

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

22-CR-35 (JLS)

v.

LUKE MARSHALL WENKE,

Defendant.

DECISION AND ORDER

Before the Court is Wenke’s motion to stay enforcement of this Court’s [194] Decision and Order of Commitment pending appeal. *See* Dkt. 202. For the reasons that follow, the motion is DENIED.

BACKGROUND

On April 23, 2025, following an evidentiary hearing pursuant to 18 U.S.C. § 4244, this Court issued a Decision and Order of Commitment. Dkt. 194. Based on the hearing evidence, the Court found, by a preponderance of the evidence, that Wenke “is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.” *Id.* at 10. And as a result, the Court ordered Wenke committed to the custody of the Attorney General to hospitalize him for care or treatment in a suitable facility. *Id.*

On May 1, 2025, counsel for Wenke filed a notice of appeal. Dkt. 196. He then moved to stay enforcement of this Court’s order of commitment pending appeal. Dkt. 202. The Government opposed the motion. Dkt. 204.

DISCUSSION

The “factors relevant to granting a stay pending appeal are the applicant’s ‘strong showing that he is likely to succeed on the merits,’ irreparable injury to the applicant in the absence of a stay, substantial injury to the nonmoving party if a stay is issued, and the public interest.” *Uniformed Fire Officers Ass’n v. de Blasio*, 973 F.3d 41, 48 (2d Cir. 2020) (citing *Nken v. Holder*, 556 U.S. 418, 434 (2009)). The “first two factors are the most critical, but a stay ‘is not a matter of right, even if irreparable injury might otherwise result,’ it is ‘an exercise of judicial discretion,’ and ‘[t]he party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.’” *Id.* (quoting *Nken*, 556 U.S. at 433-34).

Here, all of the relevant factors counsel against granting a stay pending appeal. First, Wenke fails to demonstrate a “strong showing that he is likely to succeed on the merits.” *See Uniformed Fire Officers Ass’n*, 973 F.3d at 48. On this record, there is “reasonable cause to believe that [Wenke] may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.” *See* 18 U.S.C. § 4244(a).

At the hearing, Dr. Corey M. Leidenfrost credibly testified that, based his two separate reports and two evaluations, Wenke is at a high risk for future violence, serious physical harm, and imminent violence due to an underlying mental disease or defect—namely, bipolar or schizoaffective disorder. *See* Dkt. 175 at 4; Dkt. 186 at 39. Dr. Leidenfrost further determined—and so testified—that Wenke is in need of

custody for care or treatment, in a suitable facility, for his mental disease or defect, because: (1) Wenke is presently suffering from a mental disease or defect; (2) he has no insight regarding his symptoms of serious mental illness; (3) he will likely refuse to take psychiatric medication; and (4) his symptoms significantly influence his high risk for future and imminent violence. *See* Dkt. 175 at 7. In addition, Dr. Robin Watkins and Dr. Kaitlyn Nelson opined that Wenke presented symptoms consistent with a personality disorder or autism spectrum disorder. *See* Dkt. 164 at 25. This record does not portend success on the merits.

Second, Wenke fails to demonstrate “irreparable injury” absent a stay. *See Uniformed Fire Officers Ass’n*, 973 F.3d at 48. To the contrary, enforcement of this Court’s order ought to—and is intended to—benefit Wenke by affording him access to appropriate care and treatment for his conditions. And a stay would harm the Government by obstructing its interest in preventing future crimes and protecting public safety.

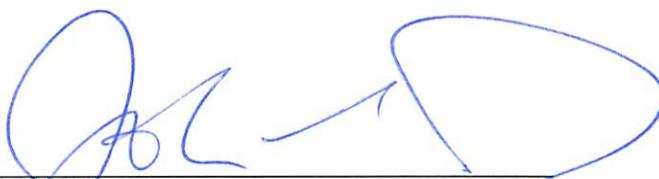
Lastly, a stay is not in the public interest. The evidence demonstrates that Wenke is at high risk for future violence, serious physical harm, and imminent violence due to an underlying mental disease or defect. And he is set for release from custody no later than October 2025. It is in the public’s best interest that Wenke receives care or treatment in a suitable facility prior to his release—as opposed to remaining in a local jail, where such treatment is not as readily accessible.

CONCLUSION

For the reasons above, Wenke's motion to stay enforcement of this Court's [194] Decision and Order of Commitment pending appeal is DENIED.

SO ORDERED.

Dated: May 16, 2025
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE