

PROB 12C

United States District Court
The Western District of New York

SECOND AMENDED Petition for Offender Under Supervision



NAME OF OFFENDER: Luke Marshall Wenke **CASE NUMBER:** 1:22CR00035-001

ADDRESS OF OFFENDER: [REDACTED] Olean, NY 14760

SENTENCING JUDGE: Honorable John L. Sinatra, Jr., U.S. District Judge

SENTENCING DATE: August 18, 2022

INSTANT OFFENSE: Cyberstalking, in violation of Title 18 U.S.C. § 2261A(2)(A) and § 2261A(2)(B)

ORIGINAL SENTENCE: Eighteen (18) months custody of the United States Bureau of Prisons, followed by three (3) years supervised release. Special conditions include: mental health evaluation/treatment; complete an anger management program; substance abuse testing/treatment; search/seizure; no contact directly or indirectly with the victim R.G.; and \$100 special assessment (paid \$30.00)

REVOCATION SENTENCE: On August 10, 2023, Your Honor sentenced the defendant to time served (85 days in custody) and 34 months of supervised release. Special conditions include: mental health evaluation/treatment; complete an anger management program; substance abuse testing/treatment; search/seizure; no contact directly or indirectly with the victim R.G.

MODIFICATION: On August 30, 2023, Your Honor modified the defendant's special conditions to add the following: The defendant shall not have any contact, directly or indirectly, including through social media, telephone, text, mail, or email, with Brett [REDACTED], his family members, friends or associates; The defendant shall not have any contact, directly or indirectly, including through social media, telephone, text, mail, or email, with Katie [REDACTED], her family members, friends or associates; The defendant shall comply with all Orders of Protection; The defendant shall notify the probation officer of all Orders of Protection; The defendant shall not engage in conduct constituting a violation of New York State Penal Law 240.26 (Harassment). This modification followed complaints by several victims who stated the defendant was harassing them through direct and indirect communication.

TYPE OF SUPERVISION: Supervised Release

SUPERVISION COMMENCED: August 10, 2023

ASSISTANT U.S. ATTORNEY: John Fabian

DEFENSE ATTORNEY: Fonda Kubiak

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PETITIONING THE COURT

The probation officer believes that the offender has violated the following condition(s) of supervision:

Violation Number

Nature of Noncompliance

**Charge #1/
Special Condition**

“You shall not have any contact, directly or indirectly, including through social media, telephone, text, mail or email, with the victim, R.G., his family members, or his current or prior places of employment.”

Details: Following the defendant’s release from custody for previous violation conduct involving communication with the victim, RG, the defendant has continued to have indirect contact with RB. For example, on or about September 27, 2023, the defendant posted on Twitter, *“I rooted for the best for Hunter Biden, I was like ‘he wants his laptop back’ as I emotionally fought for my electronics back. Minnesota attorneys RPG, AB, JF, and PE likely never thought of taking client’s plea agreements to the US Supreme Court to overturn.”* On September 25, 2023, the defendant posted on Twitter, *“Mark is an N word. Not all black people are N words but Mark is. RPG of February 2021 using a fake Recon profile agrees.”* and *“I cant tell is \$800,000+ homes purchased in 2014 are located in the city of Minneapolis or some obscure suburb calling itself Edina. Why does Minnesota use the same zip code for two different municipalities.”*

On September 30, 2023, this probation officer was informed by Assistant U.S. Attorney David Rudroff that R.G. was a recipient of a letter that was sent to him by the defendant. The letter, which was postmarked September 23, 2023, was addressed to “Mithter [REDACTED]” and signed by “Katie [REDACTED]” although given the context and handwriting, was clearly composed by the defendant. Of further note, the same image on the letter sent by the defendant to the [REDACTED] residence was posted on the defendant’s Twitter page on September 24, 2023.

**Charge #2/
Condition**

“The defendant shall not have any contact, directly or indirectly, including through social media, telephone, text, mail, or email, with Brett [REDACTED], his family members, friends or associates.”

