

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

THAMUD ELDRIDGE, PETITIONER

vs.

UNITED STATES OF AMERICA, RESPONDENT

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

Devin McLaughlin, Esq.
CJA Counsel for Petitioner
Langrock Sperry & Wool, LLP
PO Drawer 351
Middlebury, VT 05753-0351
E-mail: dmclaughlin@langrock.com
Ph: (802) 388-6356 | Fax: (802) 388-6149

TABLE OF CONTENTS

United States v. Eldridge, 2 F.4th 27 (2d Cir. June 22, 2021).....1

United States v. Eldridge, 860 Fed. Appx. 773 (2d Cir. June 22, 2021) (Summary Order) ...11

Judgment of the United States District Court for the Western District of New York18

United States Court of Appeals’ Denial of Petition for Rehearing or Petition for Rehearing
En Banc24

Docket Entries for the United States District Court for the Western District of New York ...25

18 U.S.C.A. § 924107

18 U.S.C.A. § 1951111

18 U.S.C.A. Amendment VI.....112

2 F.4th 27

United States Court of Appeals, Second Circuit.

UNITED STATES of America, Appellee,

v.

Thamud ELDRIDGE, Kevin
Allen, Defendants-Appellants,

Kashika Speed, Galen Rose, Defendants.¹

Nos. 18-3294-cr

|

19-92-cr

|

August Term, 2019

|

Argued: March 10, 2020

|

Decided: June 22, 2021

Synopsis

Background: Defendant and codefendant were convicted following jury trial in the United States District Court for the Western District of New York, Richard J. Arcara, Senior District Judge, of possessing and brandishing firearm in furtherance of crime of violence and multiple other charges, and they appealed.

Holdings: The Court of Appeals, Nardini, Circuit Judge, held that:

district court's placement of waist-high curtain that wrapped around defense table did not violate defendant's and codefendant's right to fair trial;

conspiracy to commit Hobbs Act robbery was not "crime of violence," and thus could not serve as predicate on charge for possessing and brandishing of firearm in furtherance of crime of violence.

attempted Hobbs Act robbery was predicate "crime of violence";

error in instruction that conspiracy to commit Hobbs Act robbery was crime of violence did not affect defendant's substantial rights; and

First Step Act's amendment to sentencing for firearm offenses committed in furtherance of crime of violence did not apply to defendant whose sentence was imposed prior to amendment.

Affirmed.

West Codenotes

Recognized as Unconstitutional

18 U.S.C.A. § 924(c)(3)(B)

*29 Appeal from the United States District Court for the Western District of New York No. 1:09-cr-329 — Richard J. Arcara, *Judge*

Attorneys and Law Firms

Devin McLaughlin, Langrock Sperry & Wool, LLP, Middlebury, VT, for Defendant-Appellant Thamud Eldridge

Cheryl M. Buth, Meyers Buth Law Group, Orchard Park, NY, for Defendant-Appellant Kevin Allen

Katherine A. Gregory, Assistant United States Attorney, for James P. Kennedy, Jr., United States Attorney for the Western District of New York, Buffalo, NY, for Appellee

Before: CHIN, SULLIVAN, and Nardini, Circuit Judges.

Opinion

William J. Nardini, Circuit Judge:

Defendants-Appellants Thamud Eldridge and Kevin Allen appeal from their convictions and sentences after a jury trial in the United States District Court for the Western District of New York (Richard J. Arcara, *J.*).² In this opinion, we address three of their arguments. First, the defendants challenge the district court's decision to hang a waist-high black curtain around the defense tables—designed to prevent the jury and spectators from seeing whether the defendants were in leg-irons—arguing that the curtain prejudiced the jury against the defendants and so rendered their trial unfair. Second, Eldridge argues that his conviction on Count Seven for possessing and brandishing a firearm in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c), must be vacated in light of the Supreme Court's decision in *United States v. Davis*, — U.S. —, 139 S. Ct. 2319, 204 L.Ed.2d 757 (2019), and this Court's decision in *United*

States v. Barrett, 937 F.3d 126 (2d Cir. 2019), since none of the predicate offenses on which his § 924(c) conviction was based remains a valid crime of violence as defined by the statute. Third, Eldridge argues that he is entitled to a lower sentence on Count Seven—the second of his two § 924(c) convictions—because, after the district court pronounced sentence but while his case was pending on appeal, Congress enacted Section 403(a) of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, 5221–22, which reduced the mandatory minimum sentence for that count to 7 years rather than 25 years.

We conclude that the presence of the curtain at trial did not infringe the defendants' right to a fair trial and that the district court acted well within its discretion to safeguard courtroom security while minimizing prejudice to the defendants. On the second point, we agree with Eldridge that conspiracy to commit Hobbs Act robbery—one of the three possible predicates for his § 924(c) conviction—is not a crime of violence under *Davis* and *Barrett*. It was therefore error for the court to instruct the jury that all three predicates, including the conspiracy, were crimes of violence for the purposes of § 924(c). But we find that Eldridge has not shown that this error affected his substantial rights, in light of the overwhelming evidence supporting the third, valid theory—namely, that Eldridge attempted to commit Hobbs Act robbery. In reaching this conclusion, we hold that the Supreme Court's recent decision in *Greer v. United States*, No. 19-8709, — U.S. —, —, 141 S.Ct. 2090, — L.Ed.2d —, 2021 WL 2405146, at *4 (U.S. June 14, 2021), abrogated our Circuit's earlier precedent in *United States v. Viola*, 35 F.3d 37, 42–43 (2d Cir. 1994), and that even where an unpreserved claim of error is based on supervening precedent, the defendant bears the burden of establishing all four prongs of the plain-error standard, including that the error affected his substantial rights. On the third point, we hold that Section 403(a) of the First Step Act does not apply to Eldridge because that revised sentence provision applies only “if a sentence for the offense has not been imposed” as of the date of that law's enactment. Eldridge's sentence was imposed when the district court pronounced it, and the pendency of his appeal does not alter that fact. Finally, in a separate summary order, we find that reversal is not warranted on any of the defendants' remaining claims. As a result, we affirm Eldridge's and Allen's convictions and sentences.

I. BACKGROUND

A. The Superseding Indictment

In 2009, a federal grand jury indicted Eldridge and Allen, along with co-defendants *31 Kashika Speed and Galen Rose, for offenses arising from their participation in a drug-dealing enterprise that operated in Buffalo, New York, from 2003 to 2005. After many pre-trial motions, the severing of two counts as to Eldridge, and Speed's guilty plea, the defendants went to trial in 2016 on a fifteen-count superseding indictment. As relevant here, Eldridge and Allen were charged as follows:

- Count One (Eldridge and Allen): substantive RICO violation;³
- Count Two (Eldridge and Allen): RICO conspiracy;
- Count Three (Eldridge and Allen): narcotics conspiracy;
- Count Four (Eldridge and Allen): possession of firearms in furtherance of the drug trafficking crime described in Count Three;
- Count Five (Eldridge and Allen): kidnapping in aid of racketeering;
- Count Six (Eldridge and Allen): conspiracy to commit Hobbs Act robbery and attempted Hobbs Act robbery;
- Count Seven (Eldridge and Allen): possessing and brandishing a firearm in furtherance of the crimes of violence charged in Counts Five and Six;
- Count Ten (Eldridge): murder in aid of racketeering;
- Count Eleven (Eldridge and Rose): conspiracy to commit Hobbs Act robbery and attempted Hobbs Act robbery;
- Count Twelve (Eldridge and Rose): discharge of a firearm causing death in furtherance of the crimes of violence charged in Counts Ten and Eleven;
- Count Thirteen (Eldridge and Allen): murder in aid of racketeering;
- Count Fourteen (Eldridge and Allen): conspiracy to commit Hobbs Act robbery and attempted Hobbs Act robbery; and
- Count Fifteen (Eldridge and Allen): discharge of a firearm causing death in furtherance of the crimes of violence charged in Counts Thirteen and Fourteen.⁴

B. Installation of the Curtain

During pretrial proceedings, in keeping with the recommendation of the United States Marshals Service, the defendants appeared in court wearing leg shackles, fastened at the ankle. The Marshals Service was concerned about the defendants' criminal histories, as well as the nature of the charges.

In anticipation of the possibility that the defendants would be shackled during trial, the district court ordered the placement of a waist-high black curtain that ran down the center of the courtroom from the Judge's bench to about three feet from the spectators' gallery, then wrapped around the defense tables to the wall farthest from the jury box. In this way, neither jurors nor spectators would be able to see the defendants' shackled legs.

The defendants moved to be unshackled during trial, arguing that such restrictions were unnecessary and prejudicial. On the morning of jury selection, the district court heard argument from the parties as well as the views of the Marshals Service, which reiterated its security concerns, particularly in light of the sensitive and potentially provocative nature of the testimony *32 expected at trial. After considering the matter, the district court granted the defendants' motion but also acknowledged the validity of the Marshals' concerns. The court noted that it was possible that one or more defendants would need to be shackled at some point during trial, but in that event the court stated that it would "have it all covered up here." D. Ct. Dkt. 837 at 6.

When the members of the venire panel first entered the courtroom for jury selection, the curtain was in place. At some point during the first day of jury selection, the defense requested removal of the curtain, and the district court denied that request. The defendants then moved for a mistrial after opening statements, based in part on the presence of the curtain. The district court denied this motion by written order after oral argument.

In its ruling, the district court identified several case-specific security considerations. The court cited the defendants' violent criminal histories, including that Allen was already serving a sentence for murder and that Eldridge had previous manslaughter and robbery convictions. The court further noted that the Marshals had identified Rose as a flight risk. Lastly, the court observed that prosecution witnesses had already been threatened, prompting the court to impose a protective order over the witness list and other discovery materials. In light of these circumstances, as well as the nature

of the charged offenses, the court concluded it was "certainly not wholly unforeseeable" that shackles would need to be imposed at some point during trial. Allen App'x at 146. The court then held that the continued presence of the curtain in the courtroom was the "least restrictive means" to accomplish the competing goals of ensuring a secure courtroom and minimizing the prejudice faced by the defendants in the event that shackles became necessary later in the trial. *Id.* at 147.

C. Eldridge's Conviction on Count Seven

As stated above, Count Seven of the indictment charged Eldridge (and Allen) with possessing and brandishing a firearm in furtherance of the crimes of violence charged in Counts Five and Six, in violation of 18 U.S.C. §§ 924(c)(1)(A)(ii) and 2.⁵ Count Five charged Eldridge and Allen with kidnapping in aid of racketeering, in violation of 18 U.S.C. §§ 1959(a)(1) and 2, stemming from an incident in which the defendants forced a victim, Woodie Johnson, into a truck at gunpoint and held him until he provided the defendants with a substantial quantity of narcotics. Count Six, which was captioned "Hobbs Act Robbery," arose from the same incident and charged as follows:

On or about February 23, 2005, ... [Eldridge and Allen] did knowingly, willfully and unlawfully combine, conspire and agree together and with others, known and unknown, to obstruct, delay and affect, and to attempt to obstruct, delay and affect, commerce, as that term is defined in *33 Title 18, United States Code, Section 1951(b)(3), and the movement of articles and commodities in commerce, in particular, by the robbery and extortion of assets, including controlled substances and money, from Victim B, an individual engaged in the unlawful possession and distribution of controlled substances, including cocaine.

All in violation of Title 18, United States Code, Sections 1951 and 2. Gov't App'x at 13–14. The parties stipulated that both Counts Five and Six qualified as predicate crimes of violence for purposes of Count Seven, and the district court instructed the jury to that effect.⁶

In charging the jury on Count Six, the district court discussed two separate means by which it could find the defendants guilty, instructing on the elements of a conspiracy to commit Hobbs Act robbery and attempted Hobbs Act robbery. The jury form similarly asked whether the defendants were guilty of either "conspiracy to rob and extort assets, or attempt to rob and extort assets" from the victim. Allen App'x at 189.

The jury found Eldridge guilty of both Counts Five and Six, as well as Count Seven. As to Allen, the jury could not reach a verdict on Count Five, found him guilty on Count Six, and could not reach a verdict on Count Seven. Eldridge was eventually sentenced to the then-mandatory minimum of twenty-five years of imprisonment for his conviction on Count Seven.

Eldridge was also found guilty on Count One (substantive RICO), Count Two (RICO conspiracy), Count Three (narcotics conspiracy), and Count Four (possession of a firearm in furtherance of the narcotics conspiracy). Allen was found guilty on Counts One, Two, Three, and Four, as well.

The jury found Eldridge not guilty on Count Ten (murder in aid of racketeering). The jury could not reach a verdict as to Eldridge and Rose on Count Eleven (conspiracy to commit Hobbs Act robbery and attempted Hobbs Act robbery) or Count Twelve (possession of a firearm in furtherance of the offenses charged in Counts Ten or Eleven), and as to Eldridge and Allen on Count Thirteen (murder in aid of racketeering), Count Fourteen (conspiracy to commit Hobbs Act robbery and attempted Hobbs Act robbery), and Count Fifteen (possession of a firearm in furtherance of the offenses charged in Counts Thirteen and Fourteen).

As a result, Eldridge was sentenced to a total term of 600 months of imprisonment: 240 months as to each of Counts One, Two, Five, and Six, and 120 months as to Count Three, all to run concurrently with each other; 60 months on Count Four, to run consecutive to all other counts; and, as noted above, 300 months on Count Seven, to run consecutive to all other counts. Allen was sentenced to a total term of 300 months of imprisonment: 240 months as to each of Counts One, Two, and Six, and 60 months on Count Three, all to run concurrently with each other; and 60 months on Count Four, to run consecutive to the other *34 counts.⁷

II. DISCUSSION

A. Fair Trial Claim

The defendants contend that the presence of the curtain beside and behind the defense tables violated their right to a fair trial, inviting the jury to impermissibly decide their guilt “on grounds of official suspicion, indictment, continued custody, or other circumstances not adduced as proof at trial,” *Taylor v. Kentucky*, 436 U.S. 478, 485, 98 S.Ct. 1930, 56 L.Ed.2d 468 (1978). Specifically, the defendants argue that the jury

would presume that the curtain was a necessary protective barrier or that it was hiding some form of physical restraint, such as shackles, predisposing the jury to conclude that the defendants were dangerous. The defendants further argue that the curtain, by virtue of its position in the courtroom, had an independent effect of “subtly encourag[ing] the jury to align themselves with the prosecutors who are, literally speaking, ‘on the same side.’ ” Allen Br. at 27–28.

In the context of balancing the use of physical restraints or other types of courtroom security with defendants’ fair trial rights as enunciated in *Taylor*, a district court is required to determine whether the restraints are “necessary to maintain safety or security.” *United States v. Haynes*, 729 F.3d 178, 189 (2d Cir. 2013) (internal quotation marks omitted). “Any finding of necessity and all accommodations made to minimize the extent of the defendant’s restraint during trial or to ensure that the jury does not become aware of any physical restraints on the defendant must be made on the record” *Id.* at 190. If the district court complies with this rule, we review its decision only for abuse of discretion. *See id.* at 189. However, if the district court “delegates a decision, and gives no reason for the decision, that is not an exercise of discretion but an absence of and abuse of discretion.” *Id.* (internal quotation marks omitted).

Here, the district court reasonably determined on the record that it might need to shackle the defendants during trial and that the curtain would minimize any prejudice resulting from the subsequent imposition of physical restraints. We hold that this decision was within the court’s discretion. The district court first considered whether it needed to shackle the defendants, before ultimately agreeing with them that such restraints were unnecessary at that time. But the district court also properly considered the possibility that shackles might become necessary later during trial, taking into consideration the security assessment of the United States Marshals Service without delegating its decision to the Marshals. The bases for the Marshals’ concerns—that the defendants had extensive and violent criminal histories, were charged with a variety of violent crimes, including murder, and would be hearing sensitive testimony over the course of trial—were reasonable, informed by their expertise, and grounded in the record. And, as the district court rightly noted, the prejudice to the defendants would have been far greater had the need for shackles arisen during trial and the curtain was not yet hung: the jury either would have seen the shackles or walked into a suddenly much-altered courtroom, where a newly installed curtain surrounding *35 the defendants would have invited

questions as to the reason for the change. Faced with such considerations, the district court struck a wholly reasonable balance between ensuring courtroom security and protecting the defendants' interests in a fair trial in the event it later imposed physical restraints.

In arguing that the curtain nonetheless impermissibly infringed on their right to a fair trial, Eldridge and Allen rely primarily on *People v. Cruz*, 17 N.Y.3d 941, 944, 936 N.Y.S.2d 661, 960 N.E.2d 430 (2011), a decision of the New York Court of Appeals reversing a trial conviction where the defense table was similarly surrounded by a waist-high black curtain. But *Cruz* presented a very different situation. First, the defendant in *Cruz* was indeed shackled throughout the trial, and it could not be determined from the record that the jury did not see the shackles. *See id.* Second, the trial court in *Cruz* made no findings as to the need for shackles or the need for the continued presence of a curtain in the courtroom. *See id.* Accordingly, the Court of Appeals held that “the use of leg irons” violated that defendant’s constitutional rights. *Id.* at 944–45, 936 N.Y.S.2d 661, 960 N.E.2d 430. Here, of course, leg irons were not used at all during the trial. And even with respect to the curtain alone, the district court made explicit and reasonable findings concerning its necessity as a measure to protect the defendants’ rights if shackles became necessary.

It is true that in *Cruz*, the Court of Appeals said that, “[o]n the record before” it, the court could not conclude “that the jury, seeing the bunting around the defense table and not the prosecutor’s, would not have inferred that it was there to hide shackles on Cruz’s legs.” *Id.* at 944, 936 N.Y.S.2d 661, 960 N.E.2d 430. Whatever the record might have contained in *Cruz*, our record does not indicate that the presence of the curtain shielding the defense tables suggested to jurors that the defendants were perhaps shackled (which they were not).⁸ Speculation about speculation provides no basis for reversing these convictions.

B. Constitutionality of Eldridge’s Conviction on Count Seven

We now turn to Eldridge’s claim that his conviction on Count Seven for violating 18 U.S.C. § 924(c)(1)(A)(ii) is unconstitutional because it rested on predicate offenses that are no longer encompassed by § 924(c)’s definition of a crime of violence. Eldridge argues that all three possible predicate offenses—kidnapping in aid of racketeering (Count Five) and either conspiracy to commit or attempt to commit Hobbs Act robbery (Count Six)—are not crimes of violence.

We agree that conspiracy to commit Hobbs Act robbery is not a crime of violence following *United States v. Davis*, — U.S. —, 139 S. Ct. 2319, 204 L.Ed.2d 757 (2019), and this Court’s subsequent decision in *United States v. Barrett*, 937 F.3d 126 (2d Cir. 2019). The parties also now take the position that kidnapping in aid of racketeering is no longer a crime of violence under those precedents. However, we need not decide that question because we have recently held (after this appeal was briefed and argued) that attempted Hobbs Act robbery remains a crime of violence after *Davis*. *See United States v. McCoy*, 995 F.3d 32, 55 (2d Cir. 2021) (holding that “an attempt *36 to commit Hobbs Act robbery ... categorically qualifies as a crime of violence” (internal quotation marks, alteration, and citation omitted)). And, as we explain below, we conclude that any *Davis/Barrett* error relating to the Hobbs Act conspiracy and kidnapping predicates did not affect Eldridge’s substantial rights under plain-error review, given the strength of the evidence supporting the attempted Hobbs Act robbery predicate and the link between Eldridge’s brandishing of the gun and that crime.

In *Davis*, the Supreme Court held that the second prong of § 924(c)’s definition of a crime of violence, the so-called “residual clause,” 18 U.S.C. § 924(c)(3)(B), was unconstitutionally vague. *See* 139 S. Ct. at 2323–24, 2336. As a result, offenses that qualified as crimes of violence only via the residual clause—as opposed to the still-valid elements clause of § 924(c)(3)(A)—could no longer serve as predicates for firearms convictions under § 924(c)(1)(A). *See, e.g., Barrett*, 937 F.3d at 128.⁹ In light of *Davis* and this Court’s subsequent precedent, we are left with the following status of each potential basis for Eldridge’s § 924(c) conviction: conspiracy to commit Hobbs Act robbery is not a qualifying predicate; kidnapping might or might not be a qualifying predicate; and attempted Hobbs Act robbery is a qualifying predicate.¹⁰

Given this mixed bag, we must consider whether Eldridge’s Count Seven conviction should be invalidated under the rule of *Yates v. United States*, 354 U.S. 298, 77 S.Ct. 1064, 1 L.Ed.2d 1356 (1957), which held that there is constitutional error when “disjunctive theories of culpability are submitted to a jury that returns a general verdict of guilty, and [one (or more)] of the theories was legally insufficient.” *United States v. Agrawal*, 726 F.3d 235, 250 (2d Cir. 2013) (internal quotation marks and citation omitted).

Eldridge did not raise a *Yates* concern regarding Count Seven below.¹¹ We review such unpreserved challenges only for plain error. *See id.* (reviewing unpreserved *Yates* challenge for plain error); *see also* Fed. R. Crim. P. 52(b). “[B]efore an appellate court can correct an error not raised at trial, there must be (1) ‘error,’ (2) that is ‘plain,’ and (3) that ‘affects substantial rights.’ If all three conditions are met, an appellate court may then exercise its discretion to notice a forfeited error, but only if (4) the error ‘seriously affects the fairness, integrity, or public reputation of judicial proceedings.’” *37 *Johnson v. United States*, 520 U.S. 461, 466–67, 117 S.Ct. 1544, 137 L.Ed.2d 718 (1997) (alterations omitted) (quoting *United States v. Olano*, 507 U.S. 725, 732, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993)).

Moreover, it is the defendant’s burden to “establish[] each of the four requirements for plain-error relief,” including that his substantial rights were affected. *Greer*, — U.S. at —, 141 S.Ct. 2090, 2021 WL 2405146, at *4. Where, as here, the defendant’s unpreserved challenge is based on a supervening change in precedent, our Court has previously (though not uniformly) applied a form of “modified” plain-error review, where the Government bears the burden to show that the error did not affect the defendant’s substantial rights. *See Viola*, 35 F.3d at 42–43. In *Viola*, we reasoned that it was improper to hold a defendant “accountable” for his failure to preserve a claim of error where he “clearly ha[d] no duty to object to a [point of law] that [was] based on firmly established circuit authority.” *Id.* at 42. However, we have subsequently (and repeatedly) “express[ed] doubt that the *Viola* gloss on the plain-error standard ... survived the Supreme Court’s decision in *Johnson v. United States*, 520 U.S. 461, 117 S.Ct. 1544, 137 L.Ed.2d 718 (1997),” because *Johnson* applied the usual plain-error rule—without modification—when considering an error resulting from a supervening change in case law governing whether the judge or jury must decide the issue of materiality in a perjury prosecution.¹² *United States v. Moore*, 975 F.3d 84, 93 n.37 (2d Cir. 2020) (internal quotation marks omitted). *See Johnson*, 520 U.S. at 463, 468–69, 117 S.Ct. 1544. The Supreme Court has now clearly abrogated the rule we adopted in *Viola*. *Greer* involved a supervening change in case law governing the mens rea requirement in felon-in-possession prosecutions, and the Court there held that the defendant must satisfy the usual plain-error standard even though a contemporary objection would have run up against a “uniform wall of precedent.” *Greer*, — U.S. at —, 141 S.Ct. 2090, 2021 WL 2405146, at *5; *see id.* at —, 141 S.Ct. 2090, 2021 WL 2405146 at *6. Accordingly, regardless of whether an unpreserved error becomes apparent

only on appeal in light of new case law, it is the defendant who retains “the burden of establishing entitlement to relief for plain error. That means that the defendant has the burden of establishing each of the four requirements for plain-error relief.” *Id.* at —, 141 S.Ct. 2090, 2021 WL 2405146 at *4 (internal quotation marks and citation omitted).

Turning to Eldridge’s conviction on Count Seven, it clearly satisfies the first two prongs of plain-error review, presenting an “error” under *Yates* that is now unquestionably “plain” in light of *Davis*.¹³ The violation of § 924(c) charged in Count Seven was predicated on two alternative theories of liability, that Eldridge brandished a firearm while committing either or both of two underlying crimes of violence: *38 the kidnapping charged in Count Five and/or the Hobbs Act robbery violation charged in Count Six. The jury convicted Eldridge of both predicate counts, and the verdict form did not ask the jury to identify on which predicate, or predicates, it was basing its guilty verdict for Count Seven. This problem was complicated by the alternate theories of liability charged within Count Six itself. Count Six charged Eldridge with both conspiracy to commit Hobbs Act robbery *and* attempted Hobbs Act robbery.¹⁴ Of these two, only attempted Hobbs Act robbery may serve as a predicate crime of violence for a § 924(c) conviction. And the verdict form again did not specify on which theory of liability the jury convicted Eldridge: conspiracy or attempt.

