

Crime

Defense lawyers press for details in FBI agent misconduct case

By **Peter Hermann** November 10 at 7:27 PM 

Days after federal prosecutors [dismissed drug cases](#) against nearly two dozen felons amid a misconduct investigation of an FBI agent, defense lawyers in other cases linked to the agent are pressing for similar consideration.

But on Monday, U.S. District Judge Emmet G. Sullivan refused to release on bail two men who have pleaded guilty to distributing drugs but whose sentencings have been put on hold during the investigation into the agent, Matthew Lowry.

The judge ordered the U.S. Attorney General's Office to file with the court daily updates on the investigation, saying defendants left in limbo and in jail need to quickly assess whether any new information affects their cases. The two men before the court Monday are among 17 defendants jailed in the case, whose lead defendant is Juan Floyd.

Sullivan told one defense lawyer that what he wants “is to let your client go, and then we assess what happened. The proper thing to do is to assess what happened, and then if we have to do something, we do so swiftly.”

Monday's arguments before Sullivan were a small demonstration of the complications since Lowry, 33, was [suspended from the FBI's Washington field office](#). Court documents say he is alleged to have tampered with drugs and guns from evidence lockers. Prosecutors say they are trying to assess the impact on the drug cases as authorities continue to investigate Lowry. The agent's attorney has said that his client is cooperating and that many of the allegations are “grossly overblown.”

Frustrating the process has been the lack of details shared about the investigation, which is preventing judges and defense lawyers from knowing the precise impact the allegations have on each defendant. Two federal judges on Thursday and Friday dismissed 23 indictments in two drug cases, out of the 28 that prosecutors have said should be thrown out.

But the U.S. attorney's office for the District is not dismissing every case in which Lowry took part, and how those cases are parsed became central to Monday's hearing involving Bruce C. Settles and Darnell S. Rogers, who have pleaded guilty to drug conspiracy charges. There are 28 other defendants in that drug case.

Attorneys for Settles and Rogers argued that they should be able to compare why prosecutors dismissed other cases but won't take similar action on behalf of their clients.

Assistant U.S. Attorney Karla-Dee Clark told the judge that Lowry's involvement in the case was peripheral. She said he helped with one of many search warrants, neither involving Settles or Rogers, and was not involved in obtaining warrants or listening to wiretaps.

In their status report to the judge, prosecutors for the first time said that the guns Lowry allegedly tampered with were from the Floyd case and a search of a home and vehicle in Deale, Md., about 20 miles south of Annapolis. The warrant in that search was the one Lowry had helped with. Law enforcement officials have said that Lowry was found slumped over in an unmarked FBI car with heroin and two guns. The FBI has said the guns were recovered.

Authorities have said Lowry had a more involved role in the other cases that have been dismissed but have declined to elaborate. That frustrated the lawyers and, at times, the judge. "If you dismiss a case, I think the defendant has a right to know the reason," Sullivan said. "I think the public should know." Last week, U.S. District Judge Richard J. Leon refused to dismiss drug charges against four men in another case despite a request from prosecutors, saying he wanted more information. On Friday, the attorney for one of the suspects challenged that ruling to the U.S. Court of Appeals for the D.C. Circuit.

The lawyer, Nikki Lotze, noted that her client, Joseph Borges, has been detained since March. In her appeal, Lotze wrote that Leon "erred in refusing to release Mr. Borges in a case which the government has determined should be dismissed." Federal prosecutors also have filed paperwork in three other drug cases. Prosecutors wrote in court documents that although Lowry was involved in those investigations, they "believe that the agent's alleged misconduct will have no impact on the ... case because of his limited role."