

FEDERAL PUBLIC DEFENDER

DISTRICT OF NEW JERSEY

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January 3, 2022

Hon. Amy Berman Jackson  
United States District Judge  
District of Columbia  
E. Barrett Prettyman United States Courthouse  
333 Constitution Avenue NW  
Washington D.C. 20001

via ECF and email

**RE: United States v. Michael A. Rusyn**  
**Crim. No. 21-303(ABJ)**

Dear Judge Jackson:

Kindly accept this letter in lieu of more formal supplemental sentencing submission on behalf of Mr. Rusyn, whom the Court will sentence on January 4, 2022 at 1:00 p.m. The defense writes to provide additional information regarding the prior conviction set forth in paragraph 35 of the presentence investigation report (PSR).

The enclosed disposition documentation reflects that Mr. Rusyn entered a “no contest” plea to a third degree misdemeanor, “simple assault (mutual consent).” *See* Exhibit A (disposition records for PA case 17-626). While the PSR indicates that supervision terminated on February 15, 2021, this is inconsistent with the disposition records. The sentence order dated February 6, 2018, enclosed here, indicates that Mr. Rusyn was sentenced to a 12-month intermediate punishment program with the first three months to be served on house arrest. *Id.*; ¶ 35. No jail time or additional supervised probation was imposed. As such, the sentence would have been complete on February 6, 2019.

The defense has inquired of the probation department whether there are any other records to explain why the criminal history information set forth at the PSADC’s website are in conflict with the disposition documentation. Of course, if there are documents of which the defense is currently unaware, we are glad to review them. At this juncture, however, there appears no suitable explanation for the discrepancy, and the defense asks the Court to rely on the disposition records.

Respectfully submitted,



Andrea Dechene Bergman  
Assistant Federal Public Defender

Encl.

c: Michael Romano, Esq. (SAUSA) (via ECF and email)  
Ms. Jessica Reichler (USPO) (via ECF and email)  
Mr. Michael Rusyn (via email)

# EXHIBIT A

## CASE SUMMARY

11/13, 2017

Case No. 17 CR 626 J.

Commonwealth

vs.

Michael

Rusyn

Charge #1: SIM ASSLT M3

Charge #2:

Charge #3:

Trial

Plead

Guilty

Dist. Atty. Martynally

Def't's Atty. Fannick

IMMEDIATE SENT  PSI ORDERED

NAME: Michael Rusyn

CASE NO: 17 CR 626

PLEA DATE: 11/13/17

No Contact

CRIMINAL JUSTICE PLEA COLLOQUY

You are present before this Court because you or your lawyer has stated that you wish to plead ~~guilty~~ <sup>No Contact</sup> to some or all of the criminal offenses with which you have been charged. Please answer fully all the questions on this document. If you do not understand any question, do not answer that question. If you do understand the question, you should answer "yes" or "no, or fill in another appropriate answer.

This is a sworn statement. After you have finished reading this form and filling it out, you should sign it on the last page, on the line that says "Defendant". You should also initial each page at the bottom, but only if you have read and understood that page. If there is anything that you do not understand, you should tell your lawyer and the Judge who hears your case, so that they can explain it to you fully, to make sure that you understand all your rights.

Most of these questions can be answered "yes" or "no". Where general information is requested, please answer fully.

1. What is your full name? Michael Rusyn

2. Do you wish to plead ~~guilty~~ <sup>No Contact</sup> to the charges of Simple Assault (Mutual Contact) M-3 as laid out in criminal action 17 CR 626

3. How old are you? 31

4. How far did you go in school? High School Grad. Presently in Union Internship (Welding)

5. Do you read and write the English language? yes

5 (a) Have you had the opportunity to read the charges pending against you? yes

5 (b) Therefore, do you know exactly what you are charged with and what you are pleading to? yes

6. Have you ever been in a mental institution or received treatment for a mental disease? No

7. Have you had any alcoholic beverages or drugs within the last 24 hours? No

Initials: M.R.