We find, however, that Eldridge has not shown that this error affected his substantial rights within the meaning of the third prong of our plain-error analysis. *See Johnson*, 520 U.S. at 467, 117 S.Ct. 1544. The Supreme Court has “noted the possibility that certain errors, termed structural errors, might affect substantial rights regardless of their actual impact on an appellant’s trial.” *United States v. Marcus*, 560 U.S. 258, 263, 130 S.Ct. 2159, 176 L.Ed.2d 1012 (2010) (internal quotation marks and alteration omitted). But “[a]n instructional error arising in the context of multiple theories of guilt”—*i.e.*, a *Yates* error—is not such a structural error because it “no more vitiates *all* the jury’s findings than does omission or misstatement of an element of the offense when only one theory is submitted.” *Hedgpeth v. Pulido*, 555 U.S. 57, 61, 129 S.Ct. 530, 172 L.Ed.2d 388 (2008); *see also Skilling v. United States*, 561 U.S. 358, 414 n.46, 130 S.Ct. 2896, 177 L.Ed.2d 619 (2010) (holding that *Hedgpeth*’s harmless-error approach applies on direct appeal). We have applied harmless-error analysis when the instructional error undermined the validity of one object of a multiple-object conspiracy. *See United States v. Coppola*, 671 F.3d 220, 237 (2d Cir. 2012). And,

where a defendant did not preserve his *Yates* challenge by raising it before the district court, we have also held that an instructional error on one of two theories of guilt did not affect the defendant's substantial rights under a plain-error analysis where it was “overwhelmingly likely that any reasonable juror would have convicted on the basis of the Government's primary theory.” *United States v. Skelly*, 442 F.3d 94, 99 (2d Cir. 2006). We now hold that this approach to *Yates* errors applies with equal force when there has been instructional error on one or more predicate offenses for a § 924(c) firearms charge.¹⁵

*39 Accordingly, we evaluate the district court's instructional error as we would any other erroneous jury instruction under plain-error review, focusing on whether Eldridge has shown that he was prejudiced by the error.¹⁶ We conclude that Eldridge was not prejudiced by the district court's erroneous instruction with respect to the valid predicate crimes of violence, because the jury would have returned a guilty verdict on Count Seven even if it had been instructed that only attempted Hobbs Act robbery was a valid predicate under § 924(c).

Here, there was strong evidence that Eldridge did, in fact, attempt to commit the Hobbs Act robbery of Woodie Johnson that was charged in Count Six. The testimony regarding Eldridge's participation in the robbery showed that: he had a gun with him when planning the robbery in the basement on Newburgh Street; he pointed a gun at Johnson to force him onto the ground before abducting him into the truck; he drove the truck with Johnson in the back, flanked by Allen and Speed, to an abandoned house where Johnson called his drug contact to leave two kilos of cocaine on a porch; he drove the truck to the location of the drugs; he got out of the truck and retrieved the drugs from the porch; he proceeded to tell Johnson that he had done the right thing; the next day, Allen told a friend that he, Eldridge, and Speed had committed the robbery; and subsequently, during an encounter in a jail visiting room, Eldridge bragged to Johnson that he was the one who “did that to you on Kensington.” Tr. at 1311. All of this testimony was entwined—with the agreement to commit the robbery, the attempt to commit the robbery, the kidnapping, and Eldridge's brandishing of the gun forming part of a single narrative. On this evidence, it is inconceivable that the jury could have returned a guilty verdict on any of these counts (as it did on all of them) without concluding that, at a minimum, Eldridge attempted to rob Johnson of his drugs, and that he did so using a gun.

Indeed, the guilty verdicts on Counts Five, Six, and Seven, viewed together, reinforce the conclusion that the jury would have convicted Eldridge on Count Seven even if the only theory had been attempted robbery. The only meaningful difference *40 between the conspiracy and attempt charges in Count Six is that for the former, Eldridge had to have reached an agreement with another person to commit the robbery; while for the latter, he had to have taken a substantial step to actually commit the robbery. By returning a guilty verdict on the kidnapping count (Count Five), the jury necessarily concluded that Eldridge had gone far beyond the planning stages and actually engaged in the abduction that formed the basis for the robbery charge. That is far more than the substantial step needed to prove an attempt. And the evidence presented at trial amply revealed that the purpose of the kidnapping was to rob Johnson of his drugs. Thus, there can be no doubt that the jury—which clearly found Eldridge guilty of brandishing a firearm by returning its guilty verdict on Count Seven—would have concluded that he did so during and in relation to an attempted Hobbs Act robbery. Accordingly, we find no basis for vacating Eldridge's conviction on Count Seven.

C. Application of the First Step Act to Count Seven

On the day Eldridge was sentenced—September 10, 2018—18 U.S.C. § 924(c)(1)(C) provided that a “person shall [] be sentenced to a term of imprisonment of not less than 25 years” in cases of “a second or subsequent conviction under” § 924(c). At that time, the law in this Circuit was clear: “a second or subsequent conviction under” § 924(c) included “multiple § 924(c) convictions in the same proceeding.” *United States v. Robles*, 709 F.3d 98, 101 (2d Cir. 2013). Accordingly, under *Robles*, a finding of guilt on multiple § 924(c) counts charged in the same indictment could give rise to so-called “stacked” mandatory minimum sentences of 25 years for the second and each subsequent conviction.

Shortly after Eldridge was sentenced, however, in December 2018, Congress enacted the First Step Act. Section 403(a) of the First Step Act amended § 924(c)(1)(C) to provide that the 25-year mandatory minimum consecutive sentence would apply not to a “second or subsequent conviction” but instead to a “violation of this subsection that occurs after a prior conviction under this subsection has become final.” Pub. L. No. 115-391, 132 Stat. at 5221–22. The effect of the amendment was this: After the Act, defendants whose § 924(c) convictions resulted from a single prosecution—like Eldridge—would no longer be subject to the enhanced statutory minimum at sentencing.

Section 403(b) specifies that the amendment applies to “any offense that was committed before the date of enactment of this Act, if a sentence for the offense has not been imposed as of such date of enactment.” Pub. L. No. 115-391, 132 Stat. at 5222. Eldridge contends that he is entitled to receive the benefit of the lower penalty established under the First Step Act for his second § 924(c) conviction—that is, Count Seven—because his “sentence is pending on direct review.” Eldridge Br. at 72. We disagree.

We have long held that “[i]t is the oral sentence which constitutes the judgment of the court.” *United States v. Werber*, 51 F.3d 342, 347 (2d Cir. 1995) (alteration in original) (quoting *United States v. Marquez*, 506 F.2d 620, 622 (2d Cir. 1974)). Accordingly, for the purposes of Section 403(b), a sentence is “imposed” when the district court orally pronounces it. In reaching this conclusion, we join the unanimous views of those other circuits that have considered the issue. *See, e.g., United States v. Smith*, 967 F.3d 1196, 1213 (11th Cir. 2020) (holding same and collecting cases), *cert. denied*, *41 No. 20-7404, — U.S. —, — S.Ct. —, — L.Ed.2d —, 2021 WL 1520926 (U.S. Apr. 19, 2021). Our holding also accords with our recent decision in *United States v. Bryant*, 991 F.3d 452, 454 (2d Cir. 2021), where we held that a defendant was not eligible for the lower penalties for certain drug offenses provided under Sections 401(a) and 401(c) of the First Step Act—the latter being identically worded to Section 403(c)—because the defendant had been sentenced in 2007. In *Bryant*, we explained that the defendant’s sentence was “imposed” when originally pronounced, not when it was later reduced pursuant to Section 404(b) of the First Step Act. 991 F.3d at 456. Eldridge does not challenge this proposition or the fact that his sentence was imposed before the First Step Act was passed. That, then, would appear to be the end of the matter.

However, Eldridge argues that under *Griffith v. Kentucky*, 479 U.S. 314, 316, 107 S.Ct. 708, 93 L.Ed.2d 649 (1987), the “new rule” of amended § 924(c)(1)(C) applies to his case since his sentence is “pending on direct review or not yet final.” But *Griffith* spoke to whether judicial pronouncements of new constitutional rules of criminal procedure are to be applied in cases on direct appeal or otherwise not final; it “did not purport to apply to congressional statutes to which the general saving statute applies.” *United States v. Richardson*, 948 F.3d 733, 751 (6th Cir.) (internal quotation marks and alteration omitted), *cert. denied*, — U.S. —, 141 S. Ct. 344, 208 L.Ed.2d 79 (2020). Had Congress wanted, it could

have applied the revised penalty structure of Section 403(a) of the First Step Act to sentences that were not yet final (including cases like Eldridge’s, which is still pending on direct appeal). But it did not do so. Instead, it keyed the new law to whether the sentence had “not been imposed” as of the date of the enactment. Thus, Eldridge, whose sentence was imposed before the passage of the First Step Act, is not entitled to the lower sentence provided in the amended version of § 924(c)(1)(C).¹⁷

III. CONCLUSION

In sum, we hold as follows:

- (1) Where the district court has made on the record an independent decision to install a waist-high curtain around defense tables prior to the *42 commencement of trial, and where the decision reflects a reasonable balance of the defendants’ rights to a fair trial with considerations of courtroom safety and security, that decision is within the trial court’s discretion and does not provide a ground for a new trial.
- (2) It is the defendant’s burden to satisfy each of the four requirements for relief under the plain-error standard, including showing that his substantial rights were affected, even when the unpreserved claim of error is based on a supervening change in case law.
- (3) Although at least one of the three predicate theories supporting Eldridge’s § 924(c) conviction for Count Seven is invalid in light of *Davis* and *Barrett*, we conclude that the instructional error did not affect Eldridge’s substantial rights under plain-error review because another of the predicate theories—attempted Hobbs Act robbery—remains a valid basis for a § 924(c) conviction. In light of the overwhelming evidence of Eldridge’s guilt and the jury’s verdicts on other counts, there can be no doubt that the jury still would have returned a guilty verdict on Count Seven even if the only theory presented had been attempted Hobbs Act robbery.
- (4) Eldridge does not benefit from Section 403(a) of the First Step Act because his sentence was imposed when it was orally pronounced by the district court, before Congress enacted the Act; thus, the 25-year minimum sentence for his second § 924(c) conviction was proper, even though his case is still on direct appeal.

For the foregoing reasons, as well as those given in our accompanying summary order, we **AFFIRM** Eldridge's and Allen's convictions and sentences in all respects.

All Citations

2 F.4th 27

Footnotes

- 1 The Clerk of Court is directed to amend the caption as set forth above.
- 2 Two additional co-defendants, Galen Rose and Kashika Speed, do not appeal from their convictions and sentences.
- 3 As part of Count One, the superseding indictment alleged six predicate racketeering acts against Eldridge and four against Allen.
- 4 Counts Eight and Nine charged Rose alone with two drug offenses.
- 5 The indictment charged as follows: "On or about February 23, 2005, in the Western District of New York, the defendants, THAMUD ELDRIDGE a/k/a Damu and KEVIN ALLEN, during and in relation to crimes of violence for which they may be prosecuted in a court of the United States, that is, violations of Title 18, United States Code, Sections 1959(a)(1) and 1951, as set forth in Counts 5 and 6 of this Indictment, the allegations of which are incorporated herein by reference, did knowingly and unlawfully use, carry and brandish, and in furtherance of such crimes, did knowingly and unlawfully possess and brandish, a firearm. All in violation of Title 18, United States Code, Sections 924(c)(1)(A)(ii) and 2." Gov't App'x at 14.
- 6 Likewise, the jury form stated that "[t]he Seventh Count of the Indictment charges Defendants Thamud Eldridge and Kevin Allen with us[ing], carry[ing], and brandish[ing] ... a firearm in furtherance of the crimes of violence specified in Counts Five and Six of the Indictment, in violation of Title 18, United States Code, Sections 924(c)(1)(A)(ii) and 2." Allen App'x at 190. The form further instructed the jury that "[i]f you found Defendant Thamud Eldridge Guilty of Count 5 or Count 6, then you must make a unanimous finding as to whether Defendant Eldridge is Guilty or Not Guilty of Count 7. If you found Defendant Thamud Eldridge Not Guilty of Count 5 and Count 6, you must find Defendant Eldridge Not Guilty of Count 7." *Id.*
- 7 Rose was found guilty of Count Eight (possession with intent to distribute marijuana) and Count Nine (conspiracy to possess with intent to distribute marijuana). He agreed to waive his right to appeal those convictions in exchange for the Government dismissing Counts Eleven and Twelve against him. He was sentenced to 60 months on each count to run consecutively for a total of 120 months of imprisonment.
- 8 That said, in those infrequent cases where a district court makes suitable findings justifying the use of a curtain to mask the actual or potential use of leg shackles, to avoid any arguable prejudice, it might be well advised to place curtains symmetrically—whether directly down the middle of the courtroom, or around both the defense and prosecution tables.
- 9 *Davis* interpreted only the definition of a crime of violence, and thus had no effect on the scope of drug offenses that may also serve as predicates for § 924(c) convictions, see 18 U.S.C. § 924(c)(2). As a result, Eldridge's conviction pursuant to Count Four for violating § 924(c), the predicate for which was his conviction on Count Three for narcotics conspiracy, is unaffected.
- 10 As both parties rightly note, because Eldridge's case was pending on direct review when *Davis* was decided, the rule of *Davis* applies. See *Griffith v. Kentucky*, 479 U.S. 314, 328, 107 S.Ct. 708, 93 L.Ed.2d 649 (1987); *United States v. Gutierrez Rodriguez*, 288 F.3d 472, 476 n.2 (2d Cir. 2002).
- 11 Indeed, the parties stipulated to the fact that each charged predicate offense came within § 924(c)'s definition of a crime of violence. Such an affirmative stipulation normally might give rise to a finding of actual waiver (as opposed to mere forfeiture) of the issue, barring all review on appeal. See *United States v. Olano*, 507 U.S. 725, 733, 113 S.Ct. 1770, 123 L.Ed.2d 508 (1993); *United States v. Yu-Leung*, 51 F.3d 1116, 1121–22 (2d Cir. 1995). On appeal, the Government does not assert that there was a waiver, and so we need not consider that question. See *United States v. Brown*, 352 F.3d 654, 663 (2d Cir. 2003) (recognizing that the Government can "waive the waiver point" (internal quotation marks and alteration omitted)).
- 12 It is worth noting that in nearly all of those cases, we pointed out that our holding would have been the same regardless of whether the burden of persuasion on prejudice (or lack thereof) had shifted from the defendant to the prosecution. See, e.g., *United States v. Thomas*, 274 F.3d 655, 668 n.15 (2d Cir. 2001) (en banc); see also *United States v. Vilar*, 729 F.3d 62, 71 n.5 (2d Cir. 2013) ("Indeed, we cannot help but be skeptical that the allocation of the burden of demonstrating harm will ever be dispositive in this context.").

- 13 To constitute plain error, the error need not be clear in light of the law applicable at the time of trial; “it is enough that an error be ‘plain’ at the time of appellate consideration.” *Johnson*, 520 U.S. at 468, 117 S.Ct. 1544; see also *United States v. Dussard*, 967 F.3d 149, 156 (2d Cir. 2020).
- 14 Eldridge rightly notes that the wording of the indictment for Count Six was ambiguous: it appears to charge, under one reading, that the defendants conspired to attempt Hobbs Act robbery. See Gov’t App’x at 13–14 (charging that the defendants “did knowingly, willfully and unlawfully *combine, conspire and agree* together and with others, known and unknown, *to obstruct, delay and affect, and to attempt to obstruct, delay and affect, commerce*” (emphasis added)). Putting aside that conspiracy to attempt a substantive crime is not a recognized form of liability—and thus such a reading of the ambiguous indictment language would be inappropriate—the jury instructions and the verdict form were quite clear that Count Six encompassed separate theories of conspiracy to commit and attempt to commit Hobbs Act robbery. In any event, Eldridge does not argue that this discrepancy rendered his Count Six conviction erroneous, and it also does not materially affect the *Yates* analysis concerning Count Seven.
- 15 We join our sister circuits in reaching this conclusion. See, e.g., *United States v. Ali*, 991 F.3d 561, 572, 575 (4th Cir. 2021) (applying plain-error review where the defendant had not objected to the § 924(c) instructions at trial); *United States v. Jones*, 935 F.3d 266, 270 (5th Cir. 2019) (same); *United States v. Cannon*, 987 F.3d 924, 934, 947 (11th Cir. 2021) (applying harmless-error review where the defendants had objected to the § 924(c) instructions in light of *Johnson v. United States*, 576 U.S. 591, 135 S.Ct. 2551, 192 L.Ed.2d 569 (2015)).
- 16 Our Circuit has used different verbal formulations to describe the standard for evaluating whether a defendant’s substantial rights have been affected by an erroneous jury instruction under plain-error review. In *United States v. Marcus*, the Supreme Court evaluated an instructional error under plain-error review and held that that, “[i]n the ordinary case,” the question is whether a defendant has been “prejudic[ed]” by the error—*i.e.*, whether there is “a reasonable probability that the error affected the outcome of the trial.” 560 U.S. at 262, 130 S.Ct. 2159. In light of *Marcus*, we have applied this “reasonable probability” phrasing on several occasions when evaluating instructional errors, including *Yates* errors like the one here. See, e.g., *Agrawal*, 726 F.3d at 250. But we have also evaluated such *Yates* errors under the third prong of plain-error review by asking whether “the jury would have returned the same verdict beyond a reasonable doubt.” *United States v. Martoma*, 894 F.3d 64, 72 (2d Cir. 2017) (quoting *United States v. Nouri*, 711 F.3d 129, 140 (2d Cir. 2013)). We do not think that there is an appreciable difference between these standards, in practice, as “a reasonable probability” that the error affected the outcome of the trial would seem to encompass whether a jury could have formed “reasonable doubts” absent the error. Thus, to the extent there might be any doubt as to what the “reasonable probability” test means in the context before us, it is resolved by acknowledging that it means the erroneous jury instruction was “harmless beyond a reasonable doubt.”
- 17 We express no opinion, however, on whether Section 403(a) of the First Step Act applies at a defendant’s resentencing following vacatur of a defendant’s original erroneous sentence, where the First Step Act was enacted after the original sentencing but before resentencing. Our sister Circuits are divided on this question, and on the question of whether it matters if a defendant’s original sentence was vacated before or after the First Step Act was enacted. Compare *United States v. Uriarte*, 975 F.3d 596, 602 & n.3 (7th Cir. 2020) (en banc) (holding that Section 403(a) applied at a resentencing, where a defendant’s original sentence had already been vacated when the First Step Act was enacted, but leaving open whether it would apply if the sentence had been vacated after enactment of the Act); *United States v. Henry*, 983 F.3d 214, 227–28 (6th Cir. 2020) (same); *United States v. Bethea*, 841 F. App’x 544, 551 (4th Cir. 2021) (holding that Section 401 applied at a resentencing regardless of whether the original sentence was vacated before or after enactment of the First Step Act because the original sentence was a “legal nullity”), with *United States v. Hodge*, 948 F.3d 160, 164 (3d Cir. 2020) (holding that Section 403(a) did not apply at a resentencing, where a defendant’s original sentence had already been vacated when the First Step Act was enacted); *United States v. Jackson*, 995 F.3d 522, 525–26 (6th Cir. 2021) (distinguishing *Henry* and holding that Section 403(a) did not apply at a resentencing where the original sentence was vacated after enactment of the First Step Act). We have thus far declined to resolve either of these issues for ourselves, see *McCoy*, 995 F.3d at 64–65, and we have no occasion to do so here, since we affirm Eldridge’s sentence in its entirety.

860 Fed.Appx. 773

This case was not selected for publication in West's Federal Reporter.

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1.

WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

United States Court of Appeals, Second Circuit.

UNITED STATES of America, Appellee,

v.

Thamud ELDRIDGE, Kevin Allen, Defendants-Appellants,

Kashika Speed, Galen Rose, Defendants.¹

18-3294-cr (L), 19-92-cr (Con)

June 22, 2021

Synopsis

Background: Defendants were convicted by jury in the United States District Court for the Western District of New York, Richard J. Arcara, Senior District Judge, of narcotics and firearms offenses, and violations of Racketeer Influenced and Corrupt Organizations Act (RICO), and sentenced to 240 months. Defendants appealed.

Holdings: The Court of Appeals held that:

partial closure of courtroom did not violate defendants' right to public trial;

district court acted within its discretion in questioning the entire panel of jurors at once, rather than conducting individual inquiries;

alleged prosecutorial misconduct was not so severe and significant as to result in denial of defendants' right to fair trial;

nearly six-year interval between defendant's indictment and commencement of trial did not violate his right to a speedy trial;

district court properly declined to count defendant's state court forgery conviction as relevant conduct, as opposed to criminal history, when sentencing; and

ample evidence supported district court's determination of the drug quantity attributable to defendant.

Affirmed.

*776 Appeal from judgments of the United States District Court for the Western District of New York (Richard J. Arcara, *J.*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgments of conviction and sentences are **AFFIRMED**.

Attorneys and Law Firms

For Defendant-Appellant Thamud Eldridge: Devin McLaughlin, Langrock Sperry & Wool, LLP, Middlebury, VT

For Defendant-Appellant Kevin Allen: Cheryl M. Buth, Meyers Buth Law Group, Orchard Park, NY

For Appellee: Katherine A. Gregory, Assistant United States Attorney, for James P. Kennedy, Jr., United States Attorney for the Western District of New York, Buffalo, NY

Present: Denny Chin, Richard J. Sullivan, William J. Nardini, Circuit Judges.

***777 SUMMARY ORDER**

**1 Defendants-Appellants Thamud Eldridge and Kevin Allen appeal from their convictions and sentences for narcotics and firearms offenses, as well as for violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act. In a concurrently filed opinion, we (1) reject the defendants' claim that they were denied a fair trial due to a curtain around the defense table; (2) find no plain error in the

court's instructional error on Count Seven against Eldridge for possessing and brandishing a gun in furtherance of a crime of violence, in violation of 18 U.S.C. § 924(c); and (3) hold that Section 403(a) of the First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194, 5221–22, does not apply to Eldridge. In this summary order, we conclude that none of the defendants' remaining challenges warrants reversal. We assume the reader's familiarity with the record.

I. Fair Trial Claims

A. Partial closure of the courtroom

The defendants claim that they were denied their right to a public trial when law enforcement officers in the courtroom asked for identification from the defendants' family members on one afternoon during trial. The district court denied the defendants' motion for a mistrial based in part on these actions, concluding that the Government's reason for the officers' actions—that some witnesses had reported receiving threats following opening statements—justified the narrow closure.

We find no error in the district court's ruling. The Supreme Court has acknowledged that the Sixth Amendment right to a public trial is not absolute and that circumstances may require closing the courtroom to protect other interests. *See Waller v. Georgia*, 467 U.S. 39, 45, 104 S.Ct. 2210, 81 L.Ed.2d 31 (1984). To justify a courtroom closure, the law requires that: (1) “the party seeking to close the hearing must advance an overriding interest that is likely to be prejudiced,” (2) “the closure must be no broader than necessary to protect that interest,” (3) “the trial court must consider reasonable alternatives to closing the proceeding,” and (4) “it must make findings adequate to support the closure.” *Id.* at 48, 104 S.Ct. 2210. Where the courtroom is only partially closed, the first requirement is relaxed, requiring a “substantial reason” rather than “overriding interest” supporting the closure. *See United States v. Smith*, 426 F.3d 567, 571 (2d Cir. 2005) (internal quotation marks omitted).

We have previously applied *Waller* to hold that law enforcement's request for courtroom spectators' identification in response to reasonable security concerns effected a partial closure of the courtroom, but one that did not violate the defendants' rights to a public trial. *See id.* at 572–73. We conclude the same here. The closure was narrow in scope and time, occurring on only one afternoon of trial and purportedly

keeping only one spectator from attending the trial that day. Moreover, as the district court found, there was a “positive correlation” between the partial closure and the substantial interest at stake. Allen App'x at 149 (district court's decision, quoting *Smith*, 426 F.3d at 573). The court's inference that courtroom spectators could have been the source of threats made to witnesses—witnesses who had been named for the first time that morning during trial—was entirely reasonable, and the partial closure reasonably advanced the public interest in preventing further tampering by deterring such conduct or *778 aiding in a subsequent investigation. Thus, this short-lived partial closure was justified.

B. Questioning the jury

**2 The defendants challenge the district court's decision to question the entire panel of jurors at once about potential fears over their security, rather than conducting individual inquiries. We review a district court's findings concerning jury impartiality for abuse of discretion, with the court having “broad flexibility in such matters, especially when the alleged prejudice results from statements by the jurors themselves.” *United States v. Haynes*, 729 F.3d 178, 192 (2d Cir. 2013) (quoting *United States v. Thai*, 29 F.3d 785, 803 (2d Cir. 1994)). We find no abuse of discretion here. After learning that one juror had voiced concerns to the courtroom deputy about the defendants' access to the jurors' personal information, the district court conducted a thorough inquiry of the jury to determine whether there was a risk of prejudice before issuing a cautionary instruction to the jury on its obligation to be fair and impartial. The defendants do not offer any reason beyond speculation to suspect that the procedure used by the district court here was inadequate to ensure an impartial jury.

C. Prosecutorial misconduct

Eldridge alone alleges that prosecutorial misconduct infringed his right to a fair trial; however, Eldridge did not raise this challenge before the district court, and so we review his claim for plain error. *See Johnson v. United States*, 520 U.S. 461, 466–67, 117 S.Ct. 1544, 137 L.Ed.2d 718 (1997) (holding reversal appropriate only if there was “(1) error, (2) that is plain, and (3) that affects substantial rights,” and only when “the error seriously affects the fairness, integrity, or public reputation of judicial proceedings” (internal quotation marks and alterations omitted)).

To warrant a new trial, the alleged prosecutorial misconduct “must be so severe and significant as to result in the denial of [the defendant’s] right to a fair trial.” *United States v. Banki*, 685 F.3d 99, 120 (2d Cir. 2012) (quoting *United States v. Locascio*, 6 F.3d 924, 945 (2d Cir. 1993)). Eldridge asserts that three instances of alleged misconduct meet this standard: first, that the prosecutor knew that testimony about when a witness named Jackson met Eldridge was false yet left it uncorrected; second, that the prosecutor’s opening statement misled the jury as to evidence it would hear linking a cigar butt found at the scene of a charged armed robbery to the gunman; and third, that the prosecutor improperly solicited statements from a witness regarding Eldridge having previously been shot. We disagree, seeing no basis to conclude that Eldridge’s right to a fair trial was violated.

