

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

DCO-022

Nos. 21-2887, 21-3072, & 21-3076

UNITED STATES OF AMERICA

v.

DARRON THOMAS,
Appellant 21-2887

(E.D. Pa. No. 2-21-mj-01480-001)

UNITED STATES OF AMERICA

v.

DARRON THOMAS,
Appellant 21-3072

(E.D. Pa. No. 2-21-cr-00416-001)

In re: DARRON THOMAS,
Petitioner 21-3076

(Related to E.D. Pa. No. 2-21-cr-00416-001)

Present: JORDAN, PORTER and MATEY, Circuit Judges

1. Clerk Listing for Possible Dismissal due to Jurisdictional Defect in 21-2887 & 21-3072,
2. Response by Appellant Darron Thomas to clerk order (21-2887 #5),
3. Letter from Attorney Joseph A. LaBar, Esq. for Appellee USA Letter in response to Court Order of October 15, 2021(21-2887 #5),
4. Appellant's Pro-Se "Memorandum of Law and/or Brief," which the Court may wish to construe as a Motion to Review the Clerk's 12/1/21 Order (21-3072 #18),

5. Response by Appellant Darron Thomas to clerk order (21-3072 #20),
6. Response by Appellee USA to clerk order (21-3072 #21),
7. Petition for Writ of Mandamus (21-3076 #1).
8. Petitioner's "Mandamus Related Petition for Third Circuit Review of Refusal to Recuse by Robreno J on Dec 15, 2021," which the Court may wish to Construe as a Supplemental Petition for a Writ of Mandamus (21-3076 #13).

Respectfully,
Clerk/lmr

ORDER

The defendant in this criminal case has appealed a magistrate judge's order imposing conditions on his pretrial release (No. 21-2887). He also appealed the district judge's interlocutory order refusing to recuse himself (No. 21-3072) and separately petitioned this Court for a writ of mandamus regarding that recusal decision (No. 21-3076). He later supplemented the mandamus petition to challenge a new order denying his renewed requests for the district judge's recusal. For the following reasons, both appeals are dismissed and the mandamus petition is denied.

A magistrate judge's bail decision must be reviewed in the first instance by the district judge. See 18 U.S.C. § 3145(a), (b). This Court lacks jurisdiction to hear an appeal directly from a magistrate judge's bail decision. See United States v. Baltazar-Sebastian, 990 F.3d 939, 943–44 (5th Cir. 2021); United States v. Harrison, 396 F.3d 1280, 1281 (2d Cir. 2005); cf. Siers v. Morrash, 700 F.2d 113, 114–15 (3d Cir. 1983) ("To be a 'final' order of the district court within the meaning of section 1291, the magistrate's decision must have been reviewed by the district court, which retains ultimate decision-making power."). Appeal No. 21-2887 is therefore DISMISSED.

The district judge's interlocutory refusal to recuse himself is also not an immediately appealable order. See In re Sch. Asbestos Litig., 977 F.2d 764, 776–78 (3d Cir. 1992); Green v. Murphy, 259 F.2d 591, 594 (3d Cir. 1958) (en banc). Appeal No. 21-3072 is therefore DISMISSED. In that appeal, the defendant's pro-se "Memorandum of Law and/or Brief" docketed at ECF #18 is construed as a motion for review of the Clerk's December 1, 2021, order and is DENIED.

Although a writ of mandamus is sometimes appropriate to require a judge's recusal under 28 U.S.C. § 455, see In re Sch. Asbestos Litig., 977 F.2d at 776–78, the

defendant has not shown a clear and indisputable right to issuance of the writ. “[A]dverse rulings—even if they are erroneous—are not in themselves proof of prejudice or bias.” Arrowpoint Cap. Corp. v. Arrowpoint Asset Mgmt., L.L.C., 793 F.3d 313, 330 (3d Cir. 2015); see also Securacomm Consulting, Inc., v. Securacom, Inc., 224 F.3d 273, 278 (3d Cir. 2000) (“We have repeatedly stated that a party’s displeasure with legal rulings does not form an adequate basis for recusal.”). The petition for a writ of mandamus at No. 21-3076 and the supplemental petition are therefore DENIED. Any other requests for relief contained in those filings are also DENIED.

By the Court,

s/ Kent A. Jordan

Circuit Judge

Dated: January 6, 2022
Lmr/cc: All Counsel of Record
Darron Thomas



A True Copy:

Patricia S. Dodszeweit

Patricia S. Dodszeweit, Clerk
Certified Order Issued in Lieu of Mandate

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
 :
 v. : NO. 21-MJ-1480
 :
 DARRON THOMAS :
 _____ :
 :

CONDITIONS OF RELEASE ORDER

BAIL

Defendant is released on bail in the amount of: \$50,000

☒ O/R

☐ cash

☐ secured by:

☐ % cash

☐ property at:

☐ Clerk's office requirements are not waived. Execute an Agreement to Forfeit the Property stated above with a copy of the deed as indicia of ownership.

