

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA)
)
 v.) 1:12-cr-00204-JAW
)
JOHN THOMAS HINES)

ORDER ON DEFENDANT’S MOTION TO DISMISS

On May 9, 2014, based on intervening Supreme Court and First Circuit authority, the Court vacated the conviction of John Thomas Hines, but refused to dismiss the indictment. *Order on Def.’s Mot. to Vacate and Dismiss* (ECF No. 116). On July 16, 2014, Mr. Hines moved again to dismiss the indictment, noting that two district judges in the District of Maine had dismissed indictments in similar circumstances. *Def.’s Mot. to Dismiss* (ECF No. 131). The Government opposes the motion to dismiss, preferring to wait for the resolution of an appeal pending in the First Circuit Court of Appeals, which should resolve whether the Government may proceed in this case. *Resp. of United States of America to Def.’s Third Mot. to Dismiss the Indictment* (ECF No. 133).

The Court concludes that the wiser course is to wait for the First Circuit. According to the Government, the appeals in *United States v. Armstrong*, No. 12-1216, and *United States v. Voisine*, No. 12-1216, were scheduled to be argued on September 8, 2014. *Id.* at 1. There is no timetable for the Court of Appeals to decide these cases; however, a decision by the appellate court must be in the offing. The potential prejudice to the Government, if it prevails on appeal, will be significant

because it will be required to present this case again to the grand jury and obtain an indictment. Although the Court is concerned about Mr. Hines living in the shadow not only of an indictment, but also of bail conditions while these legal issues are resolved, the Court sought to minimize his conditions of release to those acceptable to him.

Balancing the Government's and the Defendant's rights, the Court strikes a middle ground and will not dismiss the indictment until the First Circuit has spoken. With this said, the Court dismisses Mr. Hine' motion to dismiss without prejudice. If the First Circuit rules against the Government in *Armstrong* and *Voisine*, the Court expects that Mr. Hines will promptly file a renewed motion to dismiss.

The Court DISMISSES without prejudice Defendant's Motion to Dismiss (ECF No. 131).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 23rd day of September, 2014

Defendant (1)

JOHN THOMAS HINES

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