With respect to the purportedly false and uncorrected testimony, Eldridge has not demonstrated that the false statement was intentional, as opposed to the result of mistaken memory. See *United States v. Josephberg*, 562 F.3d 478, 494 (2d Cir. 2009) (stating that “[d]ifferences in recollection do not constitute perjury”). Even assuming the false statement was intentional (and that the prosecutor was aware of the statement’s falsity), the record does not support a finding that the falsehood was material to the jury’s verdict. See *id.* Eldridge does not suggest that the year he met Jackson was material to guilt; he only asserts that had the misstatement been made known to the jury, “Jackson’s credibility would have been shot.” Eldridge Br. at 47. But the discrepancy—if there was one—presumably would have been known to the defense, too, and yet Eldridge declined to cross-examine Jackson on it, leaving Jackson’s credibility undisturbed. Eldridge therefore has not demonstrated that the prosecution’s failure to correct Jackson’s testimony is now grounds for reversal.

Next, there was no misconduct in the prosecution’s opening statement concerning the cigar-butt evidence because, at the time of the statement, the prosecution had a good faith basis to believe that the evidence linking the cigar butt to the gunman could be admitted pursuant to a hearsay exception. After the prosecution failed to adduce the requisite foundation for the testimony, it did not revisit the statement in summation. Moreover, any error would have been harmless because the defense summation highlighted the prosecution’s failure to produce a witness to testify that the gunman had a cigar, and the district court issued limiting instructions to the jury concerning statements made during opening and closing

statements. Cf. *United States v. Millar*, 79 F.3d 338, 343 (2d Cir. 1996) (unintentionality of prosecutor’s misstatement is factor to be considered in evaluating misconduct); *United States v. Caracappa*, 614 F.3d 30, 41 (2d Cir. 2010) (efforts made to cure the misconduct considered when determining whether misconduct amounts to prejudicial error).

****3** Last, Eldridge claims that it was misconduct for the prosecution to solicit testimony that Eldridge had previously been shot because the testimony violated the district court’s pre-trial order excluding such evidence under Federal Rule of Evidence 403. We need not reach this question since any hypothetical error was harmless in light of the overwhelming evidence that Eldridge was a member of a gang, carried a gun, sold drugs, and committed robberies and other violent acts. See *United States v. McCarthy*, 54 F.3d 51, 55 (2d Cir. 1995) (“When prosecutorial misconduct is alleged, a new trial is only warranted if the misconduct is of sufficient significance to result in the denial of the defendant’s right to a fair trial.” (internal quotation marks omitted)).

II. Eldridge’s Speedy Trial Claim

Eldridge claims that he was denied a speedy trial under the Sixth Amendment, arguing that the approximately six-year interval between his indictment in September 2009 and the commencement of trial in January 2016 was presumptively prejudicial, that the prosecution caused the delay, and that the destruction of some trial evidence during the delay prejudiced his case. We consider four factors when considering claims of a constitutional speedy trial violation—the “[l]ength of delay, the reason for the delay, the defendant’s assertion of his right, and prejudice to the defendant,” *Barker v. Wingo*, 407 U.S. 514, 530, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972)—none of which has “talismanic qualities,” *id.* at 533, 92 S.Ct. 2182. Here, the Government concedes that a six-year delay is presumptively prejudicial, while Eldridge acknowledges that he did not expressly invoke his speedy trial rights before the district court. Since a presumptively prejudicial delay “cannot alone carry a Sixth Amendment claim without regard to the other *Barker* criteria,” *Doggett v. United States*, 505 U.S. 647, 656, 112 S.Ct. 2686, 120 L.Ed.2d 520 (1992), Eldridge’s claim turns primarily on the causes of the delay and the extent to which the delay in fact prejudiced Eldridge.

The delay here did not violate Eldridge’s right to a speedy trial. A significant portion, if not a substantial majority, of the delay was attributable to the defendants. For example, at least ten months can be traced to Eldridge’s motion to recuse the entire U.S. Attorney’s Office. Several of the Government’s

motions for extensions of time were responses to the *780 defendants' motions to bifurcate the proceedings. And the Government's motions regarding the spoliation of evidence were pending at the same time as various defense motions. Moreover, we see nothing problematic in the "neutral" reason for delay, namely the use of a magistrate judge for certain proceedings.

Furthermore, the delay did not prejudice Eldridge in any meaningful way. When evaluating prejudice, we look to "the interests of defendants which the speedy trial right was designed to protect," namely "(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility the defense will be impaired." *Barker*, 407 U.S. at 532, 92 S.Ct. 2182. Here, Eldridge was already serving the remainder of another sentence during the first three years and three months following his indictment, and he did not argue that he suffered any particular anxiety. Nor was his defense impaired. Although he lost one of his original attorneys, that was because his lawyer was not eligible to practice in the Western District of New York and had nothing to do with the passage of time. The loss of evidence during the delay almost certainly redounded to Eldridge's benefit: the witness who had linked the gunman at 87 Girard to the cigar butt with Eldridge's DNA on it died prior to trial, leaving the prosecution unable to directly connect Eldridge to that offense. On balance, Eldridge did not suffer a violation of his speedy trial rights.

III. Sufficiency of Evidence

**4 The defendants challenge the sufficiency of the evidence as to: (1) the existence of a racketeering enterprise; (2) a pattern of racketeering activity; and (3) a narcotics conspiracy (Racketeering Act One and Count Three). Eldridge additionally challenges the sufficiency of the evidence for: (4) the attempted robbery of 87 Girard (Racketeering Act Two); (5) the RICO conspiracy (Count Two); and (6) the possession of a firearm in furtherance of a drug trafficking crime (Count Four). Allen challenges the sufficiency of the evidence for (7) his participation in a conspiracy to rob Woodie Johnson (Count Six).

In reviewing the sufficiency of the evidence supporting a jury's verdict, "the reviewing court is required to draw all permissible inferences in favor of the government and resolve all issues of credibility in favor of the jury verdict." *United States v. Kozenv*, 667 F.3d 122, 139 (2d Cir. 2011). Direct testimony to a fact is sufficient to support a finding on that fact, and where there was such testimony, we will assume the

jury credited it. *See United States v. Jespersen*, 65 F.3d 993, 998 (2d Cir. 1995). In light of this standard, we conclude that the Government adduced sufficient evidence on each of the challenged points.

First, there was sufficient evidence of an "association-in-fact" racketeering enterprise, which "must have at least three structural features: a purpose, relationships among those associated with the enterprise, and longevity sufficient to permit these associates to pursue the enterprise's purpose." *Boyle v. United States*, 556 U.S. 938, 946, 129 S.Ct. 2237, 173 L.Ed.2d 1265 (2009). The Government's evidence showed that: Allen, Eldridge, and co-defendant Kashika Speed met frequently to plan and commit robberies of other drug dealers; Allen and Eldridge traveled together to Atlanta to acquire drugs and guns after the robberies; and the three were closely linked to, if not formally affiliated with, the Montana Bridge and Newburgh crews, which were themselves essentially one gang split generationally. A jury could reasonably have concluded that the defendants constituted an ongoing enterprise *781 during the charged period of criminal activity, with a shared purpose of selling drugs and committing robberies to enrich the group.

Second, evidence of the two robberies clearly showed a pattern of racketeering activity and supported the narcotics conspiracy: the robbery of Woodie Johnson concluded with the defendants splitting up the stolen cocaine for distribution, while the attempted robbery of 87 Girard targeted a known drug house. The jury also heard testimony that the defendants robbed drug dealers because it was a way to obtain drugs "wholesale" for the defendants to then distribute. Because there was ample evidence that the defendants committed these predicate crimes, and that the crimes were sufficiently related, Allen's related challenge to the pattern is meritless.

Third, with respect to the narcotics conspiracy charged in Racketeering Act One and Count Three, the defendants argue that the Government proved only instances of individual dealing. This claim is undermined by substantial evidence introduced at trial, including that the defendants not only planned to rob drug dealers with the intent of acquiring drugs "wholesale" for distribution, but actually did so when robbing Woodie Johnson and divvying up the proceeds.

Fourth, we reject Eldridge's challenge to his conviction for the attempted robbery of 87 Girard Street charged in Racketeering Act Two. Eldridge argues that the Government failed to show that he was present at the robbery or that any

robbery was actually attempted, but the jury could reasonably have inferred that Eldridge was present in the house during the robbery based on (1) the recovered cigar butt with Eldridge's DNA on it and (2) the homeowner's testimony that he did not know Eldridge and had never given him permission to enter the house. Similarly, the jury could have inferred that the assailants were attempting a robbery based on the evidence, which showed that the house was owned by a known drug dealer, the assailants were armed, and they tied up victims at the house. These facts support an inference of the requisite intent to take property sufficient to support a conviction.

****5** Fifth, Eldridge challenges the sufficiency of the evidence underlying his conviction for the RICO conspiracy charged in Count Two; however, his argument is based entirely on the arguments rejected above concerning the lack of evidence of a racketeering enterprise or pattern of racketeering activity. Because we disagree with Eldridge that the Government failed to adduce sufficient evidence on either of those elements, we likewise reject his challenge to his conviction for RICO conspiracy.

Sixth, we reject Eldridge's challenge to the sufficiency of the evidence supporting his conviction on Count Four for possessing a firearm in furtherance of a drug trafficking crime. Eldridge himself admits that there is "marginal" evidence that he possessed a firearm, but he nonetheless argues that the Government failed to prove the requisite nexus between that firearm possession and any drug trafficking crime. However, the jury heard ample testimony indicating that Eldridge was armed while obtaining or dealing drugs. For example, Renfro testified that Eldridge carried a gun "[e]very time, every day, all the day," including when Renfro "would drop him off and [Eldridge] would sell drugs." Tr. at 682–83. Moreover, as noted above, the jury heard testimony that Eldridge and Allen together went to Atlanta to acquire drugs and guns. Thus, the ***782** evidence was sufficient to support the jury's conviction on Count Four.

Finally, Allen's challenge to the sufficiency of the evidence supporting his conviction for conspiracy to rob Woodie Johnson is meritless. A witness testified that he had attended a meeting where Allen, Eldridge, and Speed planned the robbery. Allen points to inconsistencies between that witness's testimony and that of other witnesses, but the jury was entitled to resolve those inconsistencies in favor of crediting the former.

IV. Jury Instructions

Eldridge raises two challenges to the jury instructions on his § 924(c) convictions. He first argues that the court's instruction as to aiding and abetting was insufficient because the court did not include any language concerning "advance knowledge" of the presence of a firearm, as required under *Rosemond v. United States*, 572 U.S. 65, 134 S.Ct. 1240, 188 L.Ed.2d 248 (2014). See *United States v. Prado*, 815 F.3d 93, 100–02 (2d Cir. 2016). Second, Eldridge challenges the district court's failure to specifically "instruct the jury that they were not to find liability on the multiple [§] 924(c) counts for the same predicate conduct." Eldridge Br. at 42. "We review challenges to jury instructions *de novo* but will reverse only where the charge, viewed as a whole, demonstrates prejudicial error. A jury instruction is erroneous if it misleads the jury as to the correct legal standard or does not adequately inform the jury on the law." *Prado*, 815 F.3d at 100 (internal quotation marks and citation omitted). Because Eldridge did not object to the instructions below, we review for plain error.

On Eldridge's first claim, we agree—and the Government does not dispute—that the district court failed to instruct the jury that advance knowledge of the firearm was necessary to sustain a conviction for secondary liability as required under *Rosemond*. However, Eldridge fails to demonstrate, as he must under plain error review, that he was prejudiced by this error. There was ample evidence that Eldridge himself possessed a firearm in connection with the charged drug trafficking. Eldridge provides no reason to conclude that the jury's verdict turned on a finding that he acted as an accessory in Counts Four and Seven, much less a showing that the specific failure to instruct the jury on advance knowledge prejudiced him.

****6** We also reject Eldridge's claim that it was plain error for the district court to fail to specifically instruct the jury that Eldridge could not be convicted of both § 924(c) counts based on the same underlying conduct. Even assuming that the district court did err—and the Government does not argue otherwise—Eldridge cannot show that he was prejudiced by the lack of such an instruction. Eldridge may be correct that the jury conceivably could have treated the Johnson robbery specified in Count Seven as part of the drug trafficking activities stated in Count Four and thus convicted him of both counts based on a single incident—the Johnson robbery. But conceivably is not enough; he bears the burden of showing that there was a "reasonable probability" that, if the court had provided the requested instruction, the jury would not have convicted him on both Counts Four and Seven. *Prado*, 815 F.3d at 103. Here, the jury had substantial evidence that

Eldridge possessed a firearm while engaging in a number of drug trafficking activities other than the Johnson incident; there is no reason to think that a more detailed instruction on the separate § 924(c) counts would have changed the verdict. *See United States v. Arline*, 835 F.3d 277, 282–83 (2d Cir. 2016) *783 (finding no plain error where district court did not instruct the jury that two § 924(c) counts could not be predicated on the same conduct, in light of ample evidence showing that the defendant “possessed multiple firearms on separate occasions”).

V. Sentencing Challenges

Next, we address Eldridge's three challenges to his sentence, which together, he claims, amount to procedural error. First, he argues that the district court erred when calculating his criminal history under the Sentencing Guidelines; second, he claims the court erred in failing to apply an adjustment pursuant to § 5G1.3(b) of the Guidelines; and third, he argues that the record did not support the drug quantity attributed to him.

A sentencing court commits procedural error if it, *inter alia*, “is mistaken in the Guidelines calculation ... [or] makes clearly erroneous factual findings.” *United States v. Johnson*, 567 F.3d 40, 51 (2d Cir. 2009). “However, where we identify procedural error in a sentence, but the record indicates clearly that the district court would have imposed the same sentence in any event, the error may be deemed harmless, avoiding the need to vacate the sentence and to remand the case for resentencing.” *United States v. Cramer*, 777 F.3d 597, 601 (2d Cir. 2015) (internal quotation marks and alteration omitted). We review the application of the Guidelines *de novo* and the factual determinations underlying the calculation of the Guidelines range for clear error. *See United States v. Rowland*, 826 F.3d 100, 116 (2d Cir. 2016).

We see no reason to disturb Eldridge's sentence. First, we find no grounds to remand for resentencing with respect to the district court's calculation of the Guidelines. The court properly declined to count Eldridge's state forgery conviction as relevant conduct (as opposed to criminal history), since the conviction could not serve as a racketeering predicate, and Eldridge did not offer any facts that would connect the forgery conviction to Eldridge's crimes in this case. And, even if the court should have excluded Eldridge's 2009 federal convictions from his criminal-history calculation, any procedural error was harmless. Eldridge's dispute is basically over a five-month difference in the low end of the Guidelines range for Counts One, Two, and Six. Under his view, the

court should have considered a range of 235–240 months, rather than a fixed “range” where both the minimum and maximum were 240 months. But the record is clear that the district court—having considered the § 3553(a) factors, the competing Guidelines ranges offered by the Government and Eldridge, and the length of the aggregate sentence it was going to impose—decided to impose a non-Guidelines sentence on Count Five. The court was free to choose any sentence from zero to life on this count, and it chose a sentence of 240 months. Because Eldridge's sentence for Count Five runs concurrently with and for the same length of time as the counts that Eldridge claims were subject to procedural error (Counts One, Two, and Six), any mistake the district court might have made when calculating the Guidelines with respect to those disputed counts could not have had any effect on the total length of Eldridge's sentence. Thus, any error was harmless. *See United States v. Blount*, 291 F.3d 201, 214 (2d Cir. 2002) (finding sentencing error on individual counts did not prejudice the defendant under plain error review, where “[t]he correct aggregate sentence would thus have been a prison term identical to the sentence that was in fact imposed”).

**7 Next, we disagree with Eldridge's argument that he was entitled to an adjustment pursuant to U.S.S.G. § 5G1.3(b) based on *784 his characterization of the above-described 2009 convictions and his state forgery conviction. Section 5G1.3(b), by its plain language, applies only to “undischarged term[s] of imprisonment.” Eldridge completed his sentence for these convictions in 2012—well before his sentence in this case was imposed—so his prior term of imprisonment was not “undischarged.” Eldridge was not eligible for this adjustment.

Finally, we find that the district court did not clearly err in its determination of the drug quantity attributable to Eldridge for purposes of calculating his base offense level. There was ample testimony supporting the district court's implicit finding that the Montana Bridge and Newburgh gangs were intertwined, and thus the district court could rightly attribute their sales to Eldridge. The record likewise contains sufficient evidence, including the testimony of Jermone Laster, to support the calculated weekly sales quantity. In any event, the record is replete with evidence on which the district court could have based its calculated quantity of between 3,000 and 10,000 kilograms of marijuana even excluding the weekly sales of the Montana Bridge gang. For these reasons, we conclude that the district court did not clearly err in its calculation of the drug quantity.

VI. Eldridge's *Pro Se* Claim

Eldridge, acting *pro se*, separately challenges his conviction by arguing that he was deprived of a fair trial because the district court judge took on the role of the prosecutor and denied defense counsel the opportunity to impeach a witness. In reviewing such a challenge, this Court will reverse only where “the judge's behavior was so prejudicial that it denied [the defendant] a fair, as opposed to a perfect, trial.” *United States v. Amiel*, 95 F.3d 135, 146 (2d Cir. 1996) (citation omitted). “The test is whether the jury was so impressed with the judge's partiality to the prosecution that it became a factor in determining the defendant's guilt, or whether it appeared clear to the jury that the court believed the accused is guilty.” *Id.* (internal quotation marks and alteration omitted). Based on the record before us, the district court did not take on the role of the prosecutor during the cross-examination of the witness in question, Cuyler. Contrary to Eldridge's characterization, the district court did not object on the prosecutor's behalf. The record reflects that after a colloquy in which the court sustained several of the prosecution's objections, defense counsel persisted on the same line of questioning; it was only then that the judge asked the prosecution if it was objecting, at which point the judge again sustained the objection. There was nothing improper with this exchange. See *United States v. Pisani*, 773 F.2d 397, 403–04 (2d Cir. 1985) (finding no violation of a defendant's fair

trial right where the judge questioned defense witnesses and made comments to defense counsel, at least some of which “were provoked by counsel's continuing to do things that the court had specifically cautioned” against). Further, the district court's statement that defense counsel's questioning would be limited based on whether Cuyler's recollection was refreshed was not “leading” Cuyler, but rather an evidentiary ruling. In any event, Eldridge has failed to show how the district court's actions prejudiced him. Eldridge does not explain why Cuyler's testimony was critical to the jury's verdict, nor does he link Cuyler's testimony to any specific count or critical piece of evidence. He merely points to a single incident during a weeks-long trial, which cannot support his claim. Eldridge has thus failed to show that the judge's actions deprived him of a fair trial.

* * *

*785 We have considered the defendants' remaining arguments and find them to be without merit. Accordingly, for the foregoing reasons as well as those in the accompanying opinion, we **AFFIRM** the defendants' convictions and sentences.

All Citations

860 Fed.Appx. 773, 2021 WL 2555652

Footnotes

1 The Clerk of Court is directed to amend the caption as set forth above.

UNITED STATES DISTRICT COURT

Western District Of New York

UNITED STATES OF AMERICA)

v.)

Thamud Eldridge)
a/k/a/ Damu)

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:09CR00329-001

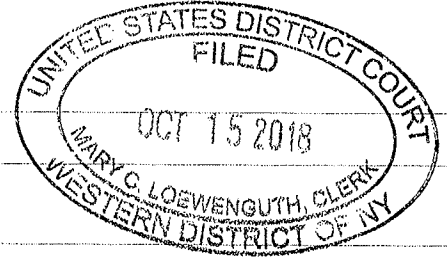
USM Number: 15191-055

Kevin Spitler
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s)
- pleaded nolo contendere to count(s) which was accepted by the court.
- was found guilty on count(s) after a plea of not guilty.

1 - 7



The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §1962(c) 18 U.S.C. §1963(a)	RICO	12/2005	1
18 U.S.C. §1962(d) 18 U.S.C. §1963(a)	Conspiracy to Commit RICO	12/2005	2
21 U.S.C. §846 21 U.S.C. §841(a)(1) 21 U.S.C. §841(b)(1)(D) 21 U.S.C. §851	Conspiracy to Possess with Intent to Distribute, and to Distribute Controlled Substances	12/2005	3
18 U.S.C. §924(c)(1)(A)(i) 18 U.S.C. §2	Possession of Firearms in Furtherance of a Drug Trafficking Crime	12/2005	4
18 U.S.C. §1959(a) 18 U.S.C. §2	Kidnapping in Aid of Racketeering	02/23/2005	5
18 U.S.C. §1951(a)	Hobbs Act Robbery	02/23/2005	6
18 U.S.C. §924(c)(1)(A)(ii) 18 U.S.C. §2	Possess and Brandish Firearm in Furtherance of Violent Crimes	02/23/2005	7

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) 10

Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

September 10, 2018

Date of Imposition of Judgment

Signature of Judge

Honorable Richard J. Arcara, Senior U.S. District Judge

Name and Title of Judge

Date

Sept. 14, 2018

DEFENDANT: Thamud Eldridge a/k/a/ Damu
CASE NUMBER: 1:09CR00329-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: Counts 1-2 and 6: 240 months imprisonment as to each count, to run concurrent to each other and with Counts 3 and 5; Count 3: 120 months imprisonment to run concurrent with Counts 1-2, 5, and 6; Count 5: 240 months imprisonment to run concurrent with Counts 1-3, and 6; Count 4: 60 months imprisonment to run consecutive to all other counts; Count 7: 300 months imprisonment to run consecutive to all other counts, for an aggregate total of 600 months imprisonment. *The cost of incarceration fee is waived.*

- The court makes the following recommendations to the Bureau of Prisons:

- The defendant is remanded to the custody of the United States Marshal.

- The defendant shall surrender to the United States Marshal for this district:
 - at _____ a.m. p.m. on _____
 - as notified by the United States Marshal.

- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
 - before 2 p.m. on _____
 - as notified by the United States Marshal.
 - as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Thamud Eldridge a/k/a/ Damu
CASE NUMBER: 1:09CR00329-001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Three (3) years as to each of Counts 1, 2, and 6; and four (4) years as to each of Counts 3-5 and 7, with all counts to run concurrently

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Thamud Eldridge a/k/a/ Damu
CASE NUMBER: 1:09CR00329-001

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

Upon a finding of a violation of probation or supervised release, I understand that this court may (1) revoke supervision, (2) extend the terms of supervision, and/or (3) modify the conditions of probation or supervised release. A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

U.S. Probation Officer's Signature _____

Date _____

DEFENDANT: Thamud Eldridge a/k/a/ Damu
CASE NUMBER: 1:09CR00329-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit to substance abuse testing, to include urinalysis and other testing. Details of such testing to be approved by the U.S. Probation Office. If substance abuse is indicated by testing, the defendant is to complete a drug/alcohol evaluation and enter into any treatment as deemed necessary by the U.S. Probation Office and/or the Court. The defendant is not to leave treatment until discharge is agreed to by the U.S. Probation Office and/or the Court. While in treatment and after discharge from treatment, the defendant is to abstain from the use of alcohol. The defendant is required to contribute to the cost of services rendered (co-payment in the amount to be determined by the U.S. Probation Office based on the ability to pay or availability of third party payment).

The defendant shall submit to a search of his person, property, vehicle, place of residence or any other property under his control, based upon reasonable suspicion, and permit confiscation of any evidence or contraband discovered.

DEFENDANT: Thamud Eldridge a/k/a/ Damu
CASE NUMBER: 1:09CR00329-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A Lump sum payment of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
 The defendant shall pay a special assessment of \$100 for each count for a total of \$700, which shall be due immediately. If incarcerated, payment shall begin under the Bureau of Prisons Inmate Financial Responsibility Program. Payments shall be made to the Clerk, U.S. District Court (WD/NY), 2 Niagara Square, Buffalo, New York 14202.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several
 Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 26th day of August, two thousand twenty-one.

United States of America,

Appellee,

v.

Thamud Eldridge, Kevin Allen,

Defendants-Appellants,

Kashika Speed, Galen Rose,

Defendants.

ORDER


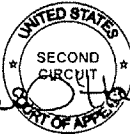
Docket Nos: 18-3294 (Lead)
19-92 (Con)

Appellant, Thamud Eldridge, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

U.S. DISTRICT COURT
U.S. District Court, Western District of New York (Buffalo)
CRIMINAL DOCKET FOR CASE #: 1:09-cr-00329-RJA-1

Case title: USA v. Eldridge et al

Date Filed: 09/24/2009

Date Terminated: 07/27/2021

Assigned to: Hon. Richard J. Arcara

Defendant (1)**Thamud Eldridge***TERMINATED: 07/27/2021**also known as*

Damu

*TERMINATED: 07/27/2021*represented by **Angelo Musitano**Law Office of Angelo Musitano
324 Pine Avenue

Niagara Falls, NY 14301

716-282-1712

Fax: 716-285-3463

Email: angelomusitano@hotmail.com

*TERMINATED: 05/18/2016**LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: CJA Appointment***David R. Addelman**

David R. Addelman P.C.

69 Delaware Avenue

Suite 602

Buffalo, NY 14202

716-856-4118

Fax: 716-856-6235

Email: da@addelmanlaw.com

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: CJA Appointment***Kevin W. Spitler**

181 Franklin Street

Suite 300

Buffalo, NY 14202

716-849-7102

Fax: 716-849-7107

Email: kws@kevinwspitler.com

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: CJA Appointment***William T. Easton**

16 W. Main Street

Suite 243

A025

Rochester, NY 14614
585-423-8290
Fax: 585-423-0890
Email: wteaston@gmail.com
TERMINATED: 09/25/2014
Designation: CJA Appointment

Pending Counts

18:1962-7471.F RACKETEERING -
MURDER
(1rs)

18:1962-7480.F RACKETEERING
(2rs)

Disposition

Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows:

240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5;

120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6;

240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6;

60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7;

300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived.

In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other. Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. No fine. Deft to pay \$700.00 mandatory assessment, due immediately. Deft is remanded.

Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows:

240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5;

120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6;

240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6;

60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7;

300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived.

