

Seize the Opportunity

By Reg P. Wydeven
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When I was in law school, my Legal Research and Writing professor was also the founder and curator of the National Mustard Museum in Middleton. We had a writing assignment about a case where a short order cook lent money to a regular customer at his diner. The customer failed to pay back the loan. Frustrated, the cook prepared a meal for him and secretly put super spicy mustard in it, knowing the customer had a serious ulcer.

After ingesting the mustard, the customer ending up dying. Our assignment was to write a brief either supporting or opposing the short order cook being charged with intentional homicide. Because our professor was so cool, we even got to taste the mustard in question. The assignment was a lot of fun, but it helped that the case was purely fiction.

Unfortunately, not all such cases are fiction.

Last month, a Texas grand jury charged 29-year-old John Rivello, of Salisbury, Maryland, with aggravated assault with a deadly weapon. According to authorities, in December Rivello tweeted an animated flashing GIF, along with the message “YOU DESERVE A SEIZURE FOR YOUR POSTS” to Newsweek journalist Kurt Eichenwald. Eichenwald, who suffers from epilepsy, “immediately” had a seizure that lasted for “approximately eight minutes,” during which he experienced “a complete loss of his bodily functions and mental faculty.”

Under Texas law, a “deadly weapon” is defined as a firearm or anything that is capable of causing death or serious bodily injury. The case is apparently the first of its kind in the country.

After sending the GIF to Eichenwald, Rivello allegedly messaged another Twitter user saying “I hope this sends him into a seizure” and “let’s see if he dies.” He purportedly sent another message saying “I know he has epilepsy.” Authorities searched Rivello’s iCloud account and discovered a photoshopped version of Eichenwald’s Wikipedia page with his date of death edited to be December 16, about when the GIF was sent.

According to prosecutors, Rivello tried hard to cover his tracks. He tried to make his Twitter account untraceable under the name Ari Goldstein, with the handle @jew_goldstein, and set up under a dummy email address. He also used a Tracfone prepaid SIM card that included no subscriber information.

Investigators contacted AT&T, Tracfone’s network provider, with the phone number linked to the Twitter account. They were able to find the user’s iPhone model number, and with this information, they then went to Apple. Apple was able to confirm that the disposable iPhone was linked to Rivello’s personal iCloud account that included a selfie with his driver’s license. The iCloud account also allegedly included the exact seizure-inducing GIF sent to Eichenwald and a screenshot of the response sent by his wife.

Rivello was released from Dallas County Jail after posting a \$100,000 bail. The Dallas Morning News reported that his lawyers issued a statement saying that “their client, a Marine veteran who served in Iraq and Afghanistan, immediately apologized for the incident” and is “seeking help from the VA.”

In addition to aggravated assault with a deadly weapon, Rivello was also charged with violating federal cyberstalking laws. The charges also include a hate crime enhancement, based on alleged anti-Semitic bias associated with the crime. Rivello faces up to twenty years prison and up to a \$10,000 fine for the assault charge alone.

My kids are happy about the charges and have asked authorities to look into all the selfies I send them.

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