVID-19. Mr. Dallmann previously has claimed that he obtained a COVID-19 test on

July 1, 2020, due to a singular bout of shortness of breath, but his most recent filing makes no mention of whether he currently is experiencing any of the recognized symptoms of COVID-19. Likewise, Mr. Jaurequi claims that he, too, was tested for COVID-19 on July 1, 2020 (even though it appears he had none of the commonly recognized symptoms of COVID-19), but his filing does not indicate that he currently is experiencing any health issues. This lack of information gives reason to question what exactly the defendants did and said at check-in such that American Airlines apparently decided to bar them from flying.

The fact both defendants sought testing for COVID-19 itself raises questions about what they are doing day-to-day. For instance, the defendants have refused to drug test apparently because they fear contracting COVID-19 while reporting to a particular testing facility. This is so despite the Court issuing an Order finding that the testing facility has a number of safeguards in place such that the defendants must provide urine samples as directed by their pretrial services officers. (May 12, 2020 Order, Dkt. 254 & 255.) If the defendants have determined that their risk of contracting COVID-19 is so high that they cannot drug test at a facility with sufficient safety protocols, then the government expects they must be staying at home at all times and avoiding contact with anyone else. Yet, if they in fact are practicing such physical distancing, then they would have no need to test for COVID-19 given their lack of potential exposure to the disease. Once again, the defendants' refusal to provide information to their pretrial services officers or even participate in videoconferences makes it difficult for the Court and the government to assess the legitimacy of the defendants' health claims. The government suspects that is the point.

Meanwhile, the government has prepared as many as seven current and former law enforcement officers to testify at today's motions hearing. Four of the seven witnesses have

traveled to this District from out-of-state at taxpayers' expense, including witnesses that Mr. Dallmann is requiring to appear pursuant to subpoena. To the government's knowledge, all of these witnesses are healthy and are exhibiting no symptoms of COVID-19.

The Court thus should not countenance the defendants' efforts to overturn the Court's July 6, 2020 order denying Mr. Dallmann's second motion for a continuance. This is particularly so given the effects a continuance will have at this juncture. The government fears that continuing today's motions hearing will set a precedent: every time the defendants wish to delay proceedings in this case they will know that they can do so by testing for COVID-19 shortly before the scheduled hearing dates regardless of whether such testing is warranted. The government also is concerned about the difficulty in setting a new hearing date. Trying to coordinate the schedules of multiple prosecutors, defense counsel, and witnesses is challenging in ordinary times and even more challenging now. The government expects that finding a new date for the hearings, and keeping that date will prove difficult. And, of course, in the meantime the defendants will continue to flout the Court's orders.

Unlike the defendants who have proposed no solution, the government makes the following two proposals for proceeding.

First, the Court should issue bench warrants for the arrest of Mr. Dallmann and Mr. Jaurequi for purposes of the hearings on their pretrial release violations. Their track records of non-compliance alone provides more than a sufficient basis to have them arrested and transported to this District. Even if American Airlines did bar the defendants from boarding yesterday because of something the defendants told an airlines representative, the animating concern of pretrial release is whether a defendant can and will return to the district in question when required. If health issues are truly hindering their ability to appear, then there are no

conditions or combination of conditions of release that will assure the defendants' appearance in this District on the pretrial release violations, and the only way to assure that appearance at the hearings is to have them arrested and brought here by the U.S. Marshals.

Second, the Court should proceed today—as scheduled—with the motions hearings. The government will not oppose the appearance of the defendants by videoconference or, if they lack an internet connection, by telephone. Accommodations can be made for defense counsel to consult privately with their clients as necessary, and the defendants can testify if they wish. Such a procedure will protect the defendants' constitutional rights and the public fisc and avoid an unnecessary delay in resolving motions that are ripe for resolution.

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