

FILED
02-04-2021
Clerk of Circuit Court
Kenosha County
2020CF000983

STATE OF WISCONSIN CIRCUIT COURT KENOSHA COUNTY

DA Case No.: 2020KN003907

STATE OF WISCONSIN

Plaintiff,

Court Case No.:
2020CF000983

vs.

KYLE H. RITTENHOUSE

DOB: 01/03/2003

Defendant.

**REPLY BRIEF IN
SUPPORT OF MOTION
TO INCREASE BOND**

Hon. Bruce E. Schroeder

For Official Use

An accused murderer, Kyle Rittenhouse, apparently believes the rules do not apply to him, and has once again refused to inform the Court where he resides. The bond in this case, which is a Court order, requires him to inform the Court where he lives. Every criminal defendant who signs a bond is required to comply with it, and his signature on that bond is his acknowledgement of and promise to fulfill that requirement. Every criminal case in Kenosha County has a bond that lists the defendant's home address. A defendant should list a PO Box or a friend's address or their employer's address; it should be where he actually resides. The bond in every criminal case in Kenosha County also requires the defendant to update his address in writing with the Court within 48 hours of any changes. The purpose of these entirely reasonable requirements is to inform the Court where the defendant actually lives.

In response to the State's Motion to Increase Bond, the defendant fully admits that he has violated his bond. He admits that he has not resided at 286 Anita Terrace, #10 in Antioch, IL since he was released from jail. He admits that he has lied about that address on both bonds that he has signed in this case, most recently when he signed a new bond just 13 days ago on January 22, 2021. The defendant offers two excuses for why he has unilaterally decided that he does not need to comply with the Court's order.

First, the defendant contends that he did not want to disclose his actual whereabouts because his previous address on Anita Terrace had been publicly disclosed and he had received threats to his safety. What the defendant overlooks is that while he has apparently

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been hiding out at an undisclosed "safe house," someone else has moved into his old apartment. If the threats to the defendant's safety are genuine, as the defendant contends, then the new, innocent occupant of that apartment is now in danger. As recently as January 22, 2021, the defendant told the Court that he still lives at 286 Anita Terrace, #10, knowing full well that (1) that address is publicly associated with him; (2) he does not, in fact, live there; and (3) people may go there to harm him. In essence, he put someone else in jeopardy to protect his own skin.

Second, the defendant, via an Affidavit of Attorney John Pierce, asserts that a Kenosha Police Department Captain told him that he did not need to put the address of the "safe house" on the bond but could instead put down "his home address in Antioch, Illinois." Affidavit of John Pierce, ¶ 10. However, as the defendant admits, that was not even his "home address" at the time. But more importantly, neither a Kenosha Police Department Captain nor Attorney Pierce have the authority to unilaterally modify a Court order. The proper procedure for modifying bond is to file a motion. Indeed, this is the second time that the State has followed that procedure in this case. In fact, the State, by Assistant District Attorney Thomas C. Binger, specifically advised the defense that they would need to file a motion with the Court if they wanted to keep the defendant's address out of the public record (unless they could demonstrate a specific, tangible and imminent threat to the defendant's safety). See November 30, 2020 email from ADA Binger to Attorney Corey Chirafisi attached as Exhibit 1 to the Defendant's Objection to State's Motion to Increase Bond. The defense has filed no such motion. Instead, the defendant has unilaterally and deliberately violated the Court's order.

Only now, in response to the State's Motion, has the defendant advised the Court that he no longer resides at the address on file with the Court. He has informed the Court of a new address and requested that the Court keep it under seal and not disclose the address to the public. The State objects to withholding the defendant's whereabouts from the public. First of

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all, the new address provided by the defendant is actually just a Post Office Box, not a residence, so the defendant continues to withhold his actual whereabouts from the Court even under seal.

Second, as ADA Binger informed the defendant's attorney in that November 30, 2020 email, Wisconsin has a strong and proud tradition of governmental transparency. In particular, our Wisconsin Circuit Court Access Program is perhaps the nation's most accessible and thorough record of judicial proceedings. The defendant has cited no precedent for withholding his address from the public. On the contrary, there are strong public policy reasons why the public is entitled to know where the defendant is located. He is, after all, charged with murdering two people and severely injuring a third. It is extremely rare for an accused murderer to post high cash bond and be allowed to roam freely in the community while awaiting trial. Understandably, this causes great concern in the community. The public has a right to know where he lives.

Finally, the defense has not demonstrated a specific, tangible and imminent threat to the defendant that would justify withholding his address from the public.¹ While the defense asserts that the defendant has received various threats, the only actual communication that has been submitted to the Court is an email attached as Exhibit 2 to the defendant's Objection to the State's Motion to Increase Bond. That email, sent to Attorney Mark Richards, discusses what might happen to the defendant in prison after he is convicted. The email is from "mlucky99," whose real name is not known. There is no indication if this person is from Wisconsin or Wyoming or Western Samoa. The sender does not make any actual threat to the defendant but merely discusses what others might do to him in prison. This is hardly a specific, tangible and imminent threat.

¹ ADA Binger specifically invited the defense to share any such threats in his November 30, 2020 email to Attorney Chrafisi but never received a response.

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There is no question that this case has attracted a lot of attention. But all of that attention stems from the defendant's decision to violate curfew, illegally possess a gun, kill two people, and severely injure a third on August 25, 2020. Now he acts like he is the only one negatively affected by the attention he has brought upon himself, and thus he should be exempt from the rules that apply to everyone else. What about the witnesses, the victims, and their families? None of them chose to be part of this, yet they are now caught up in the defendant's maelstrom and receiving the same level of attention as he is. After suffering the trauma of the events of August 25th, they now have to contend with a defendant who is free from custody after posting nothing on his own behalf, who disregards the Court's bond, and who could literally be living right next door to them. That is completely unacceptable.

The State respectfully requests that the Court hold the defendant to the same standard as every other criminal defendant in Kenosha County. For his continued defiance of the Court's bond, the State respectfully requests that the Court increase the defendant's bond by \$200,000.

Date Signed: 02/04/21

Electronically Signed By:

Thomas C. Binger

Assistant District Attorney

State Bar #: 1027874

FILED
02-04-2021
Clerk of Circuit Court
Kenosha County
2020CF000983

STATE OF WISCONSIN, CIRCUIT COURT, KENOSHA COUNTY

State of Wisconsin, Plaintiff

**DEFENDANT'S RESPONSE
TO STATE'S REPLY BRIEF**

-vs-

Kyle Rittenhouse, Defendant

Case Nos. 2020CF983

Kyle Rittenhouse, by and through his attorney, Mark D. Richards, hereby responds to the State's Reply Brief, filed February 4, 2021, as follows:

1. The State argues that the defendant placed the new occupant at his old address in "jeopardy to protect his own skin" by failing to update his address with the court. This argument is spurious, at best, and has no bearing on the issue presented before the court. Upon information and belief, the threats made have been specifically directed against Kyle and his family—not carte blanche against any unrelated individual currently residing at his former address. Updating his bond would have no effect on any crackpot going to Kyle's old address.
2. The State argues that the January 25, 2021 email sent to Attorney Richards—where the writer graphically describes the repeated, violent rape of Kyle Rittenhouse—does not alone justify a legitimate threat against his safety, or present reason to seal his current address. In doing so, the State has chosen to intentionally ignore evidence *in its sole possession* verifying the scope of the threats made against Kyle Rittenhouse and his family since before this case was even filed.
3. Upon information and belief, Kyle began receiving death and other threats via social media very shortly after the shootings occurred on August 25, 2020. As already publicly reported, these threats caused Kyle to ask officers to delete his social media accounts—after they could be searched by the police—when he turned himself in to police custody in Antioch, Illinois.¹ Multiple search warrants were issued on October 19, 2020 by the Honorable Jodi Meyer ordering the contents of Kyle's social media to be turned over to the prosecution. Despite having requested access, this content along with at least thirty-six other known pieces/categories of evidence have *not* been provided to the defense. The State's representations are de minimized by evidence not yet turned over, and any increase in bond based upon the absence of such evidence is unwarranted.

Electronically Signed On: 2/4/2021

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¹ See 1:18:50- 1:20:05 at <https://www.youtube.com/watch?v=yQ0MYTVnq5E>

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Kenosha County Eye