In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other. Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. No fine. Deft to pay \$700.00 mandatory assessment, due immediately. Deft is remanded.

Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows:

240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5;

120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6;

240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6;

60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7;

300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived.

In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served

21:846=CD.F bCONSPIRACY TO
DISTRIBUTE CONTROLLED
SUBSTANCE
(3rs)

A027

concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other. Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. No fine. Deft to pay \$700.00 mandatory assessment, due immediately. Deft is remanded.

Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows:

240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5;

120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6;

240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6;

60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7;

300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived.

In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other. Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. No fine. Deft to pay \$700.00 mandatory assessment, due immediately. Deft is remanded.

Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows:

18:924C.F and 2 VIOLENT
CRIME/DRUGS/MACHINE GUN
(4rs)

18:1959-7471.FRACKETEERING
ACTIVITY, MURDER/KIDNAPPING
(5rs)

A028

240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5;

120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6;

240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6;

60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7;

300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived.

In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other. Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. No fine. Deft to pay \$700.00 mandatory assessment, due immediately. Deft is remanded.

Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows:

240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5;

120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6;

240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6;

60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7;

300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived.

18:1951.F and 2 INTERFERENCE WITH
COMMERCE BY THREAT OR
VIOLENCE
(6rs)

18:924C.F and 2 VIOLENT
CRIME/DRUGS/MACHINE GUN
(7rs)

In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other. Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. No fine. Deft to pay \$700.00 mandatory assessment, due immediately. Deft is remanded.

Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows:

240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5;

120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6;

240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6;

60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7;

300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived.

In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other. Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004. No fine. Deft to pay \$700.00

mandatory assessment, due immediately.
Deft is remanded.

18:924C.F 924(j)(1) and 2 VIOLENT
CRIME/DRUGS/MACHINE GUN
(15rs)

DISMISSED

Highest Offense Level (Opening)

Felony

Terminated Counts

Disposition

18:1962-7471.FRACKETEERING -
MURDER
(1)

18:1962-7480.F RACKETEERING
(2)

21:846=CD.F CONSPIRACY TO
DISTRIBUTE CONTROLLED
SUBSTANCE
(3)

18:924C.FVIOLENT
CRIME/DRUGS/MACHINE GUN
(4)

18:1959-7471.F RACKETEERING
ACTIVITY, MURDER/KIDNAPPING
(5)

18:1951.F INTERFERENCE WITH
COMMERCE BY THREAT OR
VIOLENCE
(6)

18:924A.F PENALTIES FOR FIREARMS
(7)

18:1959-7471.F and 2 RACKETEERING
ACTIVITY, MURDER/KIDNAPPING
(10)

18:1959-7471.F RACKETEERING
ACTIVITY, MURDER/KIDNAPPING
(10rs)

18:1951.F and 2 INTERFERENCE WITH
COMMERCE BY THREAT OR
VIOLENCE
(11)

18:1951.F and 2 INTERFERENCE WITH
COMMERCE BY THREAT OR
VIOLENCE
(11rs)

DISMISSED

18:1924J.F and 2 VIOLENT
CRIME/DRUGS/MACHINE GUN

WHERE DEATH OCCURS

(12)

18:924C.F VIOLENT
CRIME/DRUGS/MACHINE GUN

(12rs)

DISMISSED

18:1959-7471.F and 2 RACKETEERING
ACTIVITY, MURDER/KIDNAPPING

(13)

18:1959-7471.F and 2 RACKETEERING
ACTIVITY, MURDER/KIDNAPPING

(13rs)

DISMISSED

18:1951.F INTERFERENCE WITH
COMMERCE BY THREAT OR
VIOLENCE

(14)

18:1951.F and 2 INTERFERENCE WITH
COMMERCE BY THREAT OR

VIOLENCE

(14rs)

DISMISSED

18:924C.F and 2VIOLENT
CRIME/DRUGS/MACHINE GUN

(15-16)

18:924C.F and 2 VIOLENT
CRIME/DRUGS/MACHINE GUN

(16s)

18:922G.F UNLAWFUL TRANSPORT OF
FIREARMS, ETC.

(17)

18:922G.F, 924(a)(2) and 2 UNLAWFUL
TRANSPORT OF FIREARMS, ETC.

(17s)

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Plaintiff

USA

represented by **Joseph M. Tripi**
U.S. Attorney's Office
Federal Centre
138 Delaware Avenue
Buffalo, NY 14202
716-843-5839
Fax: 716-551-5563
Email: joseph.tripi@usdoj.gov

A032

LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: government attorney

Pierre Richard Antoine
U.S. Attorney's Office - Buffalo
Federal Centre
138 Delaware Avenue
Buffalo, NY 14202
716-843-5884
Fax: 716-551-3051
Email: Richard.Antoine@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Donna A. Milling
Erie County District Attorneys Office
25 Delaware Avenue
Buffalo, NY 14202
(716) 858-2448
Fax: 716-858-7425
Email: michael.hillery@erie.gov
ATTORNEY TO BE NOTICED

Joel L. Violanti
U.S. Attorney's Office - Buffalo
Federal Centre
138 Delaware Avenue
Buffalo, NY 14202
716-843-5854
Fax: 716-551-3052
Email: joel.l.violanti@usdoj.gov
TERMINATED: 09/21/2016
Designation: government attorney

John McRae Alsup
U.S. Attorney's Office
Federal Centre
138 Delaware Avenue
Buffalo, NY 14202
716-843-5875
Fax: 716-551-5563
Email: john.alsup@usdoj.gov (*Inactive*)
ATTORNEY TO BE NOTICED
Designation: government attorney

Joseph M. Guerra , III
U.S. Attorney's Office - Buffalo
Federal Centre
138 Delaware Avenue
Buffalo, NY 14202
716-843-5824
Fax: 716-551-5563
Email: joseph.m.guerra@usdoj.gov

*TERMINATED: 04/13/2017**Designation: government attorney***Joseph J. Karaszewski**

U.S. Attorney's Office - Buffalo

Federal Centre

138 Delaware Avenue

Buffalo, NY 14202

716-843-5837

Fax: 716-551-5563

Email: joseph.j.karaszewski@usdoj.gov

*ATTORNEY TO BE NOTICED**Designation: government attorney***Meghan A. Tokash**

U.S. Attorney's Office

Federal Centre

138 Delaware Avenue

Buffalo, NY 14202

716-843-5860

Fax: 716-551-3052

Email: meghan.tokash@usdoj.gov

*ATTORNEY TO BE NOTICED**Designation: government attorney*

Date Filed	#	Docket Text
09/24/2009	<u>1</u>	INDICTMENT as to Thamud Eldridge (1) count(s) 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15-16, 17, Kashika Speed (2) count(s) 1, 2, 3, 4, 5, 6, 7, 10, 11, 12, 14, Kevin Allen (3) count(s) 1, 2, 3, 4, 5, 6, 7, 13, 14, 15, Galen Rose (4) count(s) 8, 9, 11, 12. (DLC) Modified on 9/28/2009 (DLC). (Entered: 09/25/2009)
09/29/2009		Minute Entry for proceedings held before Hon. Hugh B. Scott: Govt's motion to unseal the indictment is granted. Arraignment as to Thamud Eldridge (1) Kashika Speed (2) and Galen Rose (4) held on 9/29/2009. Defendants are advised of charges and potential penalties associated with conviction. Defendants informed of rights. NOT guilty pleas entered by all. Daniel Henry, Esq. is assigned to represent Galen Rose. Robert Convissar, Esq. is assigned to represent Kashika Speed. Each defendant is currently incarcerated and reserves the right to make application for bail if circumstances change. Counsel issue set for 10/1/09 at 10:00 am (death penalty case). APPEAR - J. Tripi, AUSA; D. Henry, Esq.; R. Convissar, Esq.; J. Schwartz, Esq. (LMK) (Entered: 10/20/2009)
09/30/2009		Case unsealed as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (DLC) (Entered: 09/30/2009)
10/01/2009		Minute Entry for proceedings held before Hon. Hugh B. Scott:Counsel Status as to Thamud Eldridge, Kevin Allen, Galen Rose held on 10/1/2009. Jeremy Schwartz, Esq. is not formally retained. William Easton, Esq. will be assigned to Thamud Edridge as lead counsel. (Further counsel status set for 10/6/2009 02:00 PM before Hon. Hugh B. Scott.) Time excluded. APPEAR - J. Tripi, AUSA; J. Harrington, Esq.; W. Easton, Esq.; J. Schwartz, Esq.; D. Henry, Esq.; M. Mariano, Esq. (LMK) (Entered: 10/20/2009)
10/01/2009		Attorney update in case as to Thamud Eldridge. Attorney Angelo Musitano for Thamud Eldridge added as associate counsel. (LMK) (Entered: 10/27/2009)
10/01/2009		Attorney update in case as to Ab34 Thamud Eldridge. Attorney William T. Easton for Thamud

		Eldridge added as lead counsel. (LMK) (Entered: 10/27/2009)
10/07/2009		Minute Entry for proceedings held before Hon. Hugh B. Scott:Attorney Appointment Hearing as to Thamud Eldridge, Kevin Allen, Galen Rose held on 10/7/2009. ELDRIDGE - William Easton, Esq. lead counsel; Angelo Musitano, associate counsel. ROSE - Peter Palano, Esq. lead counsel; Daniel Henry, Esq. associated counsel. ALLEN - James Harrington, Esq. - lead counsel; Fonda Kubiak, Esq. associate counsel. Scheduling Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 10/7/2009(Discovery completed by 1/5/2010., Motions due by 2/23/2010., Responses due by 3/23/2010., Oral Argument set for 3/25/2010 10:00 before Hon. Hugh B. Scott.), Time Excluded ;Govt to submit speedy trial order. APPEAR - J. Tripi, AUSA; D. Henry, W. Easton, A. Musitano, J. Harrington, J. Schwartz, Esqs. (LMK) (Entered: 10/20/2009)
10/09/2009	<u>8</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge Time excluded from 9/29/2009 until 10/1/2009. Signed by Hon. Hugh B. Scott on 10/9/2009. (DLC) (Entered: 10/13/2009)
10/09/2009	<u>9</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge Time excluded from 10/1/2009 until 10/6/2009. Signed by Hon. Hugh B. Scott on 10/9/2009. (DLC) (Entered: 10/13/2009)
10/29/2009	<u>16</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge Time excluded from 10/7/2009 until 2/23/2010. Signed by Hon. Hugh B. Scott on 10/29/2009. (DLC) (Entered: 11/03/2009)
11/17/2009	<u>18</u>	CJA 20 as to Thamud Eldridge: Appointment of Attorney William T. Easton for Thamud Eldridge. Signed by Hon. Hugh B. Scott on 11/9/09. Nunc Pro Tunc 10/1/2009. Modified on 11/19/2009 (DLC). (Entered: 11/19/2009)
11/17/2009	<u>19</u>	CJA 20 as to Thamud Eldridge: Appointment of Co-Attorney Angelo Musitano for Thamud Eldridge. Signed by Hon. Hugh B. Scott on 11/9/09. Nunc Pro Tunc 10/1/2009. Modified on 11/19/2009 (DLC). (Entered: 11/19/2009)
12/11/2009	<u>26</u>	Sealed Document (JMM) (Entered: 01/11/2010)
02/05/2010		NOTICE OF HEARING as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose Status Conference set for 2/18/2010 02:00 PM before Hon. Hugh B. Scott. (LMK) (Entered: 02/05/2010)
02/16/2010	<u>27</u>	MOTION for removal of court-appointed second counsel (<i>Notice of Motion and Motion for Removal of Court Appointed Second Counsel</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Attachments: # <u>1</u> Affidavit)(Tripi, Joseph) (Entered: 02/16/2010)
02/18/2010	30	Minute Entry for proceedings held before Hon. Hugh B. Scott:Status Conference as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 2/18/2010. Govt will not seek death penalty in this case, but has filed a motion for the removal of the second court appt'd counsel. Scheduling deadlines are suspended until the attorney issue is decided. APPEAR - J. Tripi, AUSA; W. Easton, A. Musitano, Esq. R. Convissar, J. Harrington, F. Kubiak, D. Henry and P Pullano, Esqs. (Court Reporter FTR Gold.)(LMK) (Entered: 03/03/2010)
02/19/2010	29	TEXT ORDER REFERRING CASE to Hon. Hugh B. Scott as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Please note that referral order was inadvertently not entered at time of case opening)(JMM) (Entered: 02/19/2010)
03/15/2010	<u>32</u>	ORDER denying motion to reduce the number of counsel; but resetting compensation of defense counsel at CJA rate for non-capital cases. Signed by Hon. Hugh B. Scott on 3/15/2010.(JRA) (Entered: 03/15/2010)

A033

03/16/2010	<u>33</u>	MOTION for an extension of the scheduling deadlines (<i>Motion to Extend Scheduling Deadlines</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 03/16/2010)
03/16/2010		E-Filing Notification: <u>33</u> MOTION for an extension of the scheduling deadlines **document to be re-filed as motion is not signed** (DZ) (Entered: 03/17/2010)
03/17/2010	<u>34</u>	MOTION for an extension of the scheduling deadlines (<i>Motion to Extend Scheduling Deadlines</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 03/17/2010)
03/25/2010	<u>38</u>	AMENDED SCHEDULING ORDER as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose, (Discovery completed by 4/23/2010., Motions due by 5/24/2010., Responses due by 6/18/2010., Oral Argument set for 6/23/2010 10:00 AM before Hon. Hugh B. Scott.) Signed by Hon. Hugh B. Scott on 3/25/2010. (DLC) (Entered: 03/26/2010)
04/26/2010	<u>39</u>	MOTION to Bifurcate <i>the non-dispositive motions from the dispositive motions and modify the motion schedule</i> by Kevin Allen as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Harrington, James) (Entered: 04/26/2010)
04/28/2010	<u>40</u>	ORDER granting motion to bifurcate pretrial motions in this case. Non-dispositive motions shall be filed by May 24, 2010. The government may respond by June 18, 2010. Oral argument remains set for June 23, 2010 at 10:00 a.m. before the undersigned. A schedule for dispositive motions, if any, shall be set upon the resolution of any non-dispositive motions filed in this case. Signed by Hon. Hugh B. Scott on 4/28/2010.(JRA) (Entered: 04/28/2010)
05/11/2010	41	CJA 24 as to Thamud Eldridge: Authorization to Pay Yvonne Garrison \$1774.95 for Transcript, Voucher # 100507 00000 1. Signed by Hon. Richard J. Arcara on 4/12/2010. (DLC) (Entered: 05/12/2010)
05/24/2010	<u>43</u>	First MOTION for Bill of Particulars, MOTION for Discovery, MOTION for Release of Brady Materials by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Certificate of Service)(Easton, William) (Entered: 05/24/2010)
05/24/2010	<u>44</u>	MEMORANDUM/BRIEF by Thamud Eldridge (Attachments: # <u>1</u> Certificate of Service) (Easton, William) (Entered: 05/24/2010)
05/25/2010	<u>45</u>	Amended MOTION for Bill of Particulars by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Certificate of Service)(Easton, William) (Entered: 05/25/2010)
05/26/2010		E-Filing Notification: Document to be refiled choosing all appropriate reliefs re: <u>45</u> Amended MOTION for Bill of Particulars. Please use miscellaneous relief for reliefs not found. (DLC) (Entered: 05/26/2010)
05/26/2010	<u>47</u>	MOTION for Bill of Particulars <i>Re-filed</i> , MOTION for Discovery <i>Miscellaneous Relief</i> , MOTION Bill of Particulars, Discovery, Miscellaneous Relief re <u>44</u> Memorandum/Brief by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Certificate of Service)(Easton, William) (Entered: 05/26/2010)
06/17/2010	<u>49</u>	MOTION for Extension of Time to File (<i>Notice of Motion and Motion</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 06/17/2010)
06/24/2010	<u>50</u>	ARREST Warrant Returned Executed on 9/29/2009. in case as to Thamud Eldridge. (DLC) (Entered: 06/24/2010)

A036

06/24/2010	53	TEXT ORDER granting Government's <u>49</u> Motion for Extension of Time to File response as to Thamud Eldridge (1), Kashika Speed (2), Kevin Allen (3), Galen Rose (4) motions for discovery. Govt shall file its response by 8/2/10. Oral argument set for 8/20/10 at 10:0 am. before Hon. Hugh B. Scott.. Signed by Hon. Hugh B. Scott on 6/24/10.(LMK) (Entered: 06/24/2010)
06/24/2010		Set/Reset Hearings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose: Oral Argument set for 8/20/2010 10:30 PM before Hon. Hugh B. Scott. (LMK) (Entered: 06/24/2010)
08/02/2010	<u>57</u>	RESPONSE to Motion by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose re 46 MOTION for Discovery MOTION to Suppress <i>Statement</i> MOTION for Joinder and <i>Motions of Co-Defendants</i> MOTION Other, 42 MOTION for Release of Brady Materials MOTION for Bill of Particulars MOTION for Disclosure MOTION for Discovery MOTION for <i>Miscellaneous Relief</i> , 48 MOTION for Joinder in <i>motions of co-defendants, Thamud Eldridge and Kashika Speed</i> MOTION for Protective Order for <i>disclosure of discovery, bill of particulars or other information</i> MOTION for Discovery MOTION for Bill of Particulars MOTION for Leave to File <i>supplemental motions</i> , <u>47</u> MOTION for Bill of Particulars <i>Re-filed</i> MOTION for Discovery <i>Miscellaneous Relief</i> MOTION Bill of Particulars, Discovery, Miscellaneous Relief re <u>44</u> Memorandum/Brief MOTION Bill of Particulars, Discovery, Miscellaneous Relief re <u>44</u> Memorandum/Brief (<i>Government's Response to Defendants' Discovery Motions</i>) (Tripi, Joseph) (Entered: 08/02/2010)
08/03/2010	<u>59</u>	RESPONSE to Motion by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose re 46 MOTION for Discovery MOTION to Suppress <i>Statement</i> MOTION for Joinder and <i>Motions of Co-Defendants</i> MOTION Other, 42 MOTION for Release of Brady Materials MOTION for Bill of Particulars MOTION for Disclosure MOTION for Discovery MOTION for <i>Miscellaneous Relief</i> , 48 MOTION for Joinder in <i>motions of co-defendants, Thamud Eldridge and Kashika Speed</i> MOTION for Protective Order for <i>disclosure of discovery, bill of particulars or other information</i> MOTION for Discovery MOTION for Bill of Particulars MOTION for Leave to File <i>supplemental motions</i> , <u>47</u> MOTION for Bill of Particulars <i>Re-filed</i> MOTION for Discovery <i>Miscellaneous Relief</i> MOTION Bill of Particulars, Discovery, Miscellaneous Relief re <u>44</u> Memorandum/Brief MOTION Bill of Particulars, Discovery, Miscellaneous Relief re <u>44</u> Memorandum/Brief (<i>Government's Amended Response to Defendants' Discovery Motions</i>) (Tripi, Joseph) (Entered: 08/03/2010)
08/20/2010		Minute Entry for proceedings held before Hon. Hugh B. Scott: Oral Argument held on 8/20/2010. Court reserves decision. APPEAR - J. Tripi, AUSA; J. Harrington, D. Henry, R. Convissar, W. Easton, A. Musitano, Porter, F. Kubiak, P. Pullano, C. Meyers-Buth, Esqs (Court Reporter FTR Gold.)(LMK) (Entered: 08/23/2010)
09/20/2010	<u>68</u>	ORDER granting in part and denying in part omnibus motions filed on behalf of respective defendants <u>47</u> , 42 , 48 , 46 . Signed by Hon. Hugh B. Scott on 9/20/2010. (JRA) (Entered: 09/20/2010)
09/30/2010	<u>70</u>	RESPONSE to Motion by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose re 46 MOTION for Discovery MOTION to Suppress <i>Statement</i> MOTION for Joinder and <i>Motions of Co-Defendants</i> MOTION Other, 42 MOTION for Release of Brady Materials MOTION for Bill of Particulars MOTION for Disclosure MOTION for Discovery MOTION for <i>Miscellaneous Relief</i> , 48 MOTION for Joinder in <i>motions of co-defendants, Thamud Eldridge and Kashika Speed</i> MOTION for Protective Order for <i>disclosure of discovery, bill of particulars or other information</i> MOTION for Discovery MOTION for Bill of Particulars MOTION for Leave to File <i>supplemental motions</i> , <u>47</u> MOTION for Bill of Particulars <i>Re-filed</i> MOTION for Discovery <i>Miscellaneous Relief</i>

A037

		MOTION Bill of Particulars, Discovery, Miscellaneous Relief re <u>44</u> Memorandum/Brief MOTION Bill of Particulars, Discovery, Miscellaneous Relief re <u>44</u> Memorandum/Brief (<i>Government's Bill of Particulars</i>) (Tripi, Joseph) (Entered: 09/30/2010)
10/05/2010	<u>71</u>	MOTION reset scheduling order (<i>Notice of Motion and Motion to Reset Scheduling Order</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 10/05/2010)
10/06/2010		NOTICE OF HEARING ON MOTION in case as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose <u>71</u> MOTION reset scheduling order (Notice of Motion and Motion to Reset Scheduling Order) : Motion Hearing set for 10/14/2010 10:45 AM before Hon. Hugh B. Scott. (LMK) (Entered: 10/06/2010)
10/14/2010		Minute Entry for proceedings held before Hon. Hugh B. Scott:Scheduling Conference as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 10/14/2010. Govt will continue to provide discovery. Motions due by 12/15/2010. Responses due by 1/17/2011. Reply by 1/25/11/ Oral Argument set for 2/1/2011 02:00 PM before Hon. Hugh B. Scott., Time Excluded; Govt will submit order memorializing time exclusion.APPEAR - J. Tripi, AUSA; R. Convissar, Esq.; D. Henry, Esq.; C. Meyers-Buth, Esq. (&for A Musitano); t. Eldridge, K. Speed & G. Rose (Court Reporter FTR Gold.)(LMK) Modified on 10/26/2010 (LMK). (Entered: 10/26/2010)
10/20/2010	<u>72</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kashika Speed, Kevin Allen, and Galen Rose. Time excluded from 9/20/2010 until 10/5/2010. Signed by Hon. Hugh B. Scott on 10/20/2010.(CMD) (Entered: 10/21/2010)
10/20/2010	<u>73</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kashika Speed, Kevin Allen, and Galen Rose. Time excluded from 10/14/2010 until 12/15/2010. Signed by Hon. Hugh B. Scott on 10/20/2010.(CMD) (Entered: 10/21/2010)
10/26/2010		NOTICE OF HEARING ON MOTION in case as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose <u>71</u> MOTION reset scheduling orderMotions due 12/15/10. Responses due by 1/17/2011. Replies due by 1/25/2011. Motion Hearing set for 2/1/2011 02:00 PM before Hon. Hugh B. Scott. (LMK) (Entered: 10/26/2010)
12/15/2010	<u>80</u>	First MOTION to Dismiss, First MOTION to Sever Defendant <i>Eldridge</i> , First MOTION to Suppress <i>statements</i> , First MOTION for Separate Trial on Counts Thamud Eldridge (1) Count 15-16, First MOTION dismissal, severance, suppression <i>of statements</i> by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Memorandum in Support, # <u>8</u> Certificate of Service)(Easton, William) (Entered: 12/15/2010)
12/29/2010	<u>81</u>	MOTION to Compel <i>defendant to appear in a lineup</i> by USA as to Thamud Eldridge. (Attachments: # <u>1</u> Affidavit)(Tripi, Joseph) (Entered: 12/29/2010)
01/13/2011	<u>85</u>	MOTION for Extension of Time to File Response/Reply (<i>Notice of Motion and Motion</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 01/13/2011)
01/19/2011	87	ORDER granting Government's <u>85</u> Motion for Extension of Time to File Response/Reply as to Thamud Eldridge (1), Kashika Speed (2), Kevin Allen (3), Galen Rose (4). Government shall have until 2/7/11 to file its response. Oral argument is reset to 2/17/11 at 2:00 pm. Signed by Hon. Hugh B. Scott on 1/19/11.(LMK) (Entered: 01/19/2011)
01/27/2011	<u>88</u>	First MOTION to Suppress <i>Identification</i> , Second MOTION for Release of Brady Materials by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Certificate of Service)(Easton, William) (Entered: 01/27/2011)
02/07/2011	<u>89</u>	Second MOTION for Extension of Time to File Response/Reply (<i>Notice of Motion and</i>

