

PROB 12B
(12/98)



United States District Court

For

The Western District of New York

Request for Modifying the Conditions or Term of Supervision

With Consent of the Offender

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Luke Marshall Wenke

Case Number: 1:22CR00035-001

Name of Sentencing Judicial Officer: Honorable John L. Sinatra, Jr., U.S. District Judge

Date of Original Sentence: August 18, 2022

Original 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.

Type of Supervision: Supervised Release

Date Supervision Commenced: August 10, 2023

PETITIONING THE COURT

- ☐ To extend the term of supervision
- ☒ To modify the conditions of supervision as follows:

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.

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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).

CAUSE

Since the defendant's release on August 3, 2023, the defendant has engaged in concerning behavior which is similar to the instant offense and the conduct that resulted in his recent violation. The defendant has been active on social media, posting content that is largely incoherent but at times contains promotions of violence or comments suggestive of the same. The defendant has also been active in demonstrating his discontent with the mental health treatment obligations imposed on him by the Court. For instance, the following excerpts were transcribed directly from the defendant's social media posts:

On the social media platform Facebook:

On or around August 24, 2023, "*New paperwork doesn't matter to me right now because someone else is in for it next lol.*"

On or around August 24, 2023, "*Going to hopefully expect two productive moves being made tomorrow. Blowing multiple obstacles out of the way big time.*"

On or around August 23, 2023, "*And now it's time for another day of driving 1.5 hours north for a very productive 1-hour group therapy session due to a rousing email fight from January 2022. Three time a week Obamacare mandates of this nature will definitely cure me of my borderline personality traits in no time. And now it's time to post another status privately so Brett and Lauren's spies won't know what I'm about to say next.*"

On or around August 22, 2023, "*Keep reading my posts, FEDS. I'm not shutting up. Have your emotions lead on for over a year. Get into an email fight with a stranger. Have the assholes analyzing your case push the higher charge onto you so that you get a felony when you never got arrested until 29. Be mandated to go to group therapy three times a week 70 miles north of you over an email fight from 1.5 years ago. Have someone you once knew get your car repo'ed and then turn around and go work for the scumbag...*"

On August 20, 2023, "*Shooting British redcoats dead was considered war heroism several centuries ago. The Boston Massacre was the George Floyd stuff of back then. From George Floyd to the Capital Riot, year and after of our existences being arrogantly interrupted by the federal court system. Much different territory. Yes we are naturally going to get upset about our situations and the people we knew for a split second while engaged in this kind of activity. People treating all of us like...*"

On the social media platform "X" (formerly known as Twitter):

On or around August 18, 2023, "*Die in Witness Protection, Teeter.*" (There were four consecutive posts with similar language thereafter).

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On or around August 18, 2023, *"Mr. Sinatra will be sweating me into office as whatever obscure country I feel like becoming an Ambassador to next..."*

On or around August 18, 2023, *"... Fuck off and die in Witness Protection and put your fake ass name on your headstone you piece of shit."*

On or around August 17, 2023, *"TWO PEOPLE I NEVER MET. RYAN AND ANDREW. Not one ounce of VITRIOL in this Tweet so DAVID you go right ahead and screenshot these Tweets and put them on your bulletin board and throw darts on them all you want."*

On or around August 17, 2023, *"RYAN AND ANDREW. Don't even act like I was just against you the entire time. I will come up with ways to put you at the top of the event I will do in 2024. I got a tour of the building today but the event's development will keep going."*

On or around August 16, 2023, *"Oh fuck here comes the North Carolina state troopers ready to extradite someone 800 miles north due to a twitter account nobody knows who is actually using the keyboard behind typing out the name Brett ██████ out loud."*

On or around August 12, 2023: *"NOPE STILL NOT AN INDIRECT CONTACT VIOLATION LMFAO"*

On or around August 12, 2023, *"I haven't said any first and last names of the real people with the legal shammies against me. "Indirect Contact" is so loosely definable. Don't disrespect my time on Earth anymore and you wont get disrespect back."*

On August 23, 2023, Brett ██████ father of Ryan Benjamin ██████, informed this probation officer that despite having obtained a No Contact Order in the State of North Carolina on June 19, 2023, he has continued to receive contact from the defendant. Letters were sent by the defendant to the ██████ 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. ██████ provided documentation of the signed No Contact Order and images of the letters received to the probation office. Additionally, Mr. ██████ provided screenshots of text messages sent from the defendant to Mr. ██████ on August 14, 2023.

On August 28, 2023, this probation officer received a phone call from Katie ██████, a former long-term friend of the defendant. Ms. ██████ 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. ██████ is now fearful of the defendant. She has provided detailed accounts and screenshots to the probation office and is currently navigating the process of obtaining an Order of Protection against the defendant.

It is respectfully recommended that the defendant's supervised release conditions be modified to include conditions restricting him from contacting Brett ██████, his family or associates and the same for Katie ██████, in addition to abide by any Orders of Protection that may be in place. This would hold the defendant accountable for such orders by the authority imposed on him by

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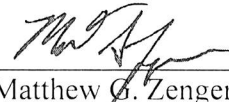
this Court. This modification was discussed with the defendant, and he has agreed to the condition by signing the attached waiver.

Reviewed by:



John P. Taberski
Supervising U.S. Probation Officer

Respectfully submitted,

by 

Matthew G. Zenger
U.S. Probation Officer
Date: August 30, 2023

THE COURT ORDERS:

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above
- ☒ The Modification of Conditions as Noted Above
- ☐ Other



Signature of Judicial Officer
8-30-2023

Date

PROB 49
(Revised 11/98)

United States District Court
Western District of New York

**Waiver of Hearing to Modify Conditions
Of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing. I further understand that all previously imposed conditions will remain in effect.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

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.

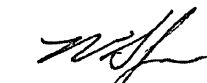
The defendant shall not have any contact, directly or indirectly, including through social media, telephone, text, mail, or email, with Katie [REDACTED] her family members, friends or associates.

The defendant shall comply with all Orders of Protection.

The defendant shall notify the probation officer of all Orders of Protection.

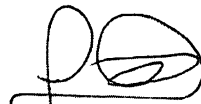
The defendant shall not engage in conduct constituting a violation of New York State Penal Law 240.26 (Harassment).

Witness:



Matthew G. Zenger
U.S. Probation Officer

Signed:



Julie Marshall Wenke
Supervised Releasee

Date

8/30/23