

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,)	CASE NO. 1:20 CR 388
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	
TANDRE BUCHANAN, JR.,)	<u>GOVERNMENT’S MOTION TO</u>
)	<u>REVOKE DEFENDANT’S BOND AND</u>
Defendant.)	<u>REMAND TO FEDERAL CUSTODY</u>
)	

Now comes the United States of America, through its counsel, Michelle M. Baeppler, Acting United States Attorney, and Scott C. Zarzycki, Assistant United States Attorney, and respectfully moves this Court to revoke Tandre Buchanan’s bond and execute the sentence of imprisonment imposed by this Court on March 23, 2022. (R. 73: Minutes of Proceedings, PageID 499).

PROCEDURAL HISTORY

On May 30, 2020, the Buchanan committed the instant offense. On June 11, 2020, the government filed a criminal complaint charging Buchanan with Interference with Commerce by Robbery, in violation of 18 U.S.C. § 1951. (R. Criminal Complaint, June 11, 2020).

On July 6, 2020, Buchanan was released on an unsecured bond with conditions.

On July 23, 2020, a federal grand jury returned a two-count indictment charging Buchanan with Interference with Commerce by Robbery, in violation of 18 U.S.C. § 1951 and 2, and Tampering with Evidence, in violation of 18 U.S.C. § 1512(c)(1).

On September 14, 2021, Buchanan advised his pretrial services officer that he was cited by Strongsville Police for Disorderly Conduct-Intoxication. This report was confirmed by the

Strongsville police and a release status report was submitted to the Court. (R. 39: Release Status, PageID 193). Despite the violation, Buchanan remained on bond with the same conditions.

On November 29, 2021, a jury trial commenced. On December 1, 2021, the trial concluded when the jury returned two unanimous verdicts of guilty of Interference with Commerce by Robbery, in violation of 18 U.S.C. § 1951 and 2, and Tampering with Evidence, in violation of 18 U.S.C. § 1512(c)(1).. (R. 60: Judgement, PageID 407-409).

On March 23, 2022, this Court sentenced Defendant to 48 months imprisonment. (R. 74: Judgement, PageID 501). Over the government's objection, the Court permitted Buchanan to surrender for service of sentence at the institution designated by the Bureau of Prisons when notified by the United States Marshal. (Id.).

ARGUMENT

During the sentencing hearing on March 23, 2022, Buchanan and his attorney both spoke at length about the embarrassment, remorse, and regret he felt as a result of his conduct on May 30, 2020. Counsel for Buchanan assured the Court that he was merely “caught up in the emotion of it all and anger and frustrations that had built up inside of him.” (Sentencing Transcript, Pg. 8). Buchanan assured the Court that he was “not a robber, a violent person or a thief,” and that the person responsible for the robbery and destruction of Colossal Cupcakes and other businesses in downtown Cleveland was not the same person that stood before the Court. (Id., Pg. 15-16).

This Court inquired about the text messages Buchanan wrote after the offense, questioning their meaning and whether they reflected his true intentions. Buchanan's answers were as dishonest as they were to the FBI. Referring specifically to one of Buchanan's text messages that said, “man idgaf fuck them people,” and “she seen my face,” the Court asked about the meaning of “IDGAF.” Buchanan at first told the Court he didn't know. (Id., Pg. 17). After consulting with his counsel however, Buchanan had to admit that he knew it meant “I don't

give an F.” (Id.). When asked what he meant by that statement, Buchanan told the court that’s “like how I felt within the moment,” even though the text was sent a day after committing the offense. (Id., Pg. 20). Buchanan flatly denied that he was talking about the people inside of Colossal Cupcakes while he was committing the offense. (Id.). Despite the text messages that prove otherwise, Buchanan insisted he did not know there were people inside. (Id., Pg. 21). Finally, the Court pressed further, pointing out that another part of the text message said “she was in there when I smashed that first window,” which was sent to the same person 15 seconds after the above text messages. (Id.)(Govt’s Trial Exhibit 44D). Buchanan maintained that he was not talking about the people inside. He said “I was talking about just like the outside people, you know, a voice--.” (Id.). Regardless, Buchanan assured the court that his acceptance of responsibility was genuine, and he was truly remorseful. This Court ultimately sentenced Defendant to 48 months imprisonment but granted him the opportunity to self-report to the Bureau of Prisons for execution of his sentence over the government’s objection.

The government recently became aware of Fox 8 News video footage outside the Federal Courthouse in Cleveland after Buchanan’s sentencing hearing. The video captured Buchanan exiting the building and walking toward the street. A news reporter offered Buchanan the opportunity to repeat his apology on camera. Buchanan’s response was to hold up an inappropriate hand gesture to the cameraman, smile, and walk away. As a result of this new information, the government respectfully requests this Court reconsider the matter of Buchanan’s bond and remand him into federal custody. Buchanan’s behavior minutes after leaving the detention hearing reflect Buchanan’s true lack of remorse for his actions.

Title 18, United States Code, Section 3143(a) applies to convicted defendants who are seeking release or to remain on bond pending sentence or execution of sentence. The relevant part of that statute reads,

- (a) ...[Th]e judicial officer *shall* order that a person who has been found guilty of an offense and who is awaiting imposition or *execution* of sentence... be detained, unless the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to the safety of any other person or the community if released....

Here, during the actual sentencing hearing Buchanan assured the court that he had accepted responsibility for his actions on May 30, 2020 and felt truly remorseful. These assurances supported his claim that since committing the offense, Buchanan was not threat to the community. However, when leaving the courtroom after his sentencing had concluded, Buchanan's demeanor markedly contrasted the remorseful and apologetic defendant before the Court during the hearing. In fact, Buchanan, in making that quick gesture and his demeanor outside the courtroom, appeared to revert back to the unapologetic and vengeful person reflected in his text messages a day after May 30, 2020. Buchanan casually walked out of the courthouse and when asked if he would like to make an apology on camera, he responded with an inappropriate hand gesture, smiled, and continued walking. Buchanan's actions demonstrate that he changed very little after the events of May 30, 2020 and likely remains a danger to the community.

Due to the above, the government request the Court revoke the defendant's bond and remand him to federal custody for execution of his prison sentence.

CONCLUSION

The government therefore requests the Court should Tandre Buchanan's bond and execute the sentence of imprisonment imposed by this Court on March 23, 2022.

Respectfully submitted,

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