

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-3043

September Term, 2021

1:99-cr-00005-RCL-1

Filed On: January 12, 2022

United States of America,

Appellee

v.

Charles Awusin Inko-Tariah,

Appellant

BEFORE: Srinivasan, Chief Judge, Henderson, Rogers, Tatel, Millett,
Pillard, Wilkins, Katsas, Rao, Walker, and Jackson, Circuit
Judges

ORDER

Upon consideration of the petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

APPENDIX 3C

#3c

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-3043**September Term, 2021****1:99-cr-00005-RCL-1****Filed On: November 3, 2021**

United States of America,

Appellee

v.

Charles Awusin Inko-Tariah,

Appellant

BEFORE: Tatel, Rao, and Walker, Circuit Judges

ORDER

Upon consideration of the motion to dismiss for lack of jurisdiction and the response thereto, it is

ORDERED that the motion to dismiss for lack of jurisdiction be granted. The district court's denial of appellant's motion for self-representation is not an immediately appealable order under the collateral order doctrine. See Flanagan v. United States, 465 U.S. 259, 265–66 (1984); United States v. Sueiro, 946 F.3d 637, 642–43 (4th Cir. 2020). Appellant can effectively challenge a ruling regarding his self-representation in an appeal of a final order following a proceeding under 18 U.S.C. § 4243 to modify his conditions of release.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Manuel J. Castro
Deputy Clerk

APPENDIX A

#39

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-3043

September Term, 2021

1:99-cr-00005-RCL-1

Filed On: September 10, 2021 [1913549]

United States of America,

Appellee

v.

Charles Awusin Inko-Tariah,

Appellant

ORDER

On August 9, 2021, appellee filed a dispositive motion. Any response was due by August 23, 2021. To date, no response has been received from appellant. Upon consideration of the foregoing, it is

ORDERED, on the court's own motion, that appellant show cause by October 12, 2021, why the dispositive motion should not be considered and decided without a response. The response to the order to show cause may not exceed the length limitations established by Fed. R. App. P. 27(d)(2) (5,200 words if produced using a computer; 20 pages if handwritten or typewritten). Failure by appellant to respond to this order may result in dismissal of the case for failure to prosecute. See D.C. Cir. Rule 38.

The Clerk is directed to send a copy of this order to appellant by certified mail, return receipt requested, and by first class mail.

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/

Amanda Himes

Deputy Clerk

#36

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA

v.

Case No. 99-cr-5 (RCL)

CHARLES AWUSIN INKO-TARIAH,

Defendant.

ORDER

On June 3, 2021, the Court held a hearing on defendant Charles Awusin Inko-Tariah's motion for *pro se* representation. ECF Min. Entry 6/3/2021; *see* ECF No. 95. At the close of the hearing, the Court orally denied defendant's motion. *See id.* Defendant timely appealed the Court's ruling and paid the \$505.00 court-of-appeals filing fee to the Court. *See* D.C. Cir. Case No. 21-3043. Defendant is pursuing his appeal *pro se*.

On July 1, 2021, the Court received a letter from defendant asking the Court to return the \$505.00 fee. In his letter, defendant explains that he paid the filing fee before he learned that he could seek leave to appeal without paying the fee. Now aware of this option, he wishes to appeal in forma pauperis. Attached to his letter is (1) a copy of the money order paying the \$505.00 court-of-appeals filing fee; (2) a receipt reflecting the balance of defendant's savings account; (3) a "declaration in support of request to proceed in forma pauperis"; (4) a copy of the cover of a book he says he is in the process of self-publishing;¹ and (5) an "application to proceed in district court without prepaying fees or costs," as it appears in Form 4 of the Appellate Rules Forms. By separate

¹ His book is titled "American Evil Empire: Rumbling at the Jungle of Federal Medical Center Butner, North Carolina, USA. Plot to kill Deaf/Blind inmate by Warden and 40 BOP officials."

Order today, the Court has directed the Clerk of Court to file defendant's *pro se* motion for leave to appeal in forma pauperis and the accompanying documents on the public docket.

* * *

"An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). In *Ellis v. United States*, the Supreme Court elaborated on this good-faith requirement. 356 U.S. 674, 674 (1958) (per curiam). It explained that "[i]n the absence of some evident improper motive, the applicant's good faith is established by the presentation of any issue that is not plainly frivolous." *Id.* at 674. "The good-faith test," it continued, "must not be converted into a requirement of a preliminary showing of any particular degree of merit." *Id.* at 674-75. "Unless the issues raised are so frivolous that the appeal would be dismissed in the case of a nonindigent litigant, the request of an indigent for leave to appeal in forma pauperis must be allowed." *Id.* at 675.

Though the bar for "good faith" is low, the Court finds that defendant cannot possibly present an issue on appeal "that is not plainly frivolous." *Ellis*, 356 U.S. at 674. Defendant's motion for *pro se* representation and his presentation at the hearing on his motion confirmed beyond any shred of doubt that defendant is not capable of representing himself. Most worrisome is the fact that defendant fundamentally misunderstands the issue presently before the Court. After the Court found defendant not guilty by reason of insanity in 1999, defendant was committed to the custody of the Attorney General pursuant to 18 U.S.C. §§ 4243(a) & (d) and sent to FCI Butner for treatment. *See* ECF Nos. 24 & 33. In 2018, and with the consent of the Government, the Court granted defendant's motion for conditional release. ECF No. 79. Today, defendant resides in a community residential facility. *See* ECF No. 97 at 2.

The only litigable issue in defendant's case, then, is whether he has been released under appropriate conditions such that he will not pose a danger to others or the property of others. *See* 18 U.S.C. § 4243(f). Up until this point, defendant has had counsel to help him petition for more lenient conditions of release. *See, e.g.*, ECF Nos. 76, 85, 92. But now, defendant is dissatisfied with his counsel and wishes to represent himself *pro se*.

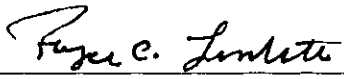
In his motion for *pro se* representation, however, defendant seems to believe that he is before the Court to vindicate the wrongs he says he experienced at Butner. He describes at length about how authorities at Butner were trying to kill him and that he was a "marked man." *See* ECF No. 95 at 2-3. He further explains that he has "90 solid credible witnesses who saw poison in his foods" and added that he "heroically foiled 52 times out of 295 meals including orange fruit secretly injected with poison." *Id.* at 3.

At the hearing, defendant repeatedly asserted these same theories. He explained that the government was plotting his death and said that the government would have released him (presumably from Butner) years ago if he had "succumbed to the pressure" to turn over the manuscript for his book. He also claimed that government officials "lied" about him because he knows their "dark secrets."

Defendant's motion and presentation at the hearing make clear that he is out of touch with reality and not capable of representing himself. Because defendant cannot present "any issue that is not plainly frivolous" on appeal from the Court's denial of his motion for *pro se* representation, ECF No. 95, the Court hereby **DENIES** defendant's motion to proceed in forma pauperis.

It is **SO ORDERED**.

Date: July 2, 2021


Hon. Royce C. Lamberth
United States District Judge