

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

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**UNITED STATES OF AMERICA,**

**Plaintiff,**

**DOCKET NO. 22-MJ-36**

**v.**

**LUKE MARSHAL WENKE,**

**Defendant.**

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**ORDER OF DETENTION PENDING TRIAL**

The government seeks to have the defendant detained pending trial in this case. In accordance with the Bail Reform Act, 18 U.S.C. Section 3142(f), a detention hearing was held on January 31, 2022. For the reasons set forth below and in accordance with 18 U.S.C. Sections 3142(e) and (g), the defendant is hereby ordered detained pending trial in this case.

**CHARGES AGAINST DEFENDANT**

In summary, the defendant is charged by way of Criminal Complaint with violating Title 18 U.S.C. § 875(c).

**DISCUSSION**

Pursuant to 18 U.S.C. Section 3142(g), the factors to be considered in the determination of a detention request are:

- (1) the nature and circumstances of the offense charged;
- (2) the weight of the evidence against the person;
- (3) the history and characteristics of the person, including
  - (A) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings; and
  - (B) whether, at the time of the current offense or arrest, the person was on probation, on parole, or on other release pending trial, sentencing, appeal or completion of sentence for an offense under Federal, state or local law; and
- (4) the nature and seriousness of the danger to any person or the community that would be posed by the person's release.

### **FINDINGS AND CONCLUSIONS**

I want to begin by emphasizing the presumption of innocence to which the defendant is entitled both under the Constitution of the United States as well as in the Bail Reform Act of 1984 as amended. My role in addressing the government's motion to have the defendant detained and the defendant's application to be released on bail

with terms and conditions is to consider all of the facts and circumstances known to the Court at this time in their totality.

I have taken into account and consideration that which has been proffered by the government in support of its motion. I have also taken into account and have considered what has been proffered on behalf of the defendant in rebutting or objecting to the government's motion and in support of the defendant's application for bail. Lastly, I have taken into account the sworn information set forth in the affidavit upon which the Criminal Complaint is based as well as what is contained in the Pretrial Services Report. In considering all of that information in its totality, while recognizing the presumption of innocence to which the defendant is entitled both under the Constitution of the United States as well as in the Bail Reform Act of 1984, I conclude that there are no reasonable terms and conditions that I could impose that would reasonably assure the safety of the community or the safety of individuals in the community. Therefore, I am granting the government's motion and hereby order the defendant detained and remand him to the custody of the U.S. Marshals Service until further order of the Court. It is hereby

ORDERED that the following DIRECTIONS REGARDING DETENTION be implemented:

1. The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility, separate,

to the extent practicable, from persons awaiting or serving sentence or being held in custody pending appeal, pending trial of the charges herein against him;

2. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel;

3. On order of a court of the United States or on request of an attorney for the government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

**SO ORDERED.**

*S/ H. Kenneth Schroeder, Jr.*  
**H. KENNETH SCHROEDER, Jr.**  
**United States Magistrate Judge**

**DATED: January 31, 2022**  
**Buffalo, New York**