

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

22-CR-35-JLS-HKS

LUKE MARSHALL WENKE,

Defendant.

MOTION TO ADJOURN DEADLINE FOR VOLUNTARY DISCOVERY

PLEASE TAKE NOTICE that upon the accompanying affidavit of Assistant United States Attorney David J. Rudroff, the undersigned hereby moves this Court for an adjournment of the Court's deadline for the government to produce voluntary discovery to the defendant.

DATED: Buffalo, New York, April 1, 2022.

TRINI E. ROSS
United States Attorney

BY: s/DAVID J. RUDROFF
Assistant United States Attorney
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

22-CR-35-JLS-HKS

LUKE MARSHALL WENKE,

Defendant.

CITY OF BUFFALO)
COUNTY OF ERIE) ss:
STATE OF NEW YORK)

DAVID J. RUDROFF, being duly sworn, deposes and says:

1. I am Assistant United States Attorney for the Western District of New York and am assigned to prosecute this case. This affidavit is based on my personal involvement in this matter, my review of investigative materials, and conversations with other AUSAs who have been involved in this case.

2. On March 15, 2022, a Grand Jury sitting in the Western District of New York returned a two-count Indictment charging the defendant, Luke Marshall Wenke, with one count of making interstate threats (18 U.S.C. § 875(c)), and one count of cyberstalking (18 U.S.C. § 2261A). *See* Dkt. 8.

3. The defendant was arraigned on March 17, 2022. *See* March 17, 2022 Minute Entry. At the arraignment, the defendant informed the Court and the government that he

was seeking an immediate trial, and that he would contact the chambers of U.S. District Judge John L. Sinatra to schedule a trial date. Out of an abundance of caution, this Court set a tentative pretrial discovery/motion schedule, in the event that the defendant did not request an immediate trial.

4. At the arraignment, the government informed the defendant that it would provide voluntary discovery under Federal Rule of Criminal Procedure 16 (“Rule 16”) within two weeks (by April 1, 2022), but also informed the defendant that it was still awaiting responses to several remote search warrants. The government represented to defense counsel that it would provide those materials promptly as they were received, which is consistent with the continuing duty to disclose found in Rule 16(c). Defense counsel was amenable to that arrangement.

5. On March 21, 2022, the parties appeared before Hon. John L. Sinatra and requested a trial date. The Court scheduled trial to begin on May 2, 2022. *See* Dkt 15, and March 21, 2022 Minute Entry.

6. Consistent with its statements to the defense at arraignment, and with the Court’s scheduling Order, the government intends to produce the Rule 16 discovery materials in its possession today, April 1, 2022. However, the government is still awaiting responses to several search warrants and anticipates receiving those materials within the next several weeks. The government has informed defense counsel of this situation by email and in-person.

7. Although Rule 16 imposes a continuing duty to disclose responsive materials, *see* Fed. R. Crim. P. 16(c), out of an abundance of caution, the government now moves to adjourn the discovery deadline set by the Court to April 15, 2022. This adjournment will allow the government to supplement its previous productions with any materials that come into its possession between now and the adjourned deadline.

8. I have conferred with defense counsel, AFPD Alexander Anzalone, regarding this request, and he stated that he has no objection.

WHEREFORE, the government respectfully requests that the Court enter an amended scheduling Order adjourning the deadline for pretrial discovery to April 15, 2022.

DATED: Buffalo, New York, April 1, 2022

s/DAVID J. RUDROFF

Subscribed and sworn to before me

this 1st day of April, 2022.

s/JESSICA A. OLSZEWSKI
COMMISSIONER OF DEEDS
In and for the City of Buffalo, New York.
My Commission Expires Dec. 31, 2023