

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA,	)	Criminal No. 24-cr-0302 (PJS/LIB)
	)	
Plaintiff,	)	
	)	
v.	)	<b>Motion to Suppress May 13, 2024 and</b>
	)	<b>May 15, 2024 Statements</b>
	)	
MASON BULLHEAD,	)	
	)	
Defendant.	)	

Mason Bullhead, through counsel, respectfully moves this Court pursuant to Rule 12 of the Federal Rules of Criminal Procedure, to suppress statements attributed to him and obtained by law enforcement on May 13 and May 15, 2024.

1. FACTS

Collectively, the information in the Government's series of disclosures indicates the following:

Following an incident on May 4, 2024, in which it is alleged that he committed the five assault offenses charged in the indictment in this case, Mr. Bullhead was arrested pursuant to an unrelated bench warrant on May 13, 2024.

Statements are attributed to him on the day of his arrest and in connection with a lengthy interrogation on May 15, 2024, two days later. Specifically, on May 15, 2024, while still detained, tribal and FBI agents conducted an interview of Mr. Bullhead, which was recorded. The disclosures include the audio recording along discussion of Mr. Bullhead's *Miranda* rights. The recording and other disclosures, however, do not indicate that the agents contacted his tribal public defender prior to initiating contact with him, discussing his

*Miranda* rights, and questioning him related to the assault allegations.

The circumstances of these statements were unambiguously custodial. In addition to the presumptions that attach to custodial interrogation, agents provided Mr. Bullhead with assurances before advising him of his rights to silence and counsel.

## 2. SUPPRESSION

In light of the facts outlined above and the anticipated testimony and evidence to be adduced at a hearing on this motion, Mr. Bullhead's statements were not obtained in compliance with the prophylactic rules announced in *Mirana v. Arizona*, 384 U.S. 436 (1966), which protect the right against self-incrimination under the Fifth Amendment of the United States Constitution.<sup>1</sup> Additionally, the agents' questionings may have violated Mr. Bullhead's right to counsel under the Sixth Amendment of the United States Constitution.<sup>2</sup>

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<sup>1</sup> See *Edwards v. Arizona*, 451 U.S. 477, 485-86 (1981) ("The Fifth amendment right identified in *Miranda* is the right to have counsel present at any custodial interrogation."); *id.* at 484 ("and we now hold that when an accused has invoked his right to have counsel present during custodial interrogation, a valid waiver of that right cannot be established by showing only that he responded to further police-initiated custodial interrogation even if he had been advised of his rights.").

<sup>2</sup> See *Montejo v. Louisiana*, 556 U.S. 778, 798 (2009) (concluding that while there is not a presumption that a *Miranda* waiver is invalid following the appointment of counsel, relief may be sought based on a claim that the "waiver was invalid because it was based on misrepresentations by police as to whether he had been appointed a lawyer[.]"); *Moran v. Burbine*, 475 U.S. 412, 428 (1986) ("It is clear, of course, that absent a valid waiver, the defendant has the right to the presence of an attorney during an interrogation occurring after the first formal charging proceeding, the point at which the Sixth Amendment right to counsel attaches."); *Massiah v. United States*, 377 U.S. 201, 206 (1964) (holding that "petitioner was denied the basic protections of that guarantee when there was used against him at his trial evidence of his own incriminating words, which federal agents had deliberately elicited from him after he had been indicted and in the absence of his counsel"); *United States v. Bird*, 287 F.3d 709, 714 (8th Cir. 2002) ("Considering the close working relationship between tribal and federal authorities in this case, to deny Red Bird the right to counsel after the tribal indictment would deprive him of an attorney at one of the most critical stages of the proceedings against him. Therefore, we hold that Red Bird is entitled to the protections of the Sixth Amendment."); see also *Taylor v. Alabama*, 457 U.S. 687, 690 (1982) (the burden of showing admissibility of evidence rests on the prosecution).

As such, Mr. Bullhead respectfully seeks suppression of the following: (1) Mr. Bullhead's May 13, 2024, statement; (2) Mr. Bullhead's May 15, 2024, statement.

This motion is based on the indictment, the file and record in the above-entitled action, and any and all other matters that may be presented prior to or at the time of the hearing of said motion. Further, given that requests for additional disclosures are currently pending, Mr. Bullhead reserves the right to seek leave to supplement this motion with additional facts or claims that any future disclosures may support.

Dated: January 2, 2025

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