A038

		<i>Motion</i>) by USA as to Thamud Eldridge, Galen Rose. (Tripi, Joseph) (Entered: 02/07/2011)
02/09/2011	91	TEXT ORDER granting <u>89</u> Motion for Extension of Time to File Response/Reply as to Thamud Eldridge and Galen Rose. Govt shall file its response to defendants' omnibus motions by February 11, 2011. Signed by Hon. Hugh B. Scott on 2/9/11.(LMK) (Entered: 02/09/2011)
02/12/2011	<u>93</u>	Third MOTION for Extension of Time to File Response/Reply to <i>Defendant Thamud Eldridge's Omnibus Motion's</i> by USA as to Thamud Eldridge. (Tripi, Joseph) (Entered: 02/12/2011)
02/13/2011	<u>94</u>	RESPONSE in Opposition by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose re <u>80</u> First MOTION to Dismiss First MOTION to Sever Defendant <i>Eldridge</i> First MOTION to Suppress <i>statements</i> First MOTION for Separate Trial on Counts Thamud Eldridge (1) Count 15-16 First MOTION dismissal, severence, suppression of <i>statements</i> First MOTION for Separate Trial on Counts Thamud Eldridge (1) Count 15-16 <i>Government's Response to Defendant's Omnibus Motions</i> (Tripi, Joseph) (Entered: 02/13/2011)
02/14/2011		Oral Argument set for 2/17/2011 02:00 PM before Hon. Hugh B. Scott. (LMK) (Entered: 02/14/2011)
02/15/2011	<u>96</u>	RESPONSE in Opposition by USA as to Thamud Eldridge re <u>88</u> First MOTION to Suppress <i>Identification</i> Second MOTION for Release of Brady Materials <i>Government's Response to Defendant's Supplemental Omnibus Motions</i> (Attachments: # <u>1</u> Exhibit A) (Tripi, Joseph) (Entered: 02/15/2011)
02/16/2011	<u>97</u>	RESPONSE in Opposition by USA as to Thamud Eldridge re <u>88</u> First MOTION to Suppress <i>Identification</i> Second MOTION for Release of Brady Materials [<i>Government's Amended Response to Defendant's Supplemental Omnibus Motions</i>] (Attachments: # <u>1</u> Exhibit A)(Tripi, Joseph) (Entered: 02/16/2011)
03/03/2011		NOTICE OF HEARING as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose per letter dated 2/16/11 from William T. Easton, Esq. and Angelo Musitano, Esq. requesting an adjournment so as to prepare reply submissions to certain of the government responses as well as supplemental motions regarding additional issues raised in recent filings the by government. Such submissions shall be filed 3/17/11. Govt may file any response by 3/28/11. Motion Hearing set for 3/31/2011 11:00 AM before Hon. Hugh B. Scott. (LMK) (Entered: 03/03/2011)
03/17/2011	<u>100</u>	Second MOTION to Suppress <i>statements and identification</i> , Second MOTION to Dismiss <i>Counts 16 and 17</i> , First MOTION to Disqualify Counsel <i>Western District Unites States Attorney's Office</i> by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit A Affidavit of government, # <u>2</u> Exhibit B. letter from government, # <u>3</u> Exhibit C. letter from defense, # <u>4</u> Exhibit D. declaration of defendant, # <u>5</u> Exhibit E. photo-array, # <u>6</u> Exhibit F. ballistics report, # <u>7</u> Exhibit G. property report, # <u>8</u> Certificate of Service)(Easton, William) (Entered: 03/17/2011)
03/21/2011	102	ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT TEXT OF THE ORDER The hearing set for March 31, 2011 in this case is adjourned. The defendants have filed supplemental motions (Docket Nos. 98, 99, 100 and 101) seeking various relief, including the removal of the United States Attorney's Office from prosecuting this case. The government shall respond to the motions by April 4, 2011. Any replies shall be filed

A039

		<p>by April 11, 2011. Oral argument on all pending motions shall take place on April 19, 2011 at 10:00 a.m. before the undersigned.</p> <p>So Ordered.</p> <p>Signed by Hon. Hugh B. Scott on 3/21/2011.(JRA) (Entered: 03/21/2011)</p>
04/04/2011	<u>103</u>	MOTION for Extension of Time to File (<i>Notice of Motion and Motion</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 04/04/2011)
04/08/2011	104	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>The government has filed a motion seeking an extension of time to respond to the pending motions (Docket No. 103). The government represents that counsel for each of the defendants have represented that they do not oppose the request. The governments response to the pending motions (Docket Nos. 98, 99, 100 and 101), shall be filed on or before May 4, 2011. Replies, if any, shall be filed by May 13, 2011. Oral argument shall take place on May 26, 2011 at 11:00 a.m. before the undersigned.</p> <p>So Ordered.</p> <p>Signed by Hon. Hugh B. Scott on 4/8/2011.(JRA) (Entered: 04/08/2011)</p>
04/19/2011	<u>105</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge held on 8/20/10 before Judge Hugh B. Scott. Court Reporter/Transcriber Michelle L. McLaughlin, Telephone number (716) 332-3560. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/9/2011. Redacted Transcript Deadline set for 5/17/2011. Release of Transcript Restriction set for 7/15/2011. (DZ) (Entered: 04/19/2011)
05/03/2011	<u>108</u>	RESPONSE to Motion by USA as to Thamud Eldridge re <u>100</u> Second MOTION to Suppress <i>statements and identification</i> Second MOTION to Dismiss <i>Counts 16 and 17</i> First MOTION to Disqualify Counsel <i>Western District Unites States Attorney's Office (Government's Response to Defendant's Second Motion to Suppress Statements and Identification, and Government's Response to First Motion to Disqualify Counsel for the United States Attorney's Office for the Western District of New York)</i> (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H)(Tripi, Joseph) (Entered: 05/03/2011)
05/13/2011	<u>112</u>	REPLY TO RESPONSE to Motion by Thamud Eldridge re <u>100</u> Second MOTION to Suppress <i>statements and identification</i> Second MOTION to Dismiss <i>Counts 16 and 17</i> First MOTION to Disqualify Counsel <i>Western District Unites States Attorney's Office</i> (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Certificate of Service)(Easton, William) (Entered: 05/13/2011)
05/16/2011	<u>118</u>	CJA appointment of attorney William T. Easton Jr., as to thamud Eldridge. Voucher 110503 00 0007. Signed by Hon. Hugh B. Scott on 5/12/2011 of Order.(DLC) (Entered: 07/19/2011)
05/26/2011		Minute Entry for proceedings held before Hon. Hugh B. Scott: Oral Argument scheduled, but NOT held on 5/26/2011, (Oral Argument adjourned to 6/2/2011 09:30 AM before Hon. Hugh B. Scott.) APPEAR - J. Tripi, AUSA; W. Easton, Esq.; R. Convissar, Esq.; J.

A040

		Scott Porter, Esq.; J. Harrington, Esq.; D. Henry, Esq. & P. Pullano, Esq. (Court Reporter FTR Gold.)(LMK) (Entered: 06/01/2011)
06/03/2011		NOTICE OF HEARING as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose ORAL ARGUMENT set for 6/8/2011 10:00 AM before Hon. Hugh B. Scott. (LMK) (Entered: 06/03/2011)
06/08/2011		Minute Entry for proceedings held before Hon. Hugh B. Scott: Oral Argument held on 6/8/2011 on motion to recuse US Attorney. Court reserves decision. Decision will be rendered after counsel have rec'd transcript. APPEAR - J. Tripi, AUSA; J. Karaszewski, AUSA; P. Pullano, Esq.; Angelo Musitano, Esq.; James Harrington, Esq.; Daniel Henry, Esq.; R. Convissar, Esq.; William Easton, Esq.; J. Scott Porter, Esq.; C. Meyers-Buth, Esq.; T. Eldridge, K. Speed and Galen Rose (Court Reporter FTR Gold.)(LMK) (Entered: 06/10/2011)
06/29/2011	117	Sealed Document as to Thamud Eldridge. Original maintained in Financial Dept. (DLC) (Entered: 06/30/2011)
08/25/2011	120	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>During the argument regarding certain pending motions on June 8, 2011, the defendants requested an opportunity to review the transcript of a related proceeding to determine whether they wished to supplement their motion papers in the instant matter. The Court granted the request. By letter dated August 12, 2011, counsel for defendant Thamud Eldridge represents that he has reviewed the transcript and does not intend to supplement their motion papers. The other defendants have not yet advised the Court of their intentions. The following schedule shall apply: any defendants wishing to supplement their motions papers upon review of the transcript, shall do so by August 31, 2011. The government may file a reply, if any, by September 9, 2011. The motion will be deemed submitted as of September 9, 2011.</p> <p>So Ordered.</p> <p>Signed by Hon. Hugh B. Scott on 8/25/2011.(JRA) (Entered: 08/25/2011)</p>
09/28/2011	122	SEALED as to Thamud Eldridge. (Original maintained in the Financial Dept.) Signed by Hon. Hugh B. Scott on 9/16/2011.(DLC) (Entered: 10/04/2011)
10/07/2011	<u>123</u>	ORDER granting <u>100</u> Motion to Disqualify Counsel for the government; a conference shall take place on October 21, 2011 at 10:00 a.m. before he undersigned to set a schedule with respect to the remaining pending motions with the new counsel for the government and the respective defense counsel in this matter. Signed by Hon. Hugh B. Scott on 10/7/2011.(JRA) (Entered: 10/07/2011)
10/07/2011	124	Set/Reset Deadlines/Hearings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose: Status Conference set for 10/21/2011 10:00 AM before Hon. Hugh B. Scott. (JRA) (Entered: 10/07/2011)
10/21/2011	<u>125</u>	APPEAL of the Magistrate Judge's Order Granting the Defense Motion to Disqualify Assistant U. S. Attorney Joseph M. Tripi) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Karaszewski, Joseph) Modified on 12/8/2011 (JMM). (Entered: 10/21/2011)
10/21/2011		Minute Entry for proceedings held before Hon. Hugh B. Scott: Status Conference as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 10/21/2011. Govt's representation is unresolved. Motions are still pending. Joseph Tripi, Esq; order

A041

		disqualified. Govt is filing a motion for reconsideration with the District Court today. For Eldridge - hearing held; transcript being prepared / sanctions; want to supplement; range of sanctions. Status Conference set for 11/7/2011 at 10:00 AM before Hon. Hugh B. Scott. Time excluded; Govt to submit speedy trial order. APPEAR - R. Moscati, AUSA; B. Easton, A. Musitano, D. Henry, J. Harrington and R. Convissar, Esqs. (Court Reporter FTR Gold.) (CMD) (Entered: 10/28/2011)
11/01/2011	<u>126</u>	NOTICE OF ATTORNEY APPEARANCE Joseph J. Karaszewski appearing for USA. (Karaszewski, Joseph) (Entered: 11/01/2011)
11/02/2011	127	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>The status conference set for November 7, 2011 in this matter is adjourned to November 30, 2011 at 10:30 a.m. before the undersigned.</p> <p>So Ordered.</p> <p>Signed by Hon. Hugh B. Scott on 11/2/2011.(JRA) (Entered: 11/02/2011)</p>
11/30/2011		Minute Entry for proceedings held before Hon. Hugh B. Scott: PENDING MOTION as to Kashika Speed for release from custody. Govt vehemently opposes the motion for release. Govt will file its response by 12/12/2011. Further proceedings set for 12/15/2011 at 10:00 AM before Hon. Hugh B. Scott. Govt will submit order. Status Conference as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 11/30/2011. Appeal is pending (motion for reconsideration) matter is before Judge Arcara. Further Status Conference set for 1/10/2012 at 10:00 AM before Hon. Hugh B. Scott. Time excluded; motions pending. Defts remanded. APPEAR - C. Wydysh, AUSA; J. Scott Porter, Esq.; R. Convissar, Esq.; A. Musitano, Esq.; C. Meyers, Esq. (JPH); D. Henry, Esq. (Court Reporter FTR Gold.) (CMD) (Entered: 12/02/2011)
12/07/2011	129	TEXT ORDER as to defendant, Thamud Eldridge and Kashika Speed. The government filed <u>125</u> Motion to Reconsider <u>123</u> Order of Magistrate Judge Hugh B. Scott. Response papers shall be filed on or before 12/22/2011. Reply papers, if any, shall be filed on or before 1/5/2012. Oral Argument is scheduled for 1/11/2012 at 9:00 AM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on December 7, 2011.(DJD) (Entered: 12/07/2011)
12/22/2011	<u>131</u>	RESPONSE in Opposition by Thamud Eldridge re <u>125</u> MOTION for Reconsideration (<i>Motion to Reconsider the Magistrate Judge's Order Granting the Defense Motion to Disqualify Assistant U. S. Attorney Joseph M. Tripi</i>) MOTION for Reconsideration (<i>Motion to Reconsider the Magistrate Judge's Order Granting the Defense Motion to Disqualify Assistant U. S. Attorney Joseph M. Tripi</i>) (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Certificate of Service)(Easton, William) (Entered: 12/22/2011)
01/05/2012	<u>134</u>	MEMORANDUM/BRIEF by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Karaszewski, Joseph) (Entered: 01/05/2012)
01/06/2012	<u>135</u>	MOTION to Adjourn Adj of oral argument by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Karaszewski, Joseph) (Entered: 01/06/2012)
01/06/2012	136	TEXT ORDER as to defendants, Kashika Speed and Thamud Eldridge. The government filed <u>135</u> Motion to Adjourn the 1/11/2012 Oral Argument as to <u>125</u> Appeal by the government of Magistrate Judge's Order Granting Motion to Disqualify Assistant U.S. Attorney. The motion is granted. The Oral Argument is adjourned to 1/19/2012 at 2:00

A042

		PM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on January 6, 2012.(DJD) (Entered: 01/06/2012)
01/10/2012	137	TEXT ORDER as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. The status conference scheduled for 1/10/2012 is canceled in light of the oral argument scheduled for 1/19/2012 before Judge Arcara. SO ORDERED. Issued by Hon. Hugh B. Scott on 1/10/2012.(GAI) (Entered: 01/10/2012)
01/19/2012		Minute Entry for proceedings held 1/19/2012 before Hon. Richard J. Arcara as to Defts Thamud Eldridge and Kashika Speed. Oral Argument is held as to <u>125</u> Appeal by the government of Magistrate Judge's Order to Disqualify Assistant U.S. Attorney. Decision is reserved. Appearances: Govt - Joseph Karaszewski; Deft (Thamud Eldridge) - William Easton; Deft (Kashika Speed) - J. Scott Porter and Robert Convissar; Deft (Kevin Allen) - Cheryl Meyers Buth; Deft (Galen Rose) - Daniel Henry (Court Reporter Yvonne Garrison.)(DJD) (Entered: 01/19/2012)
01/31/2012	<u>138</u>	DECISION AND ORDER Vacating Magistrate Judge Scott's Decision and Order in part with respect to the disqualification of AUSA Tripi and denying that request for disqualification without prejudice to renew as a motion in limine at trial. The case is referred back to Magistrate Judge Scott for further proceedings. SO ORDERED. Signed by Hon. Richard J. Arcara on 1/31/2012.(JMB) (Entered: 01/31/2012)
02/29/2012	139	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>A status conference shall take place in this matter on March 14, 2012 at 10:00 a.m. before the undersigned to determine the status of the pending pretrial motions in this case.</p> <p>So Ordered.</p> <p>Signed by Hon. Hugh B. Scott on 2/29/2012.(JRA) (Entered: 02/29/2012)</p>
03/13/2012	140	***Set/Reset Hearings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose: Status Conference set for 3/14/2012 10:00 AM before Hon. Hugh B. Scott. (GAI) (Entered: 03/13/2012)
03/14/2012		<p>Minute Entry for proceedings held before Hon. Hugh B. Scott: Status Conference as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 3/14/2012.</p> <p>Following District Judge's reinstatement of AUSA Tripi, Court sets new schedule for motions. New or supplemental motions due by 4/11/2012. Responses to any motions due by 5/2/2012. Oral Argument set for 5/14/2012 10:00 AM. Time excluded for all defts from 3/14/2012 through 5/14/2012 b/c already-filed motions remain pending and in the interest of justice for further motion preparation.</p> <p>APPEAR: J. Tripi (AUSA); Angelo Musitano and William T. Easton for deft Thamud Eldridge; no appearance by deft Kashika Speed; Cheryl Meyers Buth for deft Kevin Allen; Peter J. Pullano for deft Galen Rose; defts not present. (Court Reporter FTR Gold.) (GAI) (Entered: 03/14/2012)</p>
03/26/2012	<u>141</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. Time excluded from 3/14/2012 until 5/14/2012. Signed by Hon. Hugh B. Scott on 3/26/2012. (CMD) (Entered: 04/02/2012)
04/11/2012	146	TEXT ORDER as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose GRANTING 145 MOTION for Extension of Time to File <i>Supplemental Motions</i> filed by Kevin Allen.

A043

		<p>For the sake of consistency, all parties shall receive the same one-week extension. Any new or supplemental motions not yet filed shall be filed on or before 4/18/2012. The Government shall file any responses on or before 5/9/2012. Oral argument remains scheduled for 5/14/2012 10:00 AM. Speedy trial time through 5/14/2012 was excluded previously.</p> <p>SO ORDERED. Issued by Hon. Hugh B. Scott on 4/11/2012. (GAI) (Entered: 04/11/2012)</p>
04/17/2012	<u>147</u>	MOTION for Release of Brady Materials, MOTION for Discovery, MOTION to Unseal Document by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 04/17/2012)
05/08/2012	<u>150</u>	RESPONSE in Opposition by USA as to Thamud Eldridge re <u>147</u> MOTION for Release of Brady Materials MOTION for Discovery MOTION to Unseal Document (<i>Response of the United States to the Supplemental Pretrial Motions of Defendant</i>) (Tripi, Joseph) (Entered: 05/08/2012)
05/14/2012		<p>Minute Entry for proceedings held before Hon. Hugh B. Scott: Oral Argument on pretrial motions held on 5/14/2012.</p> <p>Parties address various issues raised in the motions. Court reserves decision but advises the parties that a hearing, if needed, will occur on June 21 and 22, 2012. Deft Speed raises pending bail motion. Court advises that decision will issue today.</p> <p>APPEAR: J. Tripi (AUSA); J. Harrington for deft K. Allen (appearance waived); A. Musitano for deft T. Eldridge; J. Porter and R. Convissar for deft K. Speed; D. Henry for deft G. Rose; defts present except K. Allen. (Court Reporter FTR Gold.) (GAI) (Entered: 05/14/2012)</p>
05/18/2012	<u>156</u>	ORDER setting evidentiary hearings for June 21 - 22, 2012. Signed by Hon. Hugh B. Scott on 5/18/2012.(JRA) (Entered: 05/18/2012)
05/25/2012	<u>157</u>	AFFIDAVIT in Support by Thamud Eldridge re <u>147</u> MOTION for Release of Brady Materials MOTION for Discovery MOTION to Unseal Document <u>147</u> (Attachments: # <u>1</u> Exhibit A)(Easton, William) (Entered: 05/25/2012)
05/25/2012	<u>158</u>	Certificate of Service by Thamud Eldridge re <u>157</u> Affidavit in Support of Motion <u>157</u> (Easton, William) (Entered: 05/25/2012)
05/29/2012		E-Filing Notification: Incorrect event used to electronically file document. For future reference, use (Declaration or Affirmation) event. No action required. Re <u>157</u> AFFIDAVIT in Support by Thamud Eldridge (Easton, William) (DLC) (Entered: 05/29/2012)
06/12/2012	<u>160</u>	ORDER as to the standing of Thamud Eldridge to challenge the search of 118 Homer Street. Signed by Hon. Hugh B. Scott on 6/12/2012.(JRA) (Main Document <u>160</u> replaced on 6/12/2012) (JRA). (Entered: 06/12/2012)
06/12/2012		E-Filing Notification: <u>160</u> ORDER was amended to provide that the government must make in camera filings by June 20, 2012, not June 15, 2012. Signed by Hon. Hugh B. Scott on 6/12/2012.(JRA) (Main Document <u>160</u> replaced on 6/12/2012) (JRA). (Entered: 06/12/2012)
06/13/2012	<u>161</u>	MOTION for Extension of Time to File Response/Reply (<i>Notice of Motion and Motion</i>) by USA as to Thamud Eldridge. (Tripi, Joseph) Modified on 7/9/2012 (DR). Modified on 2/7/2019 to "unstrike" document: This entry has been modified to correct a clerical error in docketing, determined while preparing the case record for appeal. Document <u>161</u>

A044

		Motion had been incorrectly labeled as stricken by #169 Order. Document 161 Motion was DENIED (not stricken) and Document 163 Response was STRICKEN, pursuant to #169 Order. (KLH). (Entered: 06/13/2012)
06/13/2012	<u>162</u>	Set/Reset Hearings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose: Evidentiary Hearing set for 6/21/2012 10:00 AM, and 6/22/2012 10:00 AM (if necessary) before Hon. Hugh B. Scott. (GAI) (Entered: 06/13/2012)
06/14/2012	<u>163</u>	***STRICKEN FROM THE RECORD, pursuant to #169 Order***RESPONSE to Motion by USA as to Thamud Eldridge re <u>147</u> MOTION for Release of Brady Materials MOTION for Discovery MOTION to Unseal Document (<i>Response of the U.S. to the Supplemental Pretrial Motions of Defendant</i>) (Tripi, Joseph) Modified on 2/7/2019 to add document stricken remark. (KLH) (Entered: 06/14/2012)
06/20/2012	<u>164</u>	SUPERSEDING INDICTMENT as to Thamud Eldridge (1) count(s) 1s, 2s, 3s, 4s, 5s, 6s, 7s, 10s, 11s, 12s, 13s, 14s, 15s, 16s, 17s, Kashika Speed (2) count(s) 1s, 2s, 3s, 4s, 5s, 6s, 7s, 10s, 11s, 12s, 13s, 14s, Kevin Allen (3) count(s) 1s, 2s, 3s, 4s, 5s, 6s, 7s, 14s, 15s, Galen Rose (4) count(s) 8s, 9s, 11s, 12s. (DLC) Modified on 6/21/2012 (DLC). (Entered: 06/21/2012)
06/21/2012	<u>165</u>	EXHIBIT LIST by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 06/21/2012)
06/21/2012		CALENDAR NOTICE: Second day of evidentiary hearing (6/22/2012) canceled as not needed. Issued by Hon. Hugh B. Scott on 6/21/2012. (GAI) (Entered: 06/21/2012)
06/21/2012		Minute Entry for proceedings held before Hon. Hugh B. Scott: Arraignment on Superseding Indictment and Evidentiary Hearing as to Thamud Eldridge, Kashika Speed, Kevin Allen, and Galen Rose held on 6/21/2012. ARRAIGNMENT: Each deft advised of charges, possible penalties, and rights. Each deft acknowledges receipt of indictment, waives further reading, and enters plea of not guilty. HEARING: Defts Allen and Rose wish to waive attendance at hearing. Court conducts colloquy with each deft and finds knowing and voluntary waiver of right to attend. Defts Allen and Rose are excused. Govt begins with proffer about officers who will testify, then proceeds to live testimony. Direct and cross for Det. Michael Mordino. Exs. 3A, 3B, 3C received in evidence. Direct and cross for Det. Timothy Salamone. Exs. 2A, 2B, 2C received in evidence. Direct and cross for Det. Ed Cotter. Exs. 1A, 1B, 1C received in evidence. Direct and cross for SA Vanessa Paris. Exs. 4A, 4B, 4C received in evidence. Govt makes proffer about "Composite Ex. 5." Colloquy with counsel about post-hearing submissions and housekeeping matters. Govt to order and to file transcript of hearing; parties to file post-hearing briefing within 45 days of filing of transcript. Deft Allen's motion for Rule 17 subpoenas withdrawn w/o prejudice. Defts have permission to file further motions; Court will set schedule when they are filed. As much as possible, Court will issue single Decision/R&R on all currently pending motions once all post-hearing briefing is in. APPEAR: J. Tripi (AUSA); A. Musitano and W. Easton for deft T. Eldridge (present); J. Porter and R. Convissar for deft K. Speed (present); C. Meyers-Buth for deft K. Allen (present, then excused); P. Pullano for deft G. Rose (present, then excused). (Court Reporter FTR Gold.) (GAI) (Entered: 06/22/2012)
07/02/2012	<u>167</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud A045

		Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on June 21, 2012 before Judge Honorable Hugh B. Scott. Court Reporter/Transcriber Christi A. Macri, Telephone number 585-613-4310. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 7/20/2012. Redacted Transcript Deadline set for 7/30/2012. Release of Transcript Restriction set for 9/27/2012. (DR) (Entered: 07/02/2012)
07/02/2012	<u>168</u>	Third MOTION to Suppress <i>Identification and Supplemental Reply to Government's Motion to Compel a Lineup</i> by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Certificate of Service)(Easton, William) (Entered: 07/02/2012)
07/06/2012	<u>169</u>	ORDER denying <u>161</u> Motion for Extension of Time to File Response/Reply. Signed by Hon. Hugh B. Scott on 7/6/2012.(JRA) (Entered: 07/06/2012)
07/20/2012	<u>170</u>	Supplemental MOTION to Dismiss <i>Counts 16 and 17 and Reply to Government's Exhibit #5</i> by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit, # <u>9</u> Exhibit, # <u>10</u> Exhibit, # <u>11</u> Exhibit, # <u>12</u> Exhibit, # <u>13</u> Exhibit, # <u>14</u> Certificate of Service)(Musitano, Angelo) (Entered: 07/20/2012)
07/24/2012	171	CJA 24 as to Thamud Eldridge: Authorization to Pay Christi A. Macri \$117.90 for Transcript, Voucher #120 718 0000 53. Signed by Hon. Hugh B. Scott on 7/2/2012. (DLC) (Entered: 07/31/2012)
08/01/2012	172	ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT TEXT OF THE ORDER Defendant Eldridge has filed supplemental motions (Docket Nos. 168 and 170). The government shall respond to the motions on or before August 13, 2012. The Court will determine whether further hearings are appropriate upon review of the papers. So Ordered. Signed by Hon. Hugh B. Scott on 8/1/2012.(JRA) (Entered: 08/01/2012)
08/08/2012	<u>173</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on May 14, 2012 before Judge Hugh B. Scott. Court Reporter/Transcriber Debra L. Potocki, Telephone number 843-723-2208. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/27/2012. Redacted Transcript Deadline set for 9/5/2012. Release of Transcript Restriction set for 11/5/2012. (DLC) (Entered: 08/08/2012)
08/13/2012	<u>174</u>	MEMORANDUM/BRIEF (<i>Government's Post-Hearing Brief in Opposition to Defendants' Motions to Suppress Evidence</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Attachments: # <u>1</u> Exhibit A)(Tripi, Joseph) (Entered: 08/13/2012)
08/13/2012	<u>175</u>	RESPONSE in Opposition by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose re <u>168</u> Third MOTION to Suppress <i>Identification and Supplemental Reply to Government's Motion to Compel a Lineup</i> , <u>170</u> Supplemental MOTION to Dismiss <i>Counts 16 and 17 and Reply to Government's Exhibit #5 Government's Response to Defendant Eldridge's Supplemental Motions to Suppress Identification, to Re-Open the Wade Hearing, and Supplemental Motions to Dismiss Counts 16 and 17 of the</i>

A046

		<i>Superseding Indictment</i> (Attachments: # <u>1</u> Exhibit A)(Tripi, Joseph) (Entered: 08/13/2012)
08/15/2012	177	<p>TEXT ORDER granting 176 MOTION for Extension of Time to File <i>post-hearing briefing on or before September 4, 2012</i> filed by Kashika Speed.</p> <p>Any defendants who have not yet filed post-hearing submissions must do so by 9/4/2012. Time remains excluded because pretrial motions remain pending.</p> <p>SO ORDERED. Issued by Hon. Hugh B. Scott on 8/15/2012. (GAI) (Entered: 08/15/2012)</p>
09/27/2012	180	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>Defendant Thamud Eldridge seeks to reopen the suppression hearing in this case in light of the information contained in the affidavit of FBI Special Agent Mercello Falconetti. (Docket No. 168 at page 12). The Falconetti affidavit was disclosed after the testimony of Buffalo Police Detective Michael Mordino regarding the identification procedure used on October 22, 2011 which resulted in the identification of Eldridge by a confidential witness. The Falconetti affidavit suggests that the witness had previously stated that the suspect to be identified was wearing a mask covering his face from the bridge of his nose to his chin. (Docket No. 168-1 at page 8). The Court finds that the hearing should be reopened to allow for further examination of Mordino, and perhaps testimony from other witnesses, relating to this identification.</p> <p>The defendant also seeks to reopen the suppression hearing as to the destruction of evidence, specifically a gun allegedly used by Eldridge to shoot at Buffalo Police Officer Joy Jermaine. (Docket No. 170 at page 13). The Court believes further argument is necessary as to whether any factual issues exist relating to the destruction of the evidence and the relief sought by the defendant. Such argument shall take place at the date set for the continued suppression hearing.</p> <p>The suppression hearing in this case shall continue on October 29, 2012 at 10:30 before the undersigned.</p> <p>So Ordered.</p> <p>Signed by Hon. Hugh B. Scott on 9/27/2012.(JRA) (Entered: 09/27/2012)</p>
10/26/2012	<u>181</u>	MOTION to Adjourn Hearing/arguments by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 10/26/2012)
10/26/2012	183	TEXT ORDER granting <u>181</u> Motion to Adjourn as to Thamud Eldridge (1). New schedule to follow. SO ORDERED. Issued by Hon. Hugh B. Scott on 10/26/2012.(GAI) (Entered: 10/26/2012)
10/26/2012	184	<p>TEXT ORDER as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose rescheduling Evidentiary Hearing for 11/19/2012 10:30 AM. Time remains excluded because pretrial motions remain pending.</p> <p>SO ORDERED. Issued by Hon. Hugh B. Scott on 10/26/2012. (GAI) (Entered: 10/26/2012)</p>
11/19/2012		Minute Entry for proceedings held before Hon. Hugh B. Scott:Evidentiary Hearing as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 11/19/2012.

