

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF KENTUCKY  
PROBATION OFFICE**

**Rozel L. Hollingsworth  
Chief U.S. Probation Officer**



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**April 6, 2017**

Mr. Neeraj K. Gupta  
Assistant United States Attorney  
260 West Vine Street  
Lexington, KY 40507-1612

**RE: Lostutter, Deric  
W/M; D.O.B.: 5/8/1987  
Dkt. # 5:16-CR-62-DCR  
BOND VIOLATION REPORT  
SUMMONS REQUESTED**

Dear Mr. Gupta:

On September 7, 2016, Deric Lostutter appeared before the Court for arraignment on Indictment No. 5:16-CR-62-DCR. Mr. Lostutter entered a plea of not guilty to Count(s) 1-4 and was released on bond with pretrial supervision. On November 23, 2016, the defendant pled guilty to Counts One and Four of the Indictment charging violations of: 1 – Conspiracy to Commit Offense or to Defraud the United States; and 4 – False Statement to FBI Agents. On March 8, 2017, Mr. Lostutter was sentenced by Judge Reeves to a 24 month term of imprisonment followed by a three year term of supervised release. The defendant was allowed to remain on pretrial release pending his voluntary surrender for service of sentence on May 8, 2017.

In addition to normal bond release conditions imposed by the Court governing travel, associations, and disclosure of the case, the Court ordered a number of computer use conditions of pretrial release. Specifically, as the result of a bond violation hearing occurring on September 21, 2016, the Honorable Magistrate Judge Robert E. Wier directed the following:

Defendant shall not use or access (directly or indirectly) the Internet or any electronic communication device or mechanism (to include a cell phone, text messaging, a computer, and any other electronic communication avenue) except to contact counsel of record, the USPO, any immediate family or household member, and regarding medical care. He may use a computer to review stored electronic discovery or case information supplied to him by counsel. The Court intends this absolute prohibition (with only these narrow carve-outs) to be broadly construed and cover Lostutter's use of any electronic communication device or mechanism.

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**RE:    Lostutter, Deric**  
**BOND VIOLATION REPORT**

For the duration of this case, the probation office has received numerous correspondences from various individuals, particularly Alexandria Goddard, accusing Mr. Lostutter of violating the pretrial release condition prohibiting him from accessing an “electronic communication device or mechanism.” In fact, many of the email messages are copied to your office, so you are as familiar with the accusations as we are. Upon receipt of all of these accusatory correspondences, our office makes a determination as to whether or not we believe a bond violation has occurred. Often times, we enlist Information Technology staff to aid in said decision.

Up to this point, we have evaluated messages received and have determined that there has been a lack of information to support that Mr. Lostutter has violated his conditions of bond release. However, on April 5, 2017, we received an email message from Ms. Goddard that is a little more suspect. Ms. Goddard attached a “Twitter” video from the defendant’s wife’s account wherein Ms. Lostutter is seen thanking supporters of her husband. The assumption, perhaps incorrectly, is that the support is financial in nature. Nevertheless, Ms. Lostutter is heard confirming she is speaking to Twitter followers. She is riding in a car that is being driven by the defendant. While Mr. Lostutter remains silent for the duration of the 45 second video, he appears to be very aware of his wife’s involvement. This video is identified as being created on April 2, 2017.

In addition to the video, Ms. Goddard provided a screen shot of Ms. Lostutter’s Instagram account wherein Mr. Lostutter is “flipping off,” (making a crude jester with his middle finger extended) to the recording device. Although unverified, the depiction is said to have been created within several hours of the posted screen shot.

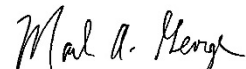
While it can be argued that the defendant is not “directly” accessing the internet or any communication device or mechanism, the video and snap shot depiction appear to have him “indirectly” accessing an electronic communication avenue.

It is, therefore, respectfully recommended that a summons be issued so the defendant may be brought before the Court based on the alleged bond violations.

Should you have any questions or require further clarification, the undersigned will be available at your convenience.

I swear under penalty of perjury, that the aforementioned is true and correct to the best of my knowledge.

Respectfully submitted,



Mark A. George  
Supervising U.S. Probation Officer

Enclosures

cc: Honorable Danny C. Reeves, United States District Judge

**UNITED STATES DISTRICT COURT  
Eastern District Of Kentucky  
Lexington**

**CRIMINAL ACTION 5:16-CR-62-DCR**

**UNITED STATES OF AMERICA**

**PLAINTIFF**

**VS.**

**ORDER**

**DERIC LOSTUTTER**

**DEFENDANT**

\* \* \* \* \*

The Court being otherwise sufficiently advised,

**IT IS HEREBY ORDERED** that a Summons be issued for the defendant, **Deric Lostutter**, based on violations of the conditions of pretrial release.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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The Honorable Danny C. Reeves  
U.S. District Judge

DATE OF ENTRY AND SERVICE:

U.S. ATTORNEY  
U.S. PROBATION  
U.S. MARSHALL