Details: On August 23, 2023, Brett [REDACTED], the father of Ryan Benjamin [REDACTED], informed this probation officer that despite having obtained a No Contact Order in the State of North Carolina on June 19, 2023, he had continued to receive contact from the defendant. Letters were sent by the defendant to the [REDACTED] residence, postmarked June 26 and 28, 2023, with a return address of the defendant’s name and address at the Chautauqua County Jail, where he was held pending his recent violation. Mr. [REDACTED] provided documentation of the signed No Contact Order and images of the letters received to the probation office. Additionally, Mr. [REDACTED] provided screenshots of text messages sent from the defendant to Mr. [REDACTED] on August 14, 2023. On the same date, this probation officer, along with Supervising U.S. Probation Officer John Taberski, contacted the offender via phone and instructed him to refrain from having direct or indirect contact with Brett [REDACTED] or anyone in his family. This directive was followed by the defendant signing a waiver to have that and other conditions modified into his conditions of supervised release.

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The modification was ordered by Your Honor on August 30, 2023. Following that date, the defendant posted several social media communications naming Benjamin [REDACTED]. For example, on or about September 2, 2023, the defendant posted to Facebook, "*Benjamin Ryan [REDACTED] wherever you may be, stop doing the same thing I always did my whole life. Stop touching yourself to pictures of celebrities.*" On September 3, 2023, the defendant posted, "*I met Benjamin [REDACTED] three very long years ago saying Wow someone maybe both sides of the family tree could get along with and it's resulted in 'Don't show up to Wenkeville Luke you'll get arrested for trespassing'.*" On September 5, 2023, the defendant posted, "*I can't play victim too hard. Benjamin Ryan [REDACTED] all he wanted to do was go to war. I was not in war mode as hard as he was. I said fix furnaces in Olean, he chose Hamas entrapment. He never called me, he lied about having a kid trying to get me to shut up.*" On September 21, 2023, the defendant posted, "*THIS IS WHAT BENJAMIN RYAN [REDACTED] IS INTO WHAT A DOGGONE FUCKING SHAME HE'S USING A DIFFERENT NAME ON HIS WITSEC ATM CARD THESE DAYS*"; On September 26, 2023, the defendant posted, "*Me and Benjamin [REDACTED]'s three year long personal situation depicted properly in a visual representation [The following media includes potentially sensitive content.];*" On September 27, 2023, the defendant posted, "*BRT's arrival can be made in secrecy if that's what it takes. Whoosh goes this X profile and it's mindless bantering posts if that happens, I don't care.*"; On September 28, 2023, the defendant posted, "*The interstellar safety of the American Regime depends on the Montana double proxy marriage of me and Benjamin Ryan [REDACTED] from the George Floyd ordeal*" and "*Attention federal enthusiasts watching me on here: I refuse to help out the @SpaceForceDoD unless BENJAMIN RYAN [REDACTED] wants to as well and we both get Montana double proxied into being together. America's place on Earth suddenly at stake due to Spartan homosexual urges at play.*"

On September 30, 2023, this probation officer was again contacted by Brett [REDACTED], who provided images of mail sent to him by the defendant, which was postmarked September 23, 2023. The letter is addressed to "Das [REDACTED]" and signed by "Katie [REDACTED]," although given the context and handwriting, was clearly composed by the defendant. Of further note, the same image on the letter sent by the defendant to the [REDACTED] residence was posted on the defendant's Twitter page on September 24, 2023.

Charge #3/
 Condition

"The defendant shall not have any contact, directly or indirectly, including through social media, telephone, text, mail, or email, with Katie [REDACTED] her family members, friends or associates."

Details: On August 28, 2023, this probation officer received a phone call from Katie [REDACTED] a former long-term friend of the defendant. Ms. [REDACTED] explained that beginning with his arrest for the instant offense, she expressed to the defendant her desire to end their friendship and therefore any contact, but she has continued to receive unsolicited and unwanted correspondence from him. The aforementioned contact has escalated as of late, and Ms. [REDACTED] is now fearful of the defendant. She has provided screenshots to the probation office and is reportedly navigating the process of obtaining an Order of Protection against the defendant. This probation officer directed the defendant to report to the probation office on August 30, 2023, at which time he was directed to cease contact with Ms. [REDACTED]. On or about September 26, 2023, the defendant posted on Twitter, "*Katie's Cashapp sugar daddies will pay for all the cheese and cracker trays. Katie... um... Katie [REDACTED] If I spell it that way from an electronic device holy shit it's yet another federal law conundrum worth debating in John Sinatra and Michael J. Davis' national courtroom.*" Katie [REDACTED]'s maiden name is [REDACTED]. This probation officer has been in consistent contact with Ms. [REDACTED] since the last modification of the defendant's conditions on August 30, 2023, and has been informed by her that her mental health has been greatly affected by the defendant's conduct on social media.

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Other Relevant Information for the Court's Consideration:

In addition to the violations detailed throughout this petition, the defendant has posted several flippant comments on social media that illustrate he is not committed to addressing his issues responsibly in mental health treatment. On or about August 30, 2023, the defendant posted on Facebook, *"Three days a week 70 miles north and back. I still feel owed and wronged. Nobody will slam a gavel at me and tell me how to feel."*, *"... This is not a mental health issue, this is an I AM SICK OF FEELING DISRESPECTED issue. Shame on them for doing 5 different jails and prisons over a 1.5 year period for an email fight with a stranger I never met."* On September 1, 2023, the defendant posted on Facebook, *"THIS is meditation... 'Meditation' is not driving 1.5 hours north just to sit at a conference table and listen to ocean waves on a speaker for 3 minutes with your eyes closed and then open your eyes back and talk about CBT... No strides made today in curing 'borderline personality traits.'" and "CBT in mental health world means 'Cognitive Behavioral Therapy' for what people with trauma go through to cure the trauma. CBT in fetish world means 'Cock Ball Torture.' CBT used in a sentence. Benjamin Ryan [redacted] [see Charge #2] needs CBT for consciously choosing working for Hamas over fixing furnaces in Olean three years ago and he needs CBT for leading me astray so hard three years later I have to make three 140 mile rounds trips per week to learn about CBT."* and *"It's just rude mandating I drive up to Buffalo three times a week over a borderline personality traits "diagnosis." I'm happy it's September because 2024 will come soon enough and I am going to finish this off my way."*

SUPPLEMENTAL CHARGE

**Charge #4/
 Condition**

"The defendant shall not have any contact, directly or indirectly, including through social media, telephone, text, mail, or email, with Brett [redacted] his family members, friends or associates."

Details: On or about October 25, 2023, Brett [redacted] received a written letter at his residence addressed to him from the defendant, who is, and was at the time, detained on this violation for similar conduct. The letter was postmarked on October 20, 2023, and had a return address of Luke Wenke, 301 Court Street, Little Valley, NY 14755 (Cattaraugus County Jail). The handwriting contained within and context of the letter are recognizable to this probation officer as similar to that of previous communications authored by the defendant.

ADDITIONAL SUPPLEMENTAL CHARGE

**Charge #5/
 Condition**

"The defendant shall not have any contact, directly or indirectly, including through social media, telephone, text, mail, or email, with Brett [redacted] his family members, friends or associates."

Details: On or about October 31, 2023, Brett [redacted] received a written letter at his residence addressed to Lauren Ashley [redacted] (Brett [redacted]'s wife) from the defendant, who is, and was at the time, detained on this violation for similar conduct. The letter was postmarked on October 27, 2023, and had a return address of Luke Wenke, 301 Court Street, Little Valley, NY 14755 (also stamped Cattaraugus County Jail). The handwriting contained within and context of the letter are recognizable to this probation officer as similar to that of previous communications authored by the defendant.

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I declare under penalty of perjury that the forgoing is true and correct.

Executed on: November 3, 2023

Signed by: 

Matthew G. Zenger
U.S. Probation Officer

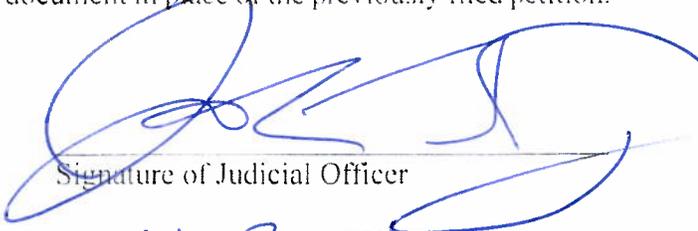
Place: Buffalo, New York

Reviewed by:


John P. Taberski
Supervising U.S. Probation Officer

THE COURT ORDERS:

Other- This Amended Petition shall serve as the charging document in place of the previously filed petition.



Signature of Judicial Officer
11-3-2023

Date