A047

		<p>Conclusion of testimony from witness Michael Mordino. Argument and proffer from parties RE: identification and gun destruction issues. On or before 12/4/2012, parties will file briefing RE: reopening hearing as to gun destruction and application of <i>Young v. Conway</i>, 2012 WL 4876235 (2d Cir. Oct. 16, 2012). Court will deem the issues submitted as of 12/4/2012.</p> <p>APPEAR: J. Tripi (AUSA); A. Musitano and W. Easton for deft T. Eldridge (present); J. Porter for deft K. Speed (waived); C. Meyers-Buth for deft K. Allen (waived); D. Henry for deft G. Rose (waived). (Court Reporter FTR Gold.)(GAI) (Entered: 11/19/2012)</p>
12/04/2012	<u>186</u>	MOTION to Suppress by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Certificate of Service)(Musitano, Angelo) (Entered: 12/04/2012)
12/04/2012	<u>187</u>	MOTION to Dismiss <i>Counts 16 and 17</i> by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Certificate of Service)(Musitano, Angelo) (Entered: 12/04/2012)
12/04/2012	<u>188</u>	MEMORANDUM/BRIEF <i>Government's Supplemental Post-Hearing Brief</i> by USA as to Thamud Eldridge (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Tripi, Joseph) (Attachment 5 replaced on 12/4/2012) (GAI). Modified on 12/4/2012 to replace Ex. E with a copy redacting an inadvertent disclosure (GAI). (Entered: 12/04/2012)
01/29/2013	<u>192</u>	ORDER as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose; Evidentiary Hearing set for 3/28/2013 10:00 AM before Hon. Hugh B. Scott., Oral Argument set for 3/28/2013 10:00 AM before Hon. Hugh B. Scott. Signed by Hon. Hugh B. Scott on 1/29/2013.(JRA) (Entered: 01/29/2013)
03/27/2013	202	***Evidentiary Hearing, Oral Argument re-set for 3/28/2013 11:00 AM before Hon. Hugh B. Scott. (GAI) (Entered: 03/27/2013)
03/28/2013	203	<p>Minute Entry for proceedings held before Hon. Hugh B. Scott: Oral Argument and Evidentiary Hearing as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 3/28/2013.</p> <p>Court reserves decision RE: 190 MOTION to Dismiss .</p> <p>Hearing: Testimony from witnesses John Simich, Mark Antonio, and Marcello Falconetti. Govt Exs. 6-10 entered into evidence.</p> <p>Govt to order expedited transcript. Parties to submit simultaneous post-hearing submissions on or before 5/15/2013; motions then will be deemed submitted. Time remains excluded b/c motions remain pending.</p> <p>APPEAR: J. Tripi (AUSA); W. Easton for deft T. Eldridge (present); R. Convissar for deft K. Speed (present); C. Meyers-Buth for deft K. Allen (waived); D. Henry for deft G. Rose (present). (Court Reporter FTR Gold.)(GAI) (Entered: 03/28/2013)</p>
03/28/2013	<u>204</u>	EXHIBIT LIST by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 03/28/2013)
04/01/2013	<u>205</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on March 28, 2013 before Judge Hugh B. Scott. Court Reporter/Transcriber Debra L. Potocki, Telephone number 843-723-2208. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/22/2013.

A048

		Redacted Transcript Deadline set for 5/2/2013. Release of Transcript Restriction set for 7/1/2013. (DLC) (Entered: 04/01/2013)
05/15/2013	<u>209</u>	MEMORANDUM/BRIEF (<i>Government's Supplemental Post-Hearing Brief in Opposition to Defendant Eldridge's Motion to Dismiss Counts 16 and 17 of the Superseding Indictment</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 05/15/2013)
05/15/2013	<u>210</u>	MEMORANDUM/BRIEF <i>Post Hearing Memorandum of Law in Support of Defendant Eldrige's Motion to Dismiss Counts 16 and 17</i> by Thamud Eldridge (Attachments: # <u>1</u> Certificate of Service)(Easton, William) (Entered: 05/15/2013)
06/03/2013	<u>214</u>	-CLERK TO FOLLOW UP-ORDER to have transcript of 11/19/2012 proceedings filed on expedited basis as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. Signed by Hon. Hugh B. Scott on 6/3/2013.(JRA) (Entered: 06/03/2013)
06/04/2013	<u>215</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 11/19/2012 before Hon. Hugh B. Scott. Court Reporter/Transcriber Christi A. Macri, FAPR, RMR, CRR, CRI, email: christimacri50@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/25/2013. Redacted Transcript Deadline set for 7/5/2013. Release of Transcript Restriction set for 9/3/2013. (CMD) (Entered: 06/04/2013)
06/12/2013	<u>216</u>	REPORT AND RECOMMENDATIONS as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. Objections due fourteen days from receipt. Objections to R&R due by 7/1/2013. Signed by Hon. Hugh B. Scott on 6/12/2013.(JRA) (Entered: 06/12/2013)
06/12/2013	<u>217</u>	ORDER granting in part and denying in part various pretrial relief requested in the parties' respective motions <u>81</u> <u>88</u> <u>147</u> 78 82 101 142 143 148 99 144 . Signed by Hon. Hugh B. Scott on 6/12/2013.(JRA) (Entered: 06/12/2013)
06/18/2013	218	CJA 24 as to Thamud Eldridge: Authorization to Pay Debra Potocki \$68.40 for Transcript, Voucher # 130 603 000 011. (Original document maintained in the Financial Department). Signed by Hon. Hugh B. Scott on 5/28/2013.(DLC) Modified on 6/20/2013 (DLC). (Entered: 06/20/2013)
06/21/2013	<u>219</u>	MOTION for Extension of Time to File <i>Objections and appeal</i> by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 06/21/2013)
06/24/2013	220	TEXT ORDER as to Thamud Eldridge. Defendant's motion for a 30 day extension to file objections to Report and Recommendation is granted. Objections shall be filed on or before 7/22/2013. The Government's response is due on or before 8/16/2013. Defendant's reply thereto is due on or before 8/27/2013. Oral argument on defendant's objections will be heard at 9:00 a.m. on Monday, 9/9/2013. Signed by Hon. Richard J. Arcara on 6/24/2013.(JMB) (Entered: 06/24/2013)
06/25/2013	221	<p style="text-align: center;">ORDER OF MAGISTRATE JUDGE HUGH B. SCOTT</p> <p style="text-align: center;">TEXT OF THE ORDER</p> <p>In the June 12, 2013 Order dealing with various pretrial discovery issues, the Court had directed the government to advise the Court as to the existence of a statement made by defendant Allen to Detective Mark Stambach of the Buffalo Police; and the status of a vehicle Allen claims was impounded by the police. On June 24, 2013, the government filed under seal a response with respect to those issue. It appears that there has been communication between the government and defense counsel about the two issues</p>

A049

		discussed above. The current motions before this Court have been resolved. The parties time to file objections relating to this Courts Report & Recommendation has been extended by District Judge Richard J. Arcara (Docket No. 220). There are no further proceedings scheduled before the undersigned. So Ordered. Signed by Hon. Hugh B. Scott on 6/25/2013.(JRA) (Entered: 06/25/2013)
07/19/2013	<u>228</u>	MOTION for Protective Order (<i>Notice of Motion and Motion</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 07/19/2013)
07/19/2013	<u>229</u>	MOTION for Protective Order (<i>Notice of Motion and Motion</i>) by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 07/19/2013)
07/19/2013	<u>230</u>	PROTECTIVE ORDER granting <u>229</u> Motion for Protective Order as to Thamud Eldridge (1), Kashika Speed (2), Kevin Allen (3), Galen Rose (4). Signed by Hon. H. Kenneth Schroeder, Jr. on July 19, 2013. (APG) (Entered: 07/19/2013)
07/22/2013	<u>231</u>	OBJECTION TO REPORT AND RECOMMENDATIONS <u>216</u> by Thamud Eldridge <i>and Decision and Order 217</i> (Attachments: # <u>1</u> Certificate of Service)(Easton, William) (Entered: 07/22/2013)
07/25/2013	<u>234</u>	TEXT ORDER as to defendants Thamud Eldridge (1), Kashika Speed (2) and Galen Rose (4). Oral Argument is scheduled for 9/9/2013 at 9:00 AM before Hon. Richard J. Arcara as to <u>223</u> Objections by defendant Kashika Speed (2), <u>224</u> Objections by defendant Galen Rose (4) and <u>231</u> Objections by defendant Thamud Eldridge (1) to <u>216</u> Report and Recommendation of Magistrate Judge Hugh B. Scott. Response papers to the Objections filed by defendants Kashika Speed and and Galen Rose were previously filed (see docket item Nos. 226 and 227). Response papers to the Objections by defendant Thamud Eldridge are to be filed by 8/16/2013. Reply papers to all responses are to be filed by 8/27/2013. SO ORDERED. Issued by Hon. Richard J. Arcara on July 25, 2013. (DJD) (Entered: 07/25/2013)
08/16/2013	<u>237</u>	MEMORANDUM IN OPPOSITION [<i>Government's Response to Defendant's Objections to United States Magistrate Judge Hugh B. Scott's Report and Recommendation</i>] by USA as to Thamud Eldridge (Lynch, Timothy) (Entered: 08/16/2013)
09/09/2013		Minute Entry for proceedings held 9/9/2013 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1) and Galen Rose (4). Oral Argument is held as to <u>231</u> Objections by Thamud Eldridge (1) and <u>224</u> Objections by Galen Rose (4) to <u>216</u> Report and Recommendation of Magistrate Judge Hugh B. Scott. Decision is reserved. Appearances: Govt - Joseph Tripi; Deft (Eldridge) - William Easton; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 09/18/2013)
10/17/2013	<u>245</u>	TEXT ORDER: The Government shall file a response to defendant's motion for an evidentiary hearing (Dkt. No. 244) on or before October 25, 2013. Counsel for other defendants may also file responses on or before October 25, 2013. Oral argument on the motion will be held on October 29, 2013 at 1:00 PM before Hon. Richard J. Arcara. The affidavit in support of this motion has been filed under seal and should be accessed and reviewed by counsel only. The attorneys are ordered not to disclose the information contained in the affidavit to any other individuals, including their clients. Issued by Hon. Richard J. Arcara on October 17, 2013. (MLM) (Entered: 10/17/2013)
10/25/2013	<u>246</u>	MOTION for Joinder of motion of co-defendant Kevin Allen filed October 3, 2013 by Thamud Eldridge as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Attachments: # <u>1</u> Certificate of Service)(Easton, William) (Entered: 10/25/2013)

A050

10/29/2013		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen: Motion Hearing set for 12/12/2013 03:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 11/15/2013)
10/29/2013		Minute Entry for proceedings held 10/29/2013 before Hon. Richard J. Arcara as to Defts Thamud Eldridge and Kevin Allen. Oral Argument as to 244 Motion by Deft Kevin Allen, and <u>246</u> Motion by Deft Thamud Eldridge previously scheduled for 10/29/2013 is not held. Deft Kevin Allen is afforded an opportunity to file papers as to the timeliness issue. Deft Kevin Allen's papers are due by 11/12/2013. Oral Argument is rescheduled for 12/12/2013 at 3:00 PM. Appearances: Govt - Joseph Tripi; Deft (Thamud Eldridge) - James Harrington and Cheryl Meyers Buth appearing for William Eastman and Angelo Musitano; Deft (Kevin Allen) - James Harrington and Cheryl Meyers Buth; Deft (Kashika Speed) - Robert Convissar (Court Reporter Megan Pelka.)(DJD) Modified on 11/15/2013 (DJD). (Entered: 11/15/2013)
11/20/2013	<u>249</u>	DECISION AND ORDER as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. the Court adopts the proposed findings and conclusions set forth in Magistrate Judge Scott's June 12, 2013 Report and Recommendation <u>216</u> . The Court also denies defendant Eldridge's appeal from certain portions of Magistrate Judge Scott's June 12, 2013 Decision and Order. The parties shall appear on December 12, 2013 as previously ordered. Signed by Hon. Richard J. Arcara on 11/20/2013.(JMB) (Entered: 11/20/2013)
12/12/2013		Set/Reset Hearings as to Thamud Eldridge (1) and Kevin Allen (3): Oral Argument rescheduled for 12/23/2013 at 10:00 AM before Hon. Richard J. Arcara. (CSS - SS) (Entered: 12/12/2013)
12/12/2013	253	Minute Entry for proceedings scheduled for 12/12/2013 before Hon. Richard J. Arcara as to Defendants Thamud Eldridge (1) and Kevin Allen (3). The Oral Argument proceeding previously scheduled for 12/12/2013 is not held as the Court's calendar was running behind schedule. Oral Argument is rescheduled for 12/23/2013 at 10:00 AM. Appearances: Govt - Joseph Tripi; Deft - Angelo Musitano for Thamud Eldridge (1); James Buth and Cheryl Meyers Buth for Kevin Allen (3) (No Court Reporter) (CSS - SS) (Entered: 12/12/2013)
12/23/2013		Minute Entry for proceedings held 12/23/2013 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1) and Kevin Allen (3). Oral Argument is held as to 244 Motion filed by defendant Kevin Allen and <u>246</u> joinder on same motion by defendant Thamud Eldridge. Defendant Kevin Allen waives his appearance for the argument. Defense counsel for Kevin Allen offers explanation as to why motion is filed late. Defense counsel for Kevin Allen requests a deferral on the protective order issue until he obtains an affidavit from his client. The Court reserves decision on the motion(s). Defense counsel for Kevin Allen requests the Court to set a tentative trial date. The Court denies the request for a tentative trial date. Appearances: Govt - Joseph Tripi; Deft (Thamud Eldridge) - William Easton and Angelo Musitano; Deft (Kevin Allen) - James Harrington (Court Reporter Megan Pelka.)(DJD) (Entered: 01/03/2014)
01/23/2014	<u>257</u>	DECISION AND ORDER as to Thamud Eldridge, Kevin Allen granting in part and denying in part defendants' motion for an order returning the case to the Magistrate Judge. Defendants' requests for an evidentiary hearing are referred to Magistrate Scott for further proceedings. Defendants' request for additional discovery is denied as moot. Defendants' requests to modify the protective order, disclose grand jury minutes and strike surplusage in the superseding indictment are held in abeyance pending further briefing and submissions. Defendants are to make any additional submissions with respect to the motion to modify the protective order on or before 2/7/2014 and the government shall file a response by 2/14/2014. The government is instructed to provide the grand jury transcripts to the court, for an in camera review on or before 1/31/2014. Signed by Hon. Richard J. Arcara on 1/23/2014.(JMB) (Entered: 01/23/2014)

A051

01/27/2014	<u>259</u>	ORDER setting status conference as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose for 1/29/2014 10:00 AM before Hon. Hugh B. Scott. Signed by Hon. Hugh B. Scott on 1/27/2014.(JRA) (Entered: 01/27/2014)
01/29/2014	260	Minute Entry for proceedings held before Hon. Hugh B. Scott: Status Conference as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 1/29/2014. Colloquy about issues referred for hearing. Court will assess papers filed with Judge Arcara as a motion for a hearing and will issue an order shortly. Time remains excluded because pretrial motions remain pending. APPEAR: J. Tripi (AUSA); W. Easton and A. Musitano for deft T. Eldridge (present); R. Convissar for deft K. Speed (present); J. Harrington for deft K. Allen (not present); D. Henry for deft G. Rose (present). (Court Reporter FTR Gold.)(GAI) (Entered: 01/29/2014)
01/31/2014	<u>261</u>	ORDER setting Evidentiary Hearing for 3/18/2014 at 10:00 AM before Hon. Hugh B. Scott. Signed by Hon. Hugh B. Scott on 1/31/2014.(JRA) (Entered: 01/31/2014)
03/06/2014	270	***CALENDAR CHANGE: Due to a calendar conflict, the Evidentiary Hearing set for March 18 is delayed one day, to 3/19/2014 at 10:30 AM. Issued by Hon. Hugh B. Scott on 3/6/2014.(GAI) (Entered: 03/06/2014)
03/14/2014	<u>271</u>	NOTICE OF ATTORNEY APPEARANCE Joel L. Violanti appearing for USA. (Violanti, Joel) (Entered: 03/14/2014)
03/17/2014	272	***CALENDAR NOTICE: At the Government's request, and with the consent of defense counsel, the Evidentiary Hearing set for March 19, 2014 will be delayed to 11:00 AM. Issued by Hon. Hugh B. Scott on 3/17/2014.(GAI) (Entered: 03/17/2014)
03/19/2014	274	Minute Entry for proceedings held before Hon. Hugh B. Scott: Evidentiary Hearing as to Thamud Eldridge, Kevin Allen, Galen Rose held on 3/19/2014. Testimony from witness Mark Stambach. Govt Exs. 1-4 entered into evidence (2-4 admitted under seal); Def. Exs. A-G entered into evidence. Govt rests; deft Allen requests continuation of hearing to consider whether to call other witnesses. Evidentiary Hearing continuation set for 3/25/2014 10:15 AM; USMS will look to arrange extended local custody for deft Allen. Court clarifies that sealing of Govt Exs. 2-4 will not affect any party's rights at trial. Time remains excluded because pretrial motions remain pending. APPEAR: J. Violanti (AUSA); W. Easton for deft T. Eldridge (present); J. Harrington and C. Meyers-Buth for deft K. Allen (present); P. Pullano for deft G. Rose (present). (Court Reporter FTR Gold.)(GAI) (Entered: 03/19/2014)
03/24/2014	278	***CALENDAR NOTICE: At the request of the Government and with defense counsel's consent, tomorrow's Evidentiary Hearing will occur at 02:00 PM. Issued by Hon. Hugh B. Scott on 3/24/2014.(GAI) (Entered: 03/24/2014)
03/25/2014	279	Minute Entry for proceedings held before Hon. Hugh B. Scott: Status Conference in lieu of Evidentiary Hearing as to Thamud Eldridge, Kevin Allen, Galen Rose held on 3/25/2014. Deft Allen reports that hearing cannot proceed today, after prior scheduling change, due to unavailability of witnesses. Evidentiary Hearing re-set for 4/1/2014 09:30 AM; Govt

A052

		<p>will arrange for new writ for deft Allen. Defts Eldridge and Rose are excused from the 4/1 hearing.</p> <p>APPEAR: J. Violanti (AUSA); J. Harrington for W. Easton for deft T. Eldridge (present); J. Harrington and C. Meyers-Buth for deft K. Allen (present); J. Harrington for D. Henry for deft G. Rose (not present -- waived). (Court Reporter FTR Gold.)(GAI) (Entered: 03/25/2014)</p>
03/26/2014	<u>282</u>	<p>NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kevin Allen held on December 23, 2013 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/16/2014. Redacted Transcript Deadline set for 4/28/2014. Release of Transcript Restriction set for 6/24/2014. (DLC) (Entered: 03/26/2014)</p>
03/27/2014	283	<p>TEXT ORDER as to Thamud Eldridge RE: Hearing on April 1, 2014.</p> <p>For the sake of the record, attorney Easton's office called chambers today to advise that defendant Eldridge has changed his mind and wants to attend the April 1, 2014 hearing after all, despite his prior waiver (Dkt. No. 279). The Court will leave the Government and defense counsel to resolve the matter and to arrange for Eldridge's appearance as needed.</p> <p>SO ORDERED. Issued by Hon. Hugh B. Scott on 3/27/2014.(GAI) (Entered: 03/27/2014)</p>
04/01/2014	284	<p>Minute Entry for proceedings held before Hon. Hugh B. Scott: Evidentiary Hearing as to Thamud Eldridge, Kevin Allen, Galen Rose held on 4/1/2014.</p> <p>Testimony from witnesses Reginald Minor and Daniel Figueroa. Def. Ex. I entered into evidence.</p> <p>Colloquy RE: scheduling and deft Allen's custody status. Evidentiary Hearing continuation set for 4/23/2014 10:30 AM. Deft Rose waives appearance on 4/23 through counsel; defts Eldridge and Allen wish to attend.</p> <p>APPEAR: J. Tripi and J. Violanti (AUSA); W. Easton for deft T. Eldridge (present); J. Harrington and C. Meyers-Buth for deft K. Allen (present); D. Henry for deft G. Rose (not present -- waived). (Court Reporter FTR Gold.)(GAI) (Entered: 04/01/2014)</p>
04/22/2014	<u>287</u>	<p>Subpoenas returned executed as to Thamud Eldridge, Kevin Allen, Galen Rose. Fax received in chambers on 4/22/2014 at approx. 7:55 a.m. (GAI) (Entered: 04/22/2014)</p>
04/23/2014	289	<p>Minute Entry for proceedings held before Hon. Hugh B. Scott: Evidentiary Hearing as to Thamud Eldridge, Kevin Allen, Galen Rose continued on 4/23/2014.</p> <p>Testimony from witness Julia Ann Gordon. Def. Exs. K, L, M, N, O entered into evidence. Defense rests; hearing ends.</p> <p>Govt to order transcript. Both sides will file post-hearing briefing within 30 days of filing of transcript, after which Court will deem matter submitted. Time remains excluded because pretrial motions remain pending. Govt to submit order.</p> <p>APPEAR: J. Tripi and J. Violanti (AUSA); A. Musitano for deft T. Eldridge (present); J. Harrington and C. Meyers-Buth for deft K. Allen (present); D. Henry for deft G. Rose</p>

A053

		(not present -- waived). (Court Reporter FTR Gold.)(GAI) (Entered: 04/23/2014)
04/30/2014	<u>290</u>	ORDER as to defendants Kevin Allen and Thamud Eldridge: For the reasons outlined in the attached Order, the defendants' motions for modification of the protective order and disclosure of the grand jury minutes are denied. Defendants' motion to strike surplusage from the Superseding Indictment is granted. Signed by Hon. Richard J. Arcara on 4/29/14.(LAS) (Entered: 04/30/2014)
05/01/2014	291	NOTICE OF MANUAL FILING OF Sealed Document as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (DLC) (Entered: 05/01/2014)
05/19/2014	<u>296</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Evidentiary Hearing Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on March 19, 2014 before Judge Hugh B. Scott. Court Reporter/Transcriber Debra L. Potocki, Telephone number 843/723-2208. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/9/2014. Redacted Transcript Deadline set for 6/19/2014. Release of Transcript Restriction set for 8/18/2014. (DLC) (Entered: 05/19/2014)
05/19/2014	<u>297</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Evidentiary Hearing Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on April 1, 2014 before Judge Hugh B. Scott. Court Reporter/Transcriber Debra L. Potocki, Telephone number 843/723-2208. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/9/2014. Redacted Transcript Deadline set for 6/19/2014. Release of Transcript Restriction set for 8/18/2014. (DLC) (Entered: 05/19/2014)
05/19/2014	<u>298</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Evidentiary Hearing Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on April 23, 2014 before Judge Hugh B. Scott. Court Reporter/Transcriber Debra L. Potocki, Telephone number 843/723-2208. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/9/2014. Redacted Transcript Deadline set for 6/19/2014. Release of Transcript Restriction set for 8/18/2014. (DLC) (Entered: 05/19/2014)
06/17/2014	<u>304</u>	Second MOTION [for Removal of Court Appointed Second Counsel] by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Attachments: # <u>1</u> Affidavit in Support) (Tripi, Joseph) (Entered: 06/17/2014)
06/19/2014	307	TEXT ORDER granting 306 Motion for Extension of Time to File as to Kevin Allen (3). Both sides will file post-hearing briefing (<i>see</i> Dkt. No. 289) on or before 7/31/2014. Time remains excluded because pretrial motions remain pending. SO ORDERED. Issued by Hon. Hugh B. Scott on 6/19/2014.(GAI) (Entered: 06/19/2014)
06/19/2014	308	TEXT ORDER as to Thamud Eldridge, Kevin Allen, Galen Rose RE: <u>304</u> Second MOTION [for Removal of Court Appointed Second Counsel] filed by USA. Defendants will file any responding papers on or before 6/27/2014. Oral Argument set for 7/2/2014 10:30 AM.

A054

		SO ORDERED. Issued by Hon. Hugh B. Scott on 6/19/2014.(GAI) (Entered: 06/19/2014)
06/19/2014	<u>309</u>	MOTION [to Schedule a Trial Date - with Affidavit] by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 06/19/2014)
06/20/2014	310	TEXT ORDER as to defendants Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). The United States filed <u>309</u> Motion to Schedule a Trial Date. Accordingly, A Meeting to Set a Trial Date is scheduled for June 25, 2014 at 12:30 PM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on June 20, 2014.(DJD) (Entered: 06/20/2014)
06/20/2014	311	TEXT ORDER as to defendants Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). A Status Conference is scheduled for June 25, 2014 at 12:30 PM before Hon. Richard J. Arcara as to <u>304</u> Second Motion for Removal of Court Appointed Second Counsel filed by the United States. SO ORDERED. Issued by Hon. Richard J. Arcara on June 25, 2014.(DJD) (Entered: 06/20/2014)
06/24/2014	312	TEXT ORDER as to defendants Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Upon the request of defense counsel for defendant Thamud Eldridge and his representation to this Court's chambers that he received consent of all counsel, the June 25, 2014 Meeting to Set a Trial Date is adjourned to July 8, 2014 at 9:00 AM before Hon. Richard J. Arcara. The Status Conference as to <u>304</u> Second Motion for Removal of Court Appointed Second Counsel is held in abeyance pending resolution of the motion by Magistrate Judge Hugh B. Scott. SO ORDERED. Issued by Hon. Richard J. Arcara on June 24, 2014.(DJD) (Entered: 06/24/2014)
06/27/2014	<u>314</u>	RESPONSE in Opposition by Thamud Eldridge as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose re <u>304</u> Second MOTION [for Removal of Court Appointed Second Counsel] <i>Joint Memorandum in Opposition by All Defendants</i> (Attachments: # <u>1</u> Certificate of Service)(Easton, William) (Entered: 06/27/2014)
07/02/2014	<u>315</u>	ORDER denying <u>304</u> Motion as to Thamud Eldridge (1), Kevin Allen (3), Galen Rose (4). Signed by Hon. Hugh B. Scott on 7/2/2014.(JRA) (Entered: 07/02/2014)
07/02/2014	316	Minute Entry for proceedings held before Hon. Hugh B. Scott: Oral Argument held on 7/2/2014. Parties proceed to argument. Court reserves decision. APPEAR: J. Tripi and J. Violanti (AUSA); W. Easton for deft T. Eldridge (present); J. Harrington and C. Meyers-Buth for deft K. Allen (not present -- waived); D. Henry and P. Pullano for deft G. Rose (refused transport). (Court Reporter FTR Gold.)(GAI) (Entered: 07/02/2014)
07/03/2014	<u>317</u>	MOTION [Third Motion for Removal of Court Appointed Second Counsel with Supporting Affidavit] by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Attachments: # <u>1</u> Affidavit)(Tripi, Joseph) (Entered: 07/03/2014)
07/08/2014		Minute Entry for proceedings held 7/8/2014 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Meeting to Set Trial Date is held pursuant to <u>309</u> Motion filed by the Govt. The Defts are agreeable to setting a trial date prior to resolution of all pretrial motions. The Govt anticipates a 2 to 3-week trial. Given the upcoming scheduling conflicts of defense counsel, Jury Selection is scheduled for 1/14/2015 at 9:30 AM. Time is excluded; Govt to submit a Speedy Trial Order. The Govt filed <u>317</u> Third Motion for Removal of Court Appointed Second Counsel. The Court sets forth the following briefing schedule on the motion: Defts' response papers due by 8/8/2014; Govt's reply papers due by 8/15/2014. Oral Argument is scheduled for

A055

		8/22/2014 at 2:00 PM. The Court will not require both attorneys for each defendant to be present for the oral argument, however, one of the attorneys for each defendant is to be present. Appearances: Govt - Joseph Tripi; Deft (Eldridge) - William Easton; Deft (Allen) - James Harrington and Cheryl Meyers Butth; Deft (Rose) - Peter Pullano and Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 07/10/2014)
07/08/2014		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose <u>317</u> MOTION [Third Motion for Removal of Court Appointed Second Counsel with Supporting Affidavit]; Responses due by 8/8/2014. Replies due by 8/15/2014. Motion Hearing set for 8/22/2014 02:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 07/10/2014)
07/10/2014	319	TEXT ORDER as to defendants Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Upon the request of counsel for defendant Galen Rose and representing to this Court's chambers that consent was given by all other counsel, the Jury Selection date in this matter is changed to the earlier date of January 8, 2015 at 9:30 AM. SO ORDERED. Issued by Hon. Richard J. Arcara on July 10, 2014.(DJD) (Entered: 07/10/2014)
07/10/2014		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Jury Selection set for 1/8/2015 09:30 AM before Hon. Richard J. Arcara. (DJD) (Entered: 07/10/2014)
07/16/2014	<u>320</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on July 2, 2014 before Judge Hugh B. Scott. Court Reporter/Transcriber Christi A. Macri, Telephone number christimacri50@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/6/2014. Redacted Transcript Deadline set for 8/18/2014. Release of Transcript Restriction set for 10/14/2014. (DLC) (Entered: 07/16/2014)
08/06/2014	328	Sealed Document as to Thamud Eldridge. ((Original document maintained in the Financial Department). (DLC) (Entered: 08/11/2014)
08/08/2014	<u>326</u>	DECLARATION by Thamud Eldridge (Attachments: # <u>1</u> Certificate of Service) (Musitano, Angelo) (Entered: 08/08/2014)
08/08/2014	<u>327</u>	MEMORANDUM IN OPPOSITION by Thamud Eldridge (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 08/08/2014)
08/15/2014	<u>331</u>	REPLY TO RESPONSE to Motion by USA as to Thamud Eldridge, Kevin Allen, Galen Rose re <u>317</u> MOTION [Third Motion for Removal of Court Appointed Second Counsel with Supporting Affidavit] , <u>304</u> Second MOTION [for Removal of Court Appointed Second Counsel] [<i>GOVERNMENT'S REPLY TO DEFENDANT'S MEMORANDUM IN OPPOSITION TO GOVERNMENT'S MOTION TO REMOVE COURT APPOINTED COUNSEL</i>] (Violanti, Joel) (Entered: 08/15/2014)
08/22/2014		Minute Entry for proceedings held 8/22/2014 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Oral Argument is held as to <u>317</u> Third Motion for Removal of Court Appointed Second Counsel filed by the United States. Decision is reserved. The Court will issue a Decision within one week. Appearances: Govt - Joseph Tripi and Joel Violanti; Deft (Eldridge) - William Easton and Angelo Musitano; Deft (Allen) - James Harrington and Cheryl Meyers Butth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 08/29/2014)
08/25/2014	<u>332</u>	REPORT AND RECOMMENDATIONS as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. Objections due fourteen days from receipt. Objections to R&R due by 9/11/2014. Signed by Hon. Hugh B. Scott on 8/25/2014.(JRA) (Entered: 08/25/2014)
09/16/2014	<u>337</u>	ORDER: For the reasons outlined in the attached Order, the Government's third motion to

A056

		remove court-appointed second counsel <u>317</u> is granted. Signed by Hon. Richard J. Arcara on 9/16/14.(LAS) (Entered: 09/16/2014)
09/24/2014	<u>338</u>	MOTION by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 09/24/2014)
09/25/2014		Attorney update in case as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. Attorney J. Scott Porter; J. Scott Porter, Esq; Peter J. Pullano; William T. Easton and James P. Harrington terminated pursuant to document 337. (DLC) (Entered: 09/25/2014)
09/26/2014	<u>342</u>	MOTION to Sever Defendant , MOTION for Leave to File by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 09/26/2014)
09/29/2014	<u>345</u>	ORDER: Adopting Magistrate Judge Hugh B. Scott's Report and Recommendation <u>332</u> as filed on August 25, 2014 in its entirety. All parties shall appear for a status conference on October 1, 2014 at 12:30 pm before Hon. Richard J. Arcara. Signed by Hon. Richard J. Arcara on 9/29/14.(LAS) (Entered: 09/29/2014)
09/30/2014	<u>346</u>	MOTION <i>Lifting Protective Order</i> , MOTION for Leave to File by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 09/30/2014)
09/30/2014		NOTICE OF SCHEDULING as to defendants, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Upon the request of counsel for Galen Rose, the time of the October 1, 2014 Status Conference is changed to 9:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 09/30/2014)
09/30/2014	<u>347</u>	MOTION for Release of Brady Materials <i>Giglio Material; Production of Jencks/3500 material</i> , MOTION for Leave to File by Thamud Eldridge. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Certificate of Service)(Musitano, Angelo) (Entered: 09/30/2014)
10/01/2014		Set/Reset Deadlines re Motion or Report and Recommendation in case as to Thamud Eldridge, Kevin Allen, Galen Rose <u>347</u> MOTION for Release of Brady Materials <i>Giglio Material; Production of Jencks/3500 material</i> MOTION for Leave to File , <u>342</u> MOTION to Sever Defendant MOTION for Leave to File , <u>338</u> MOTION , <u>346</u> MOTION <i>Lifting Protective Order</i> MOTION for Leave to File , 343 Fourth MOTION for Release of Brady Materials MOTION for Discovery MOTION <i>for Relief from Protective Order and Severance of Counts of Indictment</i> , 344 MOTION to Sever Defendant , <i>Discovery, Relief from Protective Order</i> , 339 MOTION In camera review of mental health records , 341 MOTION to Seal Document . Responses due by 10/24/2014. Oral Argument set for 10/30/2014 02:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 10/01/2014)
10/24/2014	<u>356</u>	RESPONSE in Opposition by USA as to Thamud Eldridge re <u>347</u> MOTION for Release of Brady Materials <i>Giglio Material; Production of Jencks/3500 material</i> MOTION for Leave to File <i>Government's Response in Opposition to Defendant's Motion for Immediate Release of Brady and Jencks Material</i> (Tripi, Joseph) (Entered: 10/24/2014)
10/29/2014		NOTICE OF SCHEDULING as to defendants, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). The 10/30/2014 Oral Argument is adjourned by the Court to 11/6/2014 at 11:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 10/29/2014)
11/06/2014		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Status Conference set for 12/1/2014 02:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 11/23/2014)
11/19/2014	<u>361</u>	PROTECTIVE ORDER as to Thamud Eldridge, Kevin Allen and Galen Rose. Signed by Hon. Richard J. Arcara on 11/19/14.(LAS) (Entered: 11/19/2014)
12/09/2014	<u>364</u>	MOTION to Dismiss [<i>Government's Motion to Dismiss Racketeering Act 2</i>] by USA as

A057

		to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 12/09/2014)
12/09/2014	<u>365</u>	NOTICE OF ATTORNEY APPEARANCE John McRae Alsup appearing for USA. (Alsup, John) (Entered: 12/09/2014)
12/10/2014	366	TEXT ORDER as to defendants, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). A Status Conference is scheduled for December 11, 2014, at 12:30 PM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on December 10, 2014.(DJD) (Entered: 12/10/2014)
12/11/2014	<u>367</u>	PRETRIAL ORDER as to Thamud Eldridge, Kevin Allen, Galen Rose: Pretrial submissions due December 31, 2014 by 12:00 p.m. Jury selection set for January 8, 2015 at 9:30 a.m. Final pretrial conference is January 6, 2015 at 2:00 p.m. before Hon. Richard J. Arcara. SO ORDERED. Signed by Hon. Richard J. Arcara on 12/11/14.(LAS) (Entered: 12/11/2014)
12/11/2014	372	Minute Entry for proceedings held 12/11/2014 before Hon. Richard J. Arcara as to Defendant, Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). Status Conference held. Court grants Defense counsel's request for the Jury Trial not to be in session on the following dates: 1/29/2015 and 1/30/2015. Defendants remanded. Appearances: Govt - Joseph Tripi; Defts - Angelo Musitano for Thamud Eldridge (1), Cheryl Meyers-Buth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka) (CSS - SS) (Entered: 12/19/2014)
12/12/2014	<u>368</u>	ORDER as to Thamud Eldridge, Kevin Allen, Galen Rose dismissing Racketeering Act 2 of Count 1 of Superseding Indictment. Signed by Hon. Richard J. Arcara on 12/11/2014. (DLC) (Entered: 12/12/2014)
12/16/2014	<u>369</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 12/16/2014)
12/17/2014	<u>370</u>	Trial Document by USA as to Thamud Eldridge, Kevin Allen, Galen Rose [<i>Government's Supplemental Notice of Intent to Introduce 404(b) Evidence Regarding Defendant Kevin Allen</i>] (Tripi, Joseph) (Entered: 12/17/2014)
12/18/2014	<u>371</u>	Trial Document by USA as to Thamud Eldridge, Kevin Allen, Galen Rose [<i>Memorandum of Law Regarding Admissibility of Transcripts of Plea Proceedings</i>] (Tripi, Joseph) (Entered: 12/18/2014)
12/22/2014	<u>373</u>	Trial Document by USA as to Thamud Eldridge, Kevin Allen, Galen Rose [<i>Government's Supplemental Memorandum of Law Regarding Destruction of Evidence</i>] (Attachments: # <u>1</u> Exhibit A & B)(Tripi, Joseph) (Entered: 12/22/2014)
12/22/2014	<u>376</u>	Petition and Order for Writ of Habeas Corpus ad Prosequendum. Signed by Hon. Richard J. Arcara on 12/19/2014. (DLC) (Additional attachment(s) added on 12/23/2014: # <u>1</u> Writ) (DLC). (Entered: 12/23/2014)
12/22/2014	<u>377</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 12/23/2014)
12/22/2014	<u>378</u>	Petition and Order for Writ of Habeas Corpus ad Prosequendum. Signed by Hon. Richard J. Arcara on 12/22/2014.(DLC) (Entered: 12/23/2014)
12/22/2014		Writ of Habeas Corpus ad Prosequendum Issued as to Thamud Eldridge, Kevin Allen, Galen Rose for Steven Williams on 1/2/2015. (DLC) (Entered: 12/23/2014)
12/23/2014		E-Filing Notification: A document had to be deleted from system and re-filed which was a sealed document re (377) Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 12/23/2014)

A058

12/24/2014	<u>379</u>	MOTION to Sever Defendant , MOTION by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 12/24/2014)
12/24/2014	<u>380</u>	ORDER as to Thamud Eldridge, Kevin Allen, Galen Rose: Defendants' motions for severance are denied. SO ORDERED. Signed by Hon. Richard J. Arcara on 12/24/14. (LAS) (Entered: 12/24/2014)
12/29/2014	<u>385</u>	MOTION for Extension of Time to File [<i>Pretrial Submissions with Affidavit</i>] by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 12/29/2014)
12/29/2014	<u>386</u>	Proposed Voir Dire by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 12/29/2014)
12/29/2014	389	TEXT ORDER as to defendants Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). The United States filed <u>385</u> Motion for an Extension of Time to File (certain) Pretrial Submissions. The motion is granted. The time to file is extended to January 5, 2015. SO ORDERED. Issued by Hon. Richard J. Arcara on December 29, 2014.(DJD) (Entered: 12/29/2014)
12/29/2014	390	TEXT ORDER as to defendants Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Jury Selection is hereby rescheduled for January 13, 2015 at 9:30 AM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on December 29, 2014.(DJD) (Entered: 12/29/2014)
12/30/2014	<u>392</u>	MOTION Expert Testimony by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 12/30/2014)
12/30/2014	394	TEXT ORDER: The Government shall respond to defendant Eldridge and defendant Rose's motions for severance based upon anticipated 404(b) evidence [379 and 381] on or before January 5, 2015. Issued by Hon. Richard J. Arcara on December 30, 2014.(MLM) (Entered: 12/30/2014)
12/30/2014	395	TEXT ORDER: Defendants shall respond to the Government's memorandum regarding destruction of evidence on or before January 7, 2015. Issued by Hon. Richard J. Arcara on December 30, 2014.(MLM) (Entered: 12/30/2014)
12/30/2014	396	TEXT ORDER: The Government shall respond to defendant Rose's request for disclosure of pre-sentence reports on or before January 7, 2015. Issued by Hon. Richard J. Arcara on December 30, 2014. (MLM) (Entered: 12/30/2014)
12/30/2014	397	TEXT ORDER: Defendants shall file any additional responses to the Government's pretrial memorandum, including the Government's request for pretrial rulings, admissibility of 404(b) evidence and transcripts of plea proceedings, on or before January 7, 2015. Issued by Hon. Richard J. Arcara on December 30, 2014.(MLM) (Entered: 12/30/2014)
12/30/2014	<u>398</u>	MOTION Expert Testimony by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 12/30/2014)
12/30/2014	<u>399</u>	RESPONSE to Motion by USA as to Thamud Eldridge, Kevin Allen, Galen Rose re 393 MOTION to Adjourn <i>the Trial Currently Scheduled for Jury Selection on January 13, 2015 [Government's Response to Defendant Allen's Motion to Adjourn Jury Selection and Trial (Dkt. #393)]</i> (Attachments: # <u>1</u> Exhibit A - E)(Tripi, Joseph) (Entered: 12/30/2014)
12/31/2014	<u>400</u>	EXPERT WITNESS LIST by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Alsup, John) (Entered: 12/31/2014)
12/31/2014	<u>401</u>	MOTION to Dismiss , MOTION for Leave to File , MOTION to Adjourn , MOTION by

A059

		Thamud Eldridge. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Certificate of Service)(Musitano, Angelo) (Entered: 12/31/2014)
12/31/2014	<u>402</u>	RESPONSE to Motion by USA as to Thamud Eldridge, Kevin Allen, Galen Rose re <u>401</u> MOTION to Dismiss MOTION for Leave to File MOTION to Adjourn MOTION <i>[Government's Response to Defendant Eldridge's Motion for Dismissal of the Indictment, for Re-Assignment of Second Counsel, and for an Adjournment of the Trial (Dkt. #401)]</i> (Alsup, John) (Entered: 12/31/2014)
01/05/2015	<u>408</u>	RESPONSE to Motion by USA as to Thamud Eldridge, Kevin Allen, Galen Rose re <u>379</u> MOTION to Sever Defendant MOTION <i>[Government's Response to Defendant Eldridge's Second Motion to Sever]</i> (Attachments: # <u>1</u> Exhibit A)(Alsup, John) (Entered: 01/05/2015)
01/05/2015	<u>410</u>	INFORMATION TO ESTABLISH PRIOR CONVICTION as to Thamud Eldridge (Alsup, John) (Entered: 01/05/2015)
01/05/2015	<u>411</u>	INFORMATION TO ESTABLISH PRIOR CONVICTION as to Thamud Eldridge (Attachments: # <u>1</u> Exhibit A)(Alsup, John) (Entered: 01/05/2015)
01/05/2015	<u>414</u>	MOTION for Extension of Time to File by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 01/05/2015)
01/06/2015	<u>417</u>	MOTION for Joinder by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service) (Musitano, Angelo) (Entered: 01/06/2015)
01/06/2015	<u>418</u>	MOTION to Adjourn trial date , MOTION for Leave to File , MOTION <i>reassignment of Court appointed second counsel</i> by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 01/06/2015)
01/06/2015	<u>421</u>	MOTION to Adjourn trial date , MOTION for Leave to File , MOTION Reassignment of Court appointed second counsel by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 01/06/2015)
01/06/2015	<u>426</u>	Trial Document by USA as to Thamud Eldridge, Kevin Allen, Galen Rose <i>[Government's Response to Defendants' Motion for Disclosure of Presentence Reports]</i> (Alsup, John) (Entered: 01/06/2015)
01/07/2015		E-Filing Notification: Document unacceptable with advertisement. Document must be re-filed as to <u>418</u> MOTION to Adjourn trial date, MOTION for Leave to File, MOTION reassignment of Court appointed second counsel. (DLC) (Entered: 01/07/2015)
01/07/2015	<u>429</u>	WITNESS LIST by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Alsup, John) (Entered: 01/07/2015)
01/07/2015	<u>430</u>	EXPERT WITNESS LIST by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Alsup, John) (Entered: 01/07/2015)
01/07/2015	<u>431</u>	TEXT ORDER: On July 8, 2014, the Court scheduled jury selection in this matter for January 14, 2015. At that time, the Government estimated that the trial would take approximately 2 to 3 weeks to complete. On July 10, 2014, by request of defendant Rose and upon consent of all parties, jury selection was moved to January 8, 2015. Due to constraints of the Court's calendar, on December 29, 2014, the Court issued a text order rescheduling jury selection to January 13, 2015. On December 30, 2014, defendant Allen moved to adjourn the trial. On December 31, 2014, defendant Eldridge moved to adjourn the trial. Defendant Rose joined in both motions to adjourn on January 2, 2015. The Government filed responses opposing the motions to adjourn in all respects. For the following reasons, the motions to adjourn the trial are granted: (1) the Government's recently filed motion in limine regarding destruction of evidence, informing the Court

A060

		and defense counsel, for the first time, that all physical evidence associated with Counts 16 and 17 and Racketeering Act 3 was destroyed on October 1, 2008, November 23, 2010 and May 16, 2011; (2) the change in the anticipated length of the trial from 2 to 3 weeks to upwards of 6 weeks, in light of counsel for defendant Allen's previously disclosed state court trial schedule and defense counsels representations that they have received over 4000 pages of discovery and 3500 material in the last 30 days and do not have adequate time to review the material, investigate witnesses, obtain documents, meet with their clients, file appropriate motions and respond to the Governments recently filed motions in limine prior to trial; and (3) other significant pre-trial issues and motions which have only recently been raised with the Court and which require further argument and briefing before the matter can proceed to trial. The Government and defense counsel are instructed to appear in Court on Monday, January 12, 2015 at 2:00 p.m. They are to come prepared with proposed mutually agreeable trial dates, and a new trial date will be determined by the Court. The parties are also instructed to come prepared to discuss the need for a hearing as to the destruction of evidence issue, and a proposed date for oral argument as to the remainder of the outstanding motions in limine. Defense counsels' alternative request for re-appointment of court-appointed second counsel is denied. Defendant Eldridge's motion for dismissal of the Superseding Indictment pursuant to the Sixth Amendment of the United States Constitution is denied, and his motion for dismissal of Counts 16 and 17 and Racketeering Act 3 or an evidentiary hearing regarding the loss or destruction of evidence pertaining to those counts is held in abeyance pending further proceedings before this Court. SO ORDERED. Issued by Hon. Richard J. Arcara on 1/7/15.(LAS) (Entered: 01/07/2015)
01/07/2015	<u>432</u>	MOTION for Joinder , MOTION for Leave to File by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Musitano, Angelo) (Entered: 01/07/2015)
01/07/2015	433	Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Status Conference set for 1/12/2015 02:00 PM before Hon. Richard J. Arcara. (LAS) (Entered: 01/07/2015)
01/08/2015	436	TEXT ORDER: Motion for extension of time to file pre-trial submissions <u>414</u> is granted. In light of the Court's previous text order regarding adjournment of trial, a date for remaining submissions will be set following the re-scheduling of the trial. Issued by Hon. Richard J. Arcara on 1/8/15.(LAS) (Entered: 01/08/2015)
01/14/2015	<u>439</u>	SCHEDULING ORDER as to Thamud Eldridge, Kevin Allen and Galen Rose. Signed by Hon. Richard J. Arcara on 1/14/15.(LAS) (Entered: 01/14/2015)
01/14/2015	<u>440</u>	Trial Document by USA as to Thamud Eldridge, Kevin Allen, Galen Rose [<i>Redacted Superseding Indictment</i>] (Tripi, Joseph) (Entered: 01/14/2015)
01/14/2015	441	Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Oral Argument set for 3/26/2015 09:00 AM before Hon. Richard J. Arcara. (LAS) (Entered: 01/14/2015)
01/16/2015	<u>442</u>	MANDATE of USCA (certified copy) as to Thamud Eldridge, Kevin Allen. The motion for leave to proceed in forma pauperis is GRANTED for the purpose of filing themandamus petition. It is further ORDERED that the mandamus petition is DENIED because Petitioners have not demonstrated that exceptional circumstances warrant the requested relief, or that they have no other adequate means to attain such relief. (DLC) (Entered: 01/16/2015)
01/23/2015	<u>446</u>	DECLARATION by Thamud Eldridge (Attachments: # <u>1</u> Certificate of Service) (Musitano, Angelo) (Entered: 01/23/2015)
01/23/2015	<u>447</u>	CJA 23 Financial Affidavit by Steven Williams. (CMD) (Entered: 01/23/2015)
01/23/2015	<u>448</u>	MOTION [Government's Combined Response to Defendants' Pre-Trial Motions in Limine] by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Alsup, John)