8. Have you fully discussed your case with your attorney and are you fully satisfied that he knows all the facts of your case and has had sufficient time to look into any questions either he or you may have about the case? Yes

8 (a) Are you satisfied with your attorney? Yes

9. Do you understand that even though you are guilty or may be guilty you are presumed to be innocent, and you have a right to go to trial either before a judge or before a jury of 12 individuals and the Commonwealth must prove to the satisfaction of each and every one of the 12 jurors or to the satisfaction of the judge that you guilty beyond a reasonable doubt? Yes

9 (a) Do you understand that you and your attorney have a right to participate in the selection of a jury? Yes

10. Do you understand that if you want to go to trial your attorney will be permitted to cross-examine the Commonwealth's witnesses and to call witnesses on your behalf, but if you plead guilty, you will lose the right to call witnesses or to cross-examine the Commonwealth witnesses? Yes

11. Do you understand that by pleading <sup>No Contest</sup> ~~guilty~~ you are ~~admitting that you did the things~~ you are charged with and that if you plead not guilty, the Commonwealth cannot force you to take the stand and either admit or deny that you did the things you are charged with? Yes

12. Do you understand that by pleading <sup>No Contest</sup> ~~guilty~~ you are giving up your right to appeal any question in this case except those concerning the right of this Court to try you (jurisdiction over subject matter) or the legality or propriety of the sentence imposed? Yes

13. State specifically in detail any plea agreement with the District Attorney. No Contest / No Contesters plea to Simple Assault (Mutual Consent) M-3  
Restoration in the amount of \$2,775

13 (a) Has the District Attorney made any other promises to you in exchange for your <sup>No Contest</sup> guilty plea other than what is mentioned above? No

13 (b) Have you been threatened or coerced in any manner to enter this <sup>No Contest</sup> guilty plea? No

13 (c) Are you entering this <sup>No Contest</sup> guilty plea of your own free will after discussing the merits of your case with your attorney? Yes

14. Do you understand that the Court is not bound by the agreement you made with the District Attorney? Yes

15. Do you understand that the maximum penalty to the charges you are pleading guilty to is: M. 3 1 year \$2,500 fine

15 (a) If you are pleading guilty to ~~more than~~ one charge, do you understand that the Judge may impose consecutive sentences? N/A

If the answer to the preceding question is yes, state the total sentence that may be imposed on you. N/A

15 (b) Do you understand that certain crimes carry mandatory minimum penalties? Yes

Did your attorney advise you that any mandatory penalties apply to your case? NO

If the preceding answer is yes, state the mandatory provisions that apply to your case. N/A

16. The elements of the crime(s) charged are as follows:

engaged in a fight (mutual combat)  
and injury was caused

16 (a) Do you understand these are the elements of the crimes charged that you are pleading to? Yes

17. The District Attorney indicates this is what you did on the date of the crime charged.

engaged in fight (mutual combat)  
at Thrifty's Bar resulting in injury to  
another

18. Do you admit that you did the above-stated act(s)? Plead No Contest

19. Are you aware, that if you are not a United States citizen, it is possible that you may face deportation by entering a guilty plea to these charge(s)? yes

19 (a) Are you a United States Citizen? yes

20. Understanding the full meaning of the plea of <sup>NO Contest</sup> ~~guilty~~ as stated above, do you still wish to plead <sup>NO Contest</sup> ~~guilty~~? yes

I affirm that I have read the above document in its entirety and have reviewed it with my attorney. I affirm that I am aware of the full implications of entering a guilty plea and nevertheless wish to enter a guilty plea to the above-mentioned offenses. I further affirm that my signature on this Guilty Plea Colloquy and initials on each page of this document are true and correct.

Date: 11/13/17

[Signature]  
DEFENDANT

I, Demetris Farnick Esq., Attorney for Michael Ruzyn state that I have advised my client of the contents and meanings of the document. It is my belief that my client fully comprehends the implications of pleading guilty and is entering this plea of his/her own free will.

[Signature]  
Attorney for the Defendant

[Signature]  
11-13-17 S.I.  
D.

