

DEFENSE PRESS RELEASE

**JUSTIN MARK SHAFER AGREES TO SINGLE MISDEMEANOR PLEA DEAL
IN THE FACE OF A FIVE FELONY COUNT INDICTMENT**

SENTENCING SET FOR THURSDAY, MARCH 22, 2018

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION
13th Floor, Room 1306

The Honorable Janis Graham Jack
Senior United States District Judge

EMBARGO UNTIL 11:30 am CT

Case: *United States v. Justin Mark Shafer*

Court: Federal District Court for the Northern District of Texas, Dallas Division

Docket No. 17-CR-239

Contact: Tor Ekeland, (718) 737-7264, tor@torekeland.com, www.torekeland.com

Frederic Jennings, (718) 737-7264, fred@torekeland.com, www.torekeland.com

Jay Cohen, (713) 225-1900, jay@blasslaw.com, www.blasslaw.com

DETAILS

Defendant Justin Mark Shafer has agreed to accept a plea deal to a single misdemeanor in exchange for the government dismissing its five felony count indictment against him alleging cyberstalking and threats against an FBI agent and the agent's family. The plea comes on the heels of a telephone conference on the defense's motion to dismiss where the judge expressed deep skepticism about the government's case. Once filed on



Thursday, the plea deal, which is not binding on the court, will be publicly available on the docket. Once filed, we will also distribute it. Here are the key details:

- Mr. Shafer is pleading to a single misdemeanor of simple assault, based on his sending a Facebook direct message to an FBI Agent's immediate relative's public Facebook account. There is no allegation of any physical contact.
- The government agrees to recommend a sentence of time served. Mr. Shafer already served 8 months in jail before trial for criticizing the government's prosecution in a blog post. He was released after the defense filed a motion arguing his pre-trial detention violated First Amendment free speech rights and the statute governing pre-trial detention.
- The government is not seeking for any restitution.
- The United States Attorney's Office has agreed not to prosecute Mr. Shafer for the events leading to the initial armed FBI raid of his family's home.
- Mr. Shafer has agreed to a no contact order with the FBI agent, the agent's family, and the company involved in the initial investigation.
- The details of this disturbing case can be found in the attached motions and indictment.



QUOTES

Justin Mark Shafer: "I'm grateful that this long ordeal is finally over. To spend 8 months in jail away from my wife and family without ever being found guilty of anything was difficult. I have a new perspective on the criminal justice system in this country. I look forward to making up lost time with my family and focusing on them and my business."

Tor Ekeland (Defense Counsel): "We agreed to take this case because we believed it to be an important First Amendment internet free speech case. Mr. Shafer first contacted us after he was raided by armed federal law enforcement for alleged computer crimes the government has never charged him for. When he complained to the government about it, he was arrested and thrown in jail for his criticism. He was freed after the defense filed a motion arguing his pre-trial detention violated the First Amendment. Fortunately, when presented with the facts of this case, the Court understood the magnitude of the issues here and helped us resolve this case without the hassle, expense, and stress of a jury trial. We are grateful to the Northern District of Texas for recognizing this case for what it was: an attack on internet free speech and a citizen's right to criticize the government."

Frederic Jennings (Defense Counsel): "These charges represented a troubling attempt to stretch federal cyberstalking laws beyond all constitutional boundaries. If endorsed by the courts, the government's argument that non-threatening internet speech can collectively become a felony-level threat would decimate online interaction. Thankfully, each judge on this case recognized the weaknesses and dangers of the government's position. A smiley



emoji, without other threatening context, cannot justify felony cyberstalking charges. We are thankful Mr. Shafer can walk free today."

Jay Cohen (Defense Counsel): "This case is a chilling example of government overreach. Mr. Shafer spent 8 months behind bars after speaking out against the government online. These charges were a blatant attack on his first amendment right to free speech. We are pleased with the result, which will provide Mr. Shafer and his family an opportunity to rebuild their lives following this horrific experience. Unfortunately, this is not an isolated incident. We fully expect to see more cases where the government pushes the boundaries of censorship online, and we will continue fighting to uphold the rights of all Americans."