

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 24-302 (PJS/LIB)

UNITED STATES OF AMERICA,

Plaintiff,

v.

MASON ALEXANDER BULLHEAD,

Defendant.

**GOVERNMENT'S POST-  
HEARING  
MEMORANDUM  
OPPOSING  
DEFENDANT'S MOTION  
TO SUPPRESS  
STATEMENTS**

On May 29, 2025, the Honorable Leo I. Brisbois held a suppression hearing in the above-captioned matter addressing Defendant's Motion to Suppress Statements. (ECF No. 35). The Government called FBI Special Agent Brad Klag as a witness. Mr. Bullhead testified in his defense. Five exhibits were received by the Court including: Government Exhibit 1 – Defendant's signed Advice of Rights form, dated May 15, 2024; Defense Exhibit 1 – Red Lake Tribal Criminal Complaint; Defense Exhibit 2 – Red Lake Tribal Arrest Warrant for Defendant; Defense Exhibit 3 – Transcript of the Interrogation occurring on May 15, 2024; and Defense Exhibit 4 – Audio recording of the Interrogation occurring on May 15, 2024.

The Government filed its initial Response to Defendant's Motion to Suppress Statements on February 11, 2025, and incorporates its previous arguments in the opposition set forth below. (ECF No. 42). The complete record

before the Court reveals Defendant's statements were lawfully obtained and the instant motion should be denied in its entirety.

### **FACTS**

Defendant was arrested by Red Lake Tribal Police on May 13, 2024, pursuant to a Tribal warrant stemming from an incident occurring on May 4, 2024. Mr. Bullhead was charged in Red Lake Tribal Court with Second and Third Degree Assault of Victim and Minor Victim. Criminal Investigator Ron Leyba was present during Defendant's arrest and CI Leyba and Defendant clashed while Defendant was taken into custody. (MH Tr. p. 60-61). While his Tribal charges were pending, Defendant was held in custody at the Red Lake Jail. On May 15, 2024, FBI Agent Brad Klag and Red Lake Criminal Investigator Ron Leyba interviewed Defendant at the jail. Defendant was delivered to the interview room by a correctional officer. (Def. Ex. 3,4). Defendant was provided with a cup of coffee, was advised of his *Miranda* rights, acknowledged he understood and waived those rights, and provided a lengthy and detailed statement during which he admitted to assaulting the three-year-old Minor Victim. (Def. Ex. 3, 4).

Defendant now challenges the admissibility of that statement. Mr. Bullhead claims he told the correctional officer who delivered him to the interrogation room at the jail that he did not wish to speak to law enforcement. Mr. Bullhead further claims he was coerced to provide the statement both by

the correctional officer's statement that Mr. Bullhead had "no choice" but to speak, and by CI Leyba's statement at the outset of the interview: "If you behave and stuff like that – the things are gonna go good in here." Finally, Defendant claims his Fifth and Sixth Amendment right to counsel were violated because his Tribal Advocate was not present at the time of the interrogation.

The record as a whole, including the testimony of both Agent Klag and Mr. Bullhead, establish that Defendant's assertions are unsupported by the facts of this case. Based on these facts and the applicable law set forth below, Defendant's motion to suppress his statements should be denied.

### **ARGUMENT**

- 1. Mr. Bullhead did not invoke his 5<sup>th</sup> Amendment right to remain silent by telling a correctional officer he did not want to speak with law enforcement.**

First and foremost, the Court should consider whether it credits Defendant's testimony that he: a) told a Red Lake Corrections Officer that he did not want to speak with law enforcement; (b) that the officer told Defendant he "had no choice"; and (c) that Defendant, in fact, believed he had no option but to speak to Agent Klag and Criminal Investigator Leyba.

Defendant testified he told a correctional officer at Red Lake Jail named "Robert" or "Roberto" that he did not want to speak to law enforcement prior to meeting with Agent Klag and Criminal Investigator Rob Leyba on May

15, 2024. (MH Tr. pp. 51, 52, 57). Defendant claimed this correctional officer told him he had “no choice” and because of that statement he believed he “didn’t have no choice but to speak.” (MH Tr. pp. 52, 54). The correctional officer, “Robert” or “Roberto,” was not noticed as a witness prior to the suppression hearing and there was no affidavit or statement from the officer entered into evidence by Defense.

Agent Klag testified that the correctional officer who delivered Mr. Bullhead to the interrogation room never told him Mr. Bullhead made such a statement, and that Agent Klag was hearing for the first time at the suppression hearing that Mr. Bullhead told a correctional officer he did not want to speak with Agent Klag and CI Leyba. (MH Tr. pp. 40,41). The complete recording of Defendant’s statement reveals that Mr. Bullhead never indicated he told a correctional officer he wanted to remain silent. To the contrary, Mr. Bullhead acknowledged and then waived his rights and provided a detailed 90-minute statement. (*See* Def. Ex. 4).

The Magistrate Judge determines the credibility of witnesses at the suppression hearing and may credit their testimony as the Magistrate Judge deems appropriate based on the witnesses’ presentation to the Court and the record as a whole. *See United States v. Raddatz*, 447 U.S. 667 (1980). The government notes that the only evidence of the alleged statements of Mr. Bullhead to the correctional officer and the correctional officer to Mr. Bullhead

was provided by Mr. Bullhead himself for the first time during his limited in-court testimony. There is no other evidence in the record to corroborate Mr. Bullhead's testimony. The government defers to the Court's judgment in determining the credibility of Defendant when considering these statements.

If the Court accepts that Defendant stated he did not want to speak to law enforcement and the correctional officer, in turn, stated Defendant "had no choice," the Court must determine whether Defendant's statement was an invocation of his right to remain silent. The facts and applicable law cannot support such a finding. Defendant relies upon the "collective knowledge" theory to support his argument that the correctional officer was part of the investigative team in this case. While courts have acknowledged the so-called "collective knowledge" theory to impute the knowledge of one officer to other officers, this rationale is more commonly applied in scenarios involving search and seizure. *See United States v. Gonzales*, 220 F.3d 922, 925 (8th Cir.2000). Under this rationale, the validity of a search "may be based on the collective knowledge of all of the law enforcement officers involved in an investigation if ... some degree of communication exists between them." *Id.* *See also United States v. Morales*, 238 F.3d 952, 953 (8th Cir.2001), and *United States v. Twiss*, 127 F.3d 771, 774 (8th Cir.1997). Requiring some degree of communication between individual officers is an integral factor in distinguishing between officers functioning as a "search team," and officers

acting in their individual capacity who merely happen to be investigating the same subject. *See United States v. O'Connell*, 841 F.2d 1408, 1419 (8th Cir.1988).

Defendant's effort to extend the "collective knowledge" theory in his favor in the instant case fails. Here, there is no communication nexus between the Red Lake correctional officer and the investigators who interviewed Mr. Bullhead. The correctional officer merely delivered Mr. Bullhead from one area of the Red Lake Jail to the room where he was to be interviewed. In fact, the correctional officer can be heard on the recorded interview advising Mr. Bullhead to take a seat in the interview room and then shortly thereafter stating, "All right, I'm gonna take off." (Def. Ex. 4 at 00:05 – 00:51). The correctional officer was not a member of the investigative team - he was simply an individual law enforcement officer carrying out a separate and distinct duty. Because the correctional officer was not a member of the investigative team, Defendant's statement to that individual that he did not want to speak to investigators is not a clear invocation of his Fifth Amendment right to remain silent imputed to the investigators.

**2. Mr. Bullhead's waiver of rights was knowing, voluntary, and intelligent and his statements to law enforcement were freely given.**

Even if knowledge of Mr. Bullhead's statement could be imputed to the investigators in this case, the statement was made prior to any interrogation

or *Miranda* advisory, and Mr. Bullhead did not maintain his desire to remain silent thereafter. “To adequately invoke [the right to remain silent] and effectively cut off questioning, a suspect must indicate ‘a clear, consistent expression of a desire to remain silent.’” *United States v. Johnson*, 53 F.3d 947, 955 (8th Cir. 1995) (quoting *United States v. Thompson*, 866 F.2d 268, 272 (8th Cir. 1989)). A court considers “the defendant’s statements as a whole to determine whether they indicate an unequivocal decision to invoke the right to remain silent.” *Johnson*, 53 F.3d at 955. Moreover, waiver of the right to remain silent “can be clearly inferred from the actions and words of the person interrogated.” *U.S. v. Adams*, 820 F.3d 317, 323 (8th Cir. 2016) (quoting *North Carolina v. Butler*, 441 U.S. 369, 373 (1979)). When the government establishes “that a *Miranda* warning was given and that it was understood by the accused, an accused’s uncoerced statement establishes an implied waiver of the right to remain silent.” *Berghuis*, 560 U.S. at 384.