COMMONWEALTH OF PENNSYLVANIA

IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY

CRIMINAL DIVISION

vs. Michael Russyn

17 CR 626  
OTN # 2086404-0  
D/A Martinez  
DEFENSE ATTY Fannick

SENTENCE ORDER

INTERMEDIATE PUNISHMENT

AND NOW, THIS 6 DAY OF Feb, 20 18, THE DEFENDANT IS SENTENCED TO:

OFFENSE SIM ASSLT CT1

OFFENSE \_\_\_\_\_

IPP/RIP STATE IP - 2 YRS

LCP/SCI \_\_\_\_\_ TO \_\_\_\_\_

12 MONTHS/YEARS

PROB \_\_\_\_\_ YR \_\_\_\_\_ MO \_\_\_\_\_ DAYS

FIRST 3 DAYS/MONTHS/LCP/H/SHA

MERGES W \_\_\_\_\_ IS CONC/CONS TO \_\_\_\_\_

FOLLOWED BY:

MAND NON-MAND SECTION 17 Y N

COSTS \_\_\_\_\_ FINES \_\_\_\_\_ REST \_\_\_\_\_

\_\_\_\_\_ DAYS/MOS/YRS PROBATION

COSTS  FINES \_\_\_\_\_ REST   
OTHER \_\_\_\_\_

OFFENSE \_\_\_\_\_

LCP/SCI \_\_\_\_\_ TO \_\_\_\_\_

PROB \_\_\_\_\_ YR \_\_\_\_\_ MO \_\_\_\_\_ DAYS

MERGES W/CT NO. \_\_\_\_\_ IS CONC/CONS TO \_\_\_\_\_

MAND NON-MAND SECTION 17 Y N

COSTS \_\_\_\_\_ FINES \_\_\_\_\_ REST \_\_\_\_\_

RESTIT VICTIM(S):

Vcap 1926.19  
BARRY LUPINI \$49.52  
DON ROYCE 100-

OFFENSE \_\_\_\_\_

LCP/SCI \_\_\_\_\_ TO \_\_\_\_\_

PROB \_\_\_\_\_ YR \_\_\_\_\_ MO \_\_\_\_\_ DAYS

MERGES W/CT NO \_\_\_\_\_ IS CONC/CONS TO \_\_\_\_\_

MAND NON-MAND SECTION 17 Y N

COSTS \_\_\_\_\_ FINES \_\_\_\_\_ REST \_\_\_\_\_

ALL REMAINING CHARGES ARE NOLLE PROSSED  
THIS SENTENCE SHALL RUN CONC/CONS TO CASE(S)

SENT DEFERRED TIL \_\_\_\_\_  
CR FOR \_\_\_\_\_ TIME SERVED

COURT ORDER CONDITIONS TO BE COMPLETED

ELGIBLE/NOT ELIGIBLE FOR

\_\_\_\_ A/M D/A EVAL  M/H EVAL \_\_\_\_\_  
\_\_\_\_ IP/OP TRTMT DOM VIOL \_\_\_\_\_  
\_\_\_\_ HG/SPNSR \_\_\_\_\_ 90/90 F/B \_\_\_\_\_ PR WK AFTER \_\_\_\_\_  
 NO D/A or LLP \_\_\_\_\_ HRS COM SERVICE \_\_\_\_\_  
 NO CONTACT \_\_\_\_\_  
\_\_\_\_ SEX OFFCSLG \_\_\_\_\_  
\_\_\_\_ COUNSELING \_\_\_\_\_  
\_\_\_\_ COLOR SYSTEM FOR \_\_\_\_\_

BOOT CAMP \_\_\_\_\_ H/A OR W/R \_\_\_\_\_  
RRRI w/min at \_\_\_\_\_  
RRRI Waiver \_\_\_\_\_  
SUPV TRFRD TO \_\_\_\_\_

OTHER \_\_\_\_\_

BY THE COURT,

JUDGE

COURT REPORTER MariamCool