

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

UNITED STATES OF AMERICA  
Plaintiff

v

FRANK RICHARD AHLGREN, III  
Defendant

Criminal No. AU 24 CR 31 RP

GOVERNMENT'S ADVISORY TO THE COURT  
REGARDING DETENTION REMAND

TO THE HONORABLE SUSAN HIGHTOWER, UNITED STATES MAGISTRATE JUDGE:

At the conclusion of the hearing on the United States' Motion to Detain, following the Court's ruling granting that Motion (as memorialized in Document 15), the United States made the unusual request that the Defendant be returned to state custody rather than be remanded to the custody of the Attorney General so as not to frustrate the state court's civil contempt order. Through counsel, the Defendant opposed, the Court took the matter under advisement and ordered the parties to further brief the issue by April 22, 2024 (Document 19). For the reasons stated below, the United States withdraws its request that the Defendant be returned to state custody and instead asks that he be kept in federal custody pending resolution of this case.

As background, at the time of his Indictment for three counts of filing false U.S. Individual Income Tax Returns and four counts of Structuring Currency Transactions to Evade Currency Transaction Reports, Defendant, also a defendant in a civil suit was in the Travis County jail pursuant to a state district court order finding him in contempt in that case. His term of confinement at that time was slated to end on the earlier of his purging himself of contempt or April 25, 2024.

On March 25, 2024, the state district court held another hearing, again finding Defendant in contempt. Following this Court's April 9, 2024, detention hearing, the state district court notified the parties to the suit of its intent to enter the following order:

On March 25, 2024, the Court held a hearing under the Court's December 13, 2023 Order to Defendant Frank Ahlgren III to Appear and Show Cause. After reviewing the filings, the evidence, and the arguments of counsel, the Court is of the opinion that Defendant Ahlgren is in contempt of court.

The Court is of the opinion that the following civil sanctions shall issue against Defendant Ahlgren: (1) Confinement for eighteen months or until Defendant Ahlgren purges himself of contempt, whichever is sooner; and (2) A fine of \$10,000 per day until Defendant Ahlgren purges himself of contempt. **These sanctions** will be effective immediately on issuance of the order, but they **will be tolled for any period for which Mr. Ahlgren would be in federal custody if not in state custody.** Because these sanctions are not suspended to give Defendant Ahlgren a chance to purge himself, but rather they are tolled while their coercive effect is diminished because he is or would be in federal custody, the Court is of the opinion that the order does not need to set a hearing at the end of the tolling period to determine whether Defendant Ahlgren has purged himself of contempt before resuming the sanctions. However, if Defendant Ahlgren would like to set a hearing to show he has purged himself of contempt at any time, whether during a tolling period or otherwise, he can set a hearing in this Court to determine whether he has done so.

(Emphasis added.)

Inasmuch as federal detention – which will likely carry credit for the time spent therein to be applied to any imprisonment sentence upon a conviction – will not impair the coercive purpose of the state court's contempt order, the United States withdraws its request that Defendant be returned to state custody and instead asks that the Court leave intact its order remanding him to the custody of the Attorney General.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT a true and correct copy of this Advisory to the Court will be served on all counsel of record by the CM/ECF system this 19th day of April 2024.

WILLIAM R. HARRIS  
Assistant United States Attorney