Mr. Bullhead was read his *Miranda* rights, acknowledged he understood those rights, and spoke freely with Agent Klag and Criminal Investigator Leyba for over 90 minutes. The recorded interrogation establishes there were no coercive tactics used during the questioning such that Mr. Bullhead’s will was overborne. (Def. Ex. 4).

Defendant attempts to characterize Criminal Investigator Leyba’s statement: “If you behave and stuff like that – the things are gonna go good

here” as “coercive” or promising a benefit to Defendant if he spoke with investigators. However, Defendant himself admitted that the statement was an acknowledgement of a disagreement between Defendant and CI Leyba that had transpired during Defendant’s arrest. (MH Tr. 60-61). The record as a whole reflects that Defendant did not, in fact, think that CI Leyba was promising him a favorable case outcome if he spoke with investigators. Moreover, though Defendant admitted he was tired while speaking with investigators, he did not exhibit any signs that he was in distress or was having difficulty understanding what was happening during the interrogation. Defendant’s testimony at the motions hearing that he “wasn’t in a good state of mind [...] was coming off of drugs and alcohol [...] and] didn’t know anything” that was going on when he was being interrogated is directly contradicted by his recorded statement. (Def. Ex. 3 at p. 4 (Defendant states he is feeling okay), p. 6 (Defendant states aloud: “I have read this statement of my rights and I understand what my rights are at this time I am willing to answer questions without a lawyer present.”), p. 17 (Defendant states he is not feeling ill, and doesn’t feel “dope sick.”)).

Because the credible evidence in the record establishes Mr. Bullhead knowingly waived his rights and spoke freely and voluntarily with law enforcement, his statements should not be suppressed.



**3. The absence of Mr. Bullhead's Tribal Advocate during his interrogation did not violate his Constitutional rights.**

The government relies upon and incorporates its previously stated arguments opposing Mr. Bullhead's claim that the absence of his Tribal Advocate during his interrogation violated his Constitutional rights. (ECF. 42).

During his testimony, Agent Klag confirmed that Mr. Bullhead's Tribal Advocate is not a licensed attorney, that Mr. Bullhead never asked for his Tribal Advocate to be present, and that if he had, Agent Klag would have allowed the lay advocate to sit in during the interrogation (MH Tr. 26, 31-32).

Because Mr. Bullhead never asked for an attorney and did not have a Constitutional right to the presence of a lay advocate during his interrogation, no Fifth or Sixth Amendment violations occurred.

**4. Mr. Bullhead's statement during booking was not the product of interrogation and is admissible.**

Defendant appears to concede admissibility of his statement, "I lose control sometimes," made in response to a booking question related to his mental health status. The government joins Defense in pointing the Court toward *Pennsylvania v. Muniz*, for guidance in determining that the booking questions in the instant case did not rise to the level of interrogation and that Mr. Bullhead's statement to the question was not unlawfully obtained.

### CONCLUSION

Defendant claimed for the first time at the Motions Hearing that he invoked his right to silence to a correctional officer who told him he had no choice but to speak to law enforcement. The evidence in the record does not corroborate that these statements were ever made. Even if these statements were made, the correctional officer was not a member of the investigative team for law enforcement purposes, and he did not participate in the interrogation of Defendant. Defendant acknowledged he understood his rights and knowingly, intelligently and voluntarily waived those rights. Though Defendant was represented by a lay Tribal Advocate at the time of his statement, he never requested her presence, nor was he constitutionally entitled to her presence during the interrogation. For these reasons, Defendant's statement should not be suppressed. The government respectfully requests an Order denying Defendant's motion to suppress statements in its entirety.

Dated: August 4, 2025

Respectfully Submitted,

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