PRETRIAL SERVICES

☒ Defendant shall report to Pretrial Services:

☒ as directed by Pretrial Services.

☐ times per week in person.

☐ times per week via telephone.

☐ Defendant shall attend mental health services under the guidance and supervision of Pretrial Services.

☐ Defendant shall submit to random drug testing as directed by Pretrial Services.

☐ Defendant shall refrain from excessive use of alcohol or from any use of a narcotic drug or other controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. § 802, without a prescription by a licensed medical practitioner.

☐ Defendant shall undergo drug/alcohol treatment if necessary as determined by Pretrial Services.

☐ Defendant shall submit to electronic monitoring at the following address:

_____ This Court, based upon evidence that Defendant has adequate financial resources, finds that he/she shall pay all or part of the cost of the court-ordered monitoring program, in an amount to be specified by Pretrial Services.

_____ Curfew. You are restricted to your residence every day from _____ to _____, during which electronic monitoring will be in place, or as directed by the pretrial services office or supervising officer.

_____ Home Detention. You are restricted to your residence at all times except for

employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities approved in advance by the pretrial services office or supervising officer;

_____ **Home Incarceration.** You are restricted to 24-hour-a-day lock-down at your residence except for medical necessities and court appearances or other activities specifically approved by the court.

PASSPORT

 X Defendant shall surrender and/or refrain from obtaining a **passport**.

TRAVEL

 X Travel is restricted to the **Eastern District of Pennsylvania**.

_____ Travel is restricted to the _____.

 X Unless prior permission is granted by Pretrial Services.

FIREARMS

 X Defendant shall surrender and/or refrain from obtaining any firearms. Any other firearms in any premises where the defendant resides while on supervised release must be removed from the premises and no firearms are to be brought into the premises during this period. The defendant shall execute a completed Prohibition on Possession of Firearms Agreement.

MISCELLANEOUS

 X Defendant shall have no contact with **co-defendants, potential witnesses** in this case, or individuals engaged in any **criminal activity**.

_____ Defendant must maintain present **employment**.

_____ Defendant must **actively seek** gainful employment.

_____ Defendant shall undergo a **mental competency evaluation**.

_____ Defendant must reside:

at: _____

with:

COMPUTERS/INTERNET

_____ The Defendant is subject to the following computer/internet restrictions which are to be monitored by U.S. Pretrial Services and may include manual inspection, use of minimally invasive internet detection devices, and/or installation of computer monitoring software to insure compliance with the imposed restrictions.

_____ **No computer:** The Defendant is prohibited from possession and/or use of any computers and connected devices.

_____ **Computer, no internet access:** The Defendant is permitted use of computers or connected devices, but is not permitted access to the Internet (as World Wide Web, FTP sites, IRC servers, instant messaging).

_____ **Computer with internet access:** The Defendant is permitted use of computers or connected devices, is permitted access to the internet for legitimate purposes, and is responsible for any fees connected with the installation and use of monitoring software.

_____ **Other Residents:** By consent of other residents, all computers located at the address of record shall be subject to inspection to insure the equipment is password protected.

_____ **Other Restrictions:**

OTHER CONDITIONS:

Defendant shall notify Pretrial Services prior to visiting the Federal courthouse or any Federal building, and obtain their permission for those visits; and shall be escorted by Pretrial Services during any such visits.

As a further condition of release, defendant shall not commit a Federal, State, or local crime during the period of release. The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than 10 years, if the offense is a felony; or a term of imprisonment of not more than 1 year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Any violation of the conditions of release may result in revocation of bail and imprisonment pending trial.

/s/ Joseph LaBar
Joseph A. LaBar
Assistant United States Attorney

DEFENSE ATTORNEY

It is so ORDERED this 1st day of October, 2021.

BY THE COURT:

/s/ Timothy R. Rice

HONORABLE TIMOTHY R. RICE
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	CRIMINAL ACTION
v.	:	NO. 21-00416
	:	21-MJ-148
DARRON THOMAS	:	
	:	

ORDER

AND NOW, this **1st** day of **November, 2021**, it is hereby **ORDERED** that the hearing on Defendant's appeal of bail conditions scheduled for November 1, 2021 shall be continued until **November 9, 2021 at 10:30 A.M.** in Courtroom 15A of the United States District Court, 601 Market Street, Philadelphia, PA 19106. The Court finds that this continuance will not affect any deadlines or result in prejudice to the Defendant.

It is further **ORDERED** that Pretrial Services shall examine and clarify Defendant's financial status as set forth in his financial affidavit (e.g. the listing of properties and values) and report its findings to the Court by **November 8, 2021 at 12:00 P.M.** It is further **ORDERED** that Defendant will cooperate with Pretrial Service's examination of Defendant's financial status. In the interim, Katrina Young of the Defender Association of Philadelphia will continue to represent Defendant for the purposes of Bail proceedings in this matter.

AND IT IS SO ORDERED.

/s/ Eduardo C. Robreno
EDUARDO C. ROBRENO, J.

**Additional material
from this filing is
available in the
Clerk's Office.**