A061

		(Entered: 01/23/2015)
01/29/2015	<u>451</u>	RESPONSE to Motion by USA as to Thamud Eldridge, Kevin Allen, Galen Rose re 449 MOTION to File Under Seal a Motion Compelling the Government to Provide Additional 3500/Jencks/Giglio/Brady Material [Notice of Motion to file Government's Response to Defendant's Motion to Compel UNDER SEAL] (Tripi, Joseph) (Entered: 01/29/2015)
02/04/2015	<u>452</u>	MOTION FOR DETERMINATION OF STATUS OF REPRESENTATION by USA as to Thamud Eldridge. (Tripi, Joseph) (Entered: 02/04/2015)
02/13/2015	<u>455</u>	MOTION for Bond/Bail by Thamud Eldridge. (DLC) (Entered: 02/13/2015)
02/17/2015	456	TEXT ORDER as to defendants, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). The Evidentiary Hearing on February 20, 2015 at 9:00 AM is converted by the Court to a Status Conference for purposes of addressing attorney representation for defendant, Thamud Eldridge. SO ORDERED. Issued by Hon. Richard J. Arcara on February 17, 2015.(DJD) (Entered: 02/17/2015)
02/19/2015	<u>457</u>	MOTION by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 02/19/2015)
02/20/2015		Set/Reset Hearings as to Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4): Status Conference scheduled for 3/6/2015 at 9:00 AM before Hon. Richard J. Arcara. (CSS - SS) (Entered: 02/20/2015)
02/20/2015	458	Minute Entry for proceedings held 2/20/2015 before Hon. Richard J. Arcara as to Defendants, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Status Conference held. Parties indicate that Attorney Angelo Musitano is trying to resolve his issues as to representing Defendant Thamud Eldridge (1) and request a further Status Conference date. Defendant Thamud Eldridge addresses the Court as to the fairness of a Trial as to his long standing relationship with Attorney Angelo Musitano. Court appoints Attorney David Addelman as to Defendant Thamud Eldridge (1) in the event that at the next scheduled proceeding Attorney Angelo Musitano is not available. A Status Conference is scheduled for 3/6/2015 at 9:00 AM before Hon. Richard J. Arcara. Defendants remanded. Appearances: Govt - Joseph Tripi and John Alsup; Defts - John Harrington and David Addelman for Thamud Eldridge (1), Cheryl Meyers-Buth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka) (CSS - SS) (Entered: 02/24/2015)
03/06/2015		Set/Reset Hearings as to Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4): Status Conference scheduled for 3/27/2015 at 9:00 AM before Hon. Richard J. Arcara. Attorney update in case as to Thamud Eldridge (1) - Attorney David R. Addelman for Thamud Eldridge (1) added. (CSS - SS) (Entered: 03/06/2015)
03/06/2015	461	Minute Entry for proceedings held 3/6/2015 before Hon. Richard J. Arcara as to Defendants, Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). Status Conference held. Attorney Angelo Musitano is not present at this scheduled proceeding and the Court further maintains that he may not be available as to representing Defendant Thamud Eldridge (1). Defendant Thamud Eldridge (1) requests Attorney William Easton as to representation. Court indicates that Attorney William Easton is not available for assignment as to this case and formally appoints Attorney David Addelman for counsel as to Defendant Thamud Eldridge (1). Attorney David Addelman addresses the Court as to Trial preparation and indicates that he doesn't feel confident that he will be ready to proceed by the scheduled Trial date. The Oral Argument scheduled for 3/26/2015 has been adjourned pending a further Status Conference. A Status Conference is scheduled for 3/27/2015 at 9:00 AM before Hon. Richard J. Arcara. Time remains excluded from

A062

		the STA calendar. Defendants remanded. Appearances: Govt - Joseph Tripi; Defts - David Addelman for Thamud Eldridge (1), Cheryl Meyers-Buth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka)(CSS - SS) (Entered: 03/11/2015)
03/12/2015	<u>462</u>	Writ of Habeas Corpus ad Testificandum Returned Executed for Devaughn Holmes on 1/2/2015 and 1/16/2015 in case as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 03/13/2015)
03/27/2015		Set/Reset Hearings as to Thamud Eldridge (1), Kevin Allen (2), and Galen Rose (4): Status Conference scheduled for 5/22/2015 at 9:00 AM before Hon. Richard J. Arcara. (CSS - SS) (Entered: 03/27/2015)
03/27/2015	465	Minute Entry for proceedings held 3/27/2015 before Hon. Richard J. Arcara as to Defendants, Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). Status Conference held. Defense counsel David Addelman indicates that he has reviewed the case file as to Defendant Thamud Eldridge (1) and states that he will not be prepared for the scheduled Trial date. Defense counsel David Addelman also indicates that additional Motions may need to be filed. Government is concerned as to new Motions being filed for issues already addressed/resolved. Court indicates that any Motions concerning issues already addressed/resolved will not be heard, and their rulings/decisions are final. Defense counsel David Addelman inquires about compensation as to prior counsel Angelo Musitano for assistance. Court and counsel to research any possibilities as to compensation for counsel assistance as to Defendant Thamud Eldridge (1). A Status Conference as Jury Trial date is scheduled for 5/22/2015 at 9:00 AM before Hon. Richard J. Arcara. Time is excluded from the STA calendar through 5/22/2015. Government to prepare an Order. Defendants remanded. Appearances: Govt - Joseph Tripi; Defts - David Addelman for Thamud Eldridge (1), Cheryl Meyers-Buth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka)(CSS - SS) (Entered: 03/31/2015)
03/30/2015	<u>464</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen, Galen Rose Time excluded from 3/27/2015 until 5/22/2015. Status Conference is adjourned until May 22, 2015, 9:00 a.m.. Signed by Hon. Richard J. Arcara on 3/27/2015.(DLC) (Entered: 03/30/2015)
05/22/2015		Set/Reset Hearings as to Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4): Evidentiary Hearing scheduled for 7/13/2015 at 9:30 AM before Hon. Richard J. Arcara. Evidentiary Hearing scheduled for 7/14/2015 at 9:30 AM before Hon. Richard J. Arcara. Oral Argument scheduled for 7/23/2015 at 10:00 AM before Hon. Richard J. Arcara. Oral Argument scheduled for 12/8/2015 at 10:00 AM before Hon. Richard J. Arcara. Final Pretrial Conference scheduled for 12/17/2015 at 2:00 PM before Hon. Richard J. Arcara. Jury Selection scheduled for 1/6/2016 at 9:30AM before Hon. Richard J. Arcara. Jury Trial to commence on 1/7/2016 at 9:00 AM before Hon. Richard J. Arcara. (CSS - SS) (Entered: 05/22/2015)
05/22/2015	467	Minute Entry for proceedings held 5/22/2015 before Hon. Richard J. Arcara as to Defendants, Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). Status Conference as to Trial date held. Defense counsel David Addelman requests that the court reassign William Easton as to Defendant Thamud Eldridge (1) because he feels that he will not be prepared for the upcoming Jury Trial. Court denies Attorney David Addelman's request and affirms that he is an experienced defense attorney who is fully capable of handling this assignment. Defensive counsel for all Defendants request a Jury Trial date in February 2016. Government objects to this request and indicates that the Defense counsel involved have all the information, documents, and 3500 material as to this case to be prepared for trial. Court denies this request. Evidentiary Hearing scheduled

A063

		for 7/13/2015 (9:30 AM) before Hon. Richard J. Arcara. Evidentiary Hearing scheduled for 7/14/2015 (9:30 AM) before Hon. Richard J. Arcara. Oral Argument scheduled for 7/23/2015 at 10:00 AM before Hon. Richard J. Arcara. Oral Argument for Motions in Limine scheduled for 12/8/2015 at 10:00 AM before Hon. Richard J. Arcara. Final Pretrial Conference scheduled for 12/17/2015 at 2:00 PM before Hon. Richard J. Arcara. Jury Selection scheduled for 1/6/2016 at 9:30 AM before Hon. Richard J. Arcara. Jury Trial to commence on 1/7/2016 at 9:00 AM before Hon. Richard J. Arcara. Time is excluded from the STA calendar through 1/6/2015. Government to prepare an Order. Defendants remanded. Appearances: Govt - Joseph Tripi; Defts - David Addelman for Thamud Eldridge (1), Cheryl Meyers-Buth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka)(CSS - SS) (Entered: 05/28/2015)
05/26/2015	<u>466</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen, Galen Rose Time excluded from 5/22/2015 until 1/6/2016. Signed by Hon. Richard J. Arcara on 5/22/2015. (DLC) (Entered: 05/27/2015)
06/22/2015	<u>469</u>	MOTION for Release from Custody by Thamud Eldridge. (Addelman, David) (Entered: 06/22/2015)
06/22/2015	<u>470</u>	Certificate of Service by Thamud Eldridge re <u>469</u> MOTION for Release from Custody (Addelman, David) (Entered: 06/22/2015)
07/08/2015	<u>473</u>	MOTION to Seal by Thamud Eldridge. (Addelman, David) (Entered: 07/08/2015)
07/10/2015	<u>474</u>	WITNESS LIST by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Alsup, John) (Entered: 07/10/2015)
07/10/2015	<u>475</u>	WITNESS LIST by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Alsup, John) (Entered: 07/10/2015)
07/10/2015	<u>476</u>	RESPONSE in Opposition by USA as to Thamud Eldridge, Kevin Allen, Galen Rose re <u>473</u> MOTION to Seal [<i>Government's Response in Opposition to Defendant's Motion for an Order Granting Defendant's Motion to Subpoena the Assistant United States Attorney</i>] (Attachments: # <u>1</u> Exhibit A, B, C & D)(Tripi, Joseph) (Entered: 07/10/2015)
07/10/2015	<u>477</u>	EXHIBIT LIST by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 07/10/2015)
07/13/2015		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Evidentiary Hearing (Continuation) set for 7/29/2015 09:30 AM before Hon. Richard J. Arcara. (DJD) (Entered: 07/20/2015)
07/13/2015		Minute Entry for proceedings held 7/13/2015 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). Defts Allen and Rose waive their appearance for today's proceeding. Evidentiary Hearing is held. Govt gives opening statement (proffer). Testimony is given by Witness No. 1, Thomas Barillari called by the Govt; direct; cross by Deft Eldridge; cross by Deft Rose; cross by Deft Allen; redirect; and re-cross examination by Deft Eldridge. Testimony is given by Witness No. 2, Michelle Kerr called by the Govt; direct; cross by Deft Eldridge; cross by Deft Rose; cross by Deft Allen; redirect; re-cross by Deft Eldridge; and re-cross examination by Deft Allen. Testimony is given by Witness No. 3, Patrick Judge called by the Govt; direct, cross by Deft Eldridge; cross by Deft Allen; redirect; and re-cross examination by Deft, Allen.

A064

		<p>Testimony is given by Witness No. 4, Timothy McDonald called by the Govt; direct, cross by Deft Eldridge; and cross-examination by Deft Rose.</p> <p>Testimony is given by Witness No. 5, Joy Jermain called by the Govt; direct, cross by Deft Eldridge; and redirect examination.</p> <p>Evidentiary Hearing is continued to 7/29/2015 at 9:30 AM.</p> <p>Appearances: Govt - Joseph Tripi and John Alsup; Deft Eldridge - David Addelman; Deft Allen - Cheryl Meyers Buth; Deft Rose - Daniel Henry (Court Reporter Megan Pelka.) (DJD) (Entered: 07/20/2015)</p>
07/20/2015	478	TEXT ORDER as to defendant, Thamud Eldridge. Oral Argument is scheduled for July 29, 2015 at 9:30 AM as to <u>469</u> Motion for Release from Custody filed by defendant Eldridge. Response papers are to be filed no later than July 24, 2015 by 12:00 PM. Reply papers are to be filed no later than July 28, 2015 by 12:00 PM. SO ORDERED. Issued by Hon. Richard J. Arcara on July 20, 2015.(DJD) (Entered: 07/20/2015)
07/23/2015	<u>479</u>	RESPONSE to Motion by USA as to Thamud Eldridge re <u>469</u> MOTION for Release from Custody (Tripi, Joseph) (Entered: 07/23/2015)
07/24/2015	<u>480</u>	MOTION FOR PERMISSION TO FILE A SUPPLEMENTAL RESPONSE TO DEFENDANTS MOTION FOR RELEASE by USA as to Thamud Eldridge. (Tripi, Joseph) (Entered: 07/24/2015)
07/28/2015	481	TEXT ORDER as to defendant, Thamud Eldridge (1). The United States filed <u>480</u> Motion for Permission to File Supplemental Response to <u>469</u> Defendant's Motion for Release. The motion is granted. The Supplemental Response by the United States shall be filed by August 12, 2015. Reply papers shall be filed by August 19, 2015. Oral Argument is rescheduled from July 29, 2015 to August 26, 2015 at 2:00 PM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on July 28, 2015.(DJD) (Entered: 07/28/2015)
07/29/2015		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Evidentiary Hearing (continuation) set for 8/14/2015 02:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 07/29/2015)
07/29/2015		<p>Minute Entry for proceedings held 7/29/2015 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). Defts Allen and Rose waive their appearance for today's proceeding. Evidentiary Hearing Continues from 7/13/2015.</p> <p>Testimony is given by Witness No. 6, Mary Evans called by the Govt; direct, cross by Deft Eldridge; redirect and re-cross examination by Deft Eldridge.</p> <p>Testimony is given by Witness No. 7, Mark Antonio called by the Govt; direct, cross by Deft, Eldridge and redirect examination.</p> <p>Testimony is given by Witness No. 8, Vanessa Paris called by the Govt; direct, cross by Deft Eldridge, cross by Deft Rose and redirect examination.</p> <p>Govt rests.</p> <p>Deft Eldridge intends to call two or three witnesses.</p> <p>Oral Argument is held on motion by Deft Eldridge to subpoena AUSA for Evidentiary Hearing Testimony. The Court rules to allow limited testimony.</p>

A065

		Evidentiary Hearing is continued to 8/14/2015 at 2:00 PM. Appearances: Govt - John Alsup and Joel Violanti; Deft Eldridge - David Addelman; Deft Allen - Cheryl Meyers Buth; Deft Rose - Daniel Henry (Court Reporter Megan Pelka.) (Court Reporter Megan Pelka.)(DJD) Modified on 8/7/2015 (DJD). (Entered: 08/07/2015)
08/10/2015	<u>482</u>	RESPONSE in Opposition by USA as to Thamud Eldridge re <u>469</u> MOTION for Release from Custody (Tripi, Joseph) (Entered: 08/10/2015)
08/11/2015	<u>483</u>	MOTION <i>Notice of Motion and Motion for Reconsideration of the Court's Decision to Grant Defendant Eldridge's Motion to Subpoena AUSA (Dkt. #473) and Motion for Offer of Proof</i> by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Alsup, John) (Entered: 08/11/2015)
08/13/2015	<u>484</u>	MOTION to Quash <i>Notice of Motion and Motion to Quash the Subpoena Duces Tecum Served on the "Erie County District Attorney's Office"</i> by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Alsup, John) (Entered: 08/13/2015)
08/14/2015	<u>485</u>	EXHIBIT LIST by Thamud Eldridge (Addelman, David) (Main Document 485 replaced on 12/29/2020) (JLV). (Entered: 08/14/2015)
08/14/2015	<u>486</u>	WITNESS LIST by Thamud Eldridge (Addelman, David) (Main Document 486 replaced on 12/29/2020) (JLV). (Entered: 08/14/2015)
08/14/2015	<u>487</u>	ORDER: For the reasons outlined in the attached Order, the Government's motion for reconsideration <u>483</u> is hereby denied, and its motion to quash <u>483</u> is partially denied, and partially held on abeyance. SO ORDERED. Issued by Hon. Richard J. Arcara on 8/14/15. (LAS) (Entered: 08/14/2015)
08/14/2015	<u>488</u>	MOTION to Quash by USA as to Thamud Eldridge. (Milling, Donna) (Entered: 08/14/2015)
08/14/2015	489	TEXT ORDER: Motion to Quash Subpoena <u>488</u> will be addressed at 2:00 pm on August 14, 2015 prior to the start of the evidentiary hearing. SO ORDERED. Issued by Hon. Richard J. Arcara on 8/14/15.(LAS) (Entered: 08/14/2015)
08/14/2015	<u>490</u>	MOTION to Quash by USA as to Thamud Eldridge. (Milling, Donna) (Entered: 08/14/2015)
08/14/2015	492	Minute Entry for proceedings held 8/14/2015 before Hon. Richard J. Arcara as to Defendants, Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). Evidentiary Hearing continuation (from 7/29/2015) held. Defendants Kevin Allen (3) and Galen Rose (4) waives their appearance. Court deems Government's <u>488</u> MOTION to Quash (subpoena duces tecum) as Moot. Court grants Government's <u>490</u> Motion to Quash (subpoena ad testificandum). Testimony is given by Witness No. 9, Joseph Tripi, called by the Defendant; direct, cross, and re-direct examination. Testimony is given by Witness No. 10, John Simich, called by the Defendant; direct and cross examination. Evidentiary Hearing concludes. Parties to submit briefs as to the Evidentiary Hearing by 10/5/2015. Oral Argument is scheduled for 10/13/2015 at 9:30 AM before Hon. Richard J. Arcara. Defendants remanded. Appearances: Govt - John Alsup; Erie County Assistant District Attorney - Donna Milling for Frank Sedita (Erie County District Attorney); Defts - David Addelman for Thamud Eldridge (1), Cheryl Meyers-Buth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka)(CSS - SS) Modified on 10/6/2015 to correct Minute Entry information (CSS - SS) (Entered: 08/25/2015)
08/14/2015		E-Filing Notification: 492 Minute Entry for proceedings held 8/14/2015 before Hon. Richard J. Arcara as to Defendants, Thamud Eldridge (1), Kevin Allen (3), and Galen

A066

		Rose (4). Evidentiary Hearing continuation (from 7/29/2015) held. Defendants Kevin Allen (3) and Galen Rose (4) waives their appearance. Court deems Government's <u>488</u> MOTION to Quash (subpoena duces tecum) as Moot. Court grants Government's <u>490</u> Motion to Quash (subpoena ad testificandum). Testimony is given by Witness No. 9, Joseph Tripi, called by the Defendant; direct, cross, and re-direct examination. Testimony is given by Witness No. 10, John Simich, called by the Defendant; direct and cross examination. Evidentiary Hearing concludes. Parties to submit briefs as to the Evidentiary Hearing by 10/5/2015. Oral Argument is scheduled for 10/13/2015 at 9:30 AM before Hon. Richard J. Arcara. Defendants remanded. Appearances: Govt - John Alsup; Erie County Assistant District Attorney - Donna Milling for Frank Sedita (Erie County District Attorney); Defts - David Addelman for Thamud Eldridge (1), Cheryl Meyers-Butth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka)(CSS - SS) Modified on 10/6/2015 to correct Minute Entry information (CSS - SS) (Entered: 10/06/2015)
09/14/2015	<u>493</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Evidentiary Hearing Proceedings as to Thamud Eldridge held on July 13, 2015 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716/364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/5/2015. Redacted Transcript Deadline set for 10/15/2015. Release of Transcript Restriction set for 12/14/2015. (DLC) (Entered: 09/15/2015)
09/14/2015	<u>494</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Continuation of Evidentiary Hearing Proceedings as to Thamud Eldridge held on July 29, 2015 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716/364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/5/2015. Redacted Transcript Deadline set for 10/15/2015. Release of Transcript Restriction set for 12/14/2015. (DLC) (Entered: 09/15/2015)
09/14/2015	<u>495</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Continuation of Evidentiary Hearing Proceedings as to Thamud Eldridge held on August 14, 2015 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716/364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/5/2015. Redacted Transcript Deadline set for 10/15/2015. Release of Transcript Restriction set for 12/14/2015. (DLC) (Entered: 09/15/2015)
09/30/2015	<u>497</u>	ORDER as to Thamud Eldridge: Defendant's Motion for Release from Custody <u>469</u> is denied for the reasons set forth in the attached Order. SO ORDERED. Signed by Hon. Richard J. Arcara on 9/29/15.(LAS) (Entered: 09/30/2015)
09/30/2015	626	CJA 24 as to Thamud Eldridge: Authorization to Pay Megan E. Pelka \$ 47.70 for Transcript, Voucher # 150928000027.. Signed by Hon. Richard J. Arcara on 9/16/15. (MD) (Entered: 04/25/2016)
10/05/2015	<u>499</u>	MEMORANDUM OF LAW in support of suppression motion by Thamud Eldridge. (Addelman, David) Modified on 10/6/2015 (DLC). (Entered: 10/05/2015)
10/05/2015	<u>500</u>	MEMORANDUM/BRIEF by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 10/05/2015)
10/06/2015		E-Filing Notification: Incorrect event used to electronically file document. For future

A067

		reference, use (Memorandum in Support) event. No action required re <u>499</u> First MOTION to Dismiss. Document terminated as motion and title of document changed on docket. (DLC) (Entered: 10/06/2015)
10/06/2015	<u>501</u>	MOTION to Adjourn ORAL ARGUMENT by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 10/06/2015)
10/13/2015	<u>502</u>	Certificate of Service by Thamud Eldridge re <u>499</u> First MOTION to Dismiss (Addelman, David) (Entered: 10/13/2015)
10/27/2015		NOTICE OF SCHEDULING as to defendants Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Oral Argument on the Post-Hearing Evidentiary Issue(s) is scheduled for October 29, 2015 at 1:30 PM before Hon. Richard J. Arcara. (DJD) (Entered: 10/27/2015)
10/29/2015	503	Minute Entry for proceedings held 10/29/2015 before Hon. Richard J. Arcara. Oral Argument on Post-Hearing Evidentiary Issue(s) as to Defendants Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4) held. Defendants Kevin Allen (3) and Galen Rose (4) waive their appearance as to this scheduled proceeding. Matters submitted. Decisions reserved. Defendants remanded. Appearances: Govt - Joseph Tripi and Megan Tokash; Deft - David Addelman for Thamud Eldridge (1), Cheryl Meyers-Buth for Kevin Allen (3), and Daniel Henry for Galen Rose (4) (Court Reporter - Megan Pelka)(CSS - SS) (Entered: 11/06/2015)
12/01/2015	<u>506</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 12/04/2015)
12/01/2015	<u>507</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 12/04/2015)
12/07/2015	<u>509</u>	Petition and Order for Writ of Habeas Corpus ad Testificandum. Signed by Hon. Richard J. Arcara on 12/7/2015.(DLC) (Entered: 12/09/2015)
12/07/2015		Writ of Habeas Corpus ad Testificandum Issued as to Jeffrey Mills for December 22, 2015 @ 9:30 a.m. in case as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 12/09/2015)
12/09/2015	<u>508</u>	NOTICE OF ATTORNEY APPEARANCE Meghan A. Tokash appearing for USA. [<i>as co-counsel</i>] (Tokash, Meghan) (Entered: 12/09/2015)
12/10/2015	<u>510</u>	Proposed Jury Instructions by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 12/10/2015)
12/16/2015	<u>514</u>	ORDER as to Thamud Eldridge, Kevin Allen, Galen Rose: Defendants' motions to dismiss Racketeering Act 2, Racketeerin Act 6, and Counts 11 through 17 of the Superseding Indictment are denied. Defendants' alternative motions to preclude references to destroyed or unpreserved evidence are denied. Defendants' motions to preclude the introduction of computer aided dispatch reports are held in abeyance pending a further evidentiary hearing. SO ORDERED. Signed by Hon. Richard J. Arcara on 12/16/15.(LAS) (Entered: 12/16/2015)
12/16/2015	<u>515</u>	First MOTION Re-Appointment of Prior Counsel by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Addelman, David) (Entered: 12/16/2015)
12/18/2015		TEXT ORDER as to defendant, Thamud Eldridge (1). Oral Argument is scheduled for December 21, 2015 at 11:00 AM before Hon. Richard J. Arcara as to <u>379</u> Motion to Sever Defendant filed by defendant Thamud Eldridge. SO ORDERED. Issued by Hon. Richard J. Arcara on December 18, 2015.(DJD) (Entered: 12/18/2015)

A068

12/21/2015	<u>517</u>	MEMORANDUM/BRIEF [SUPPLEMENTAL MEMORANDUM OF LAW REGARDING ADMISIBILITY OF PHONE NUMBERS AND CONTACT LISTS INSIDE RECOVERED OR SEARCHED CELL PHONES] by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 12/21/2015)
12/23/2015	<u>519</u>	DECISION AND ORDER as to Thamud Eldridge, Kevin Allen and Galen Rose, addressing Motions in Limine. SO ORDERED. Signed by Hon. Richard J. Arcara on 12/23/15.(LAS) (Entered: 12/23/2015)
12/31/2015	<u>520</u>	First MOTION in Limine by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service) (Addelman, David) (Entered: 12/31/2015)
01/04/2016	<u>522</u>	EXPERT WITNESS LIST by USA as to Thamud Eldridge, Kevin Allen, Galen Rose (Tripi, Joseph) (Entered: 01/04/2016)
01/04/2016	<u>523</u>	AFFIDAVIT in Opposition by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose re <u>520</u> First MOTION in Limine (Attachments: # <u>1</u> Exhibit ATF ROI, # <u>2</u> Exhibit Weigan GJ Transcript, # <u>3</u> Exhibit Homick GJ Transcript, # <u>4</u> Exhibit CPS Lab Report)(Tokash, Meghan) (Entered: 01/04/2016)
01/06/2016	<u>526</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 01/07/2016)
01/06/2016	<u>527</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 01/07/2016)
01/07/2016	<u>525</u>	CONTINUATION OF EXHIBITS by USA as to Thamud Eldridge, Kevin Allen, Galen Rose to <u>523</u> Affidavit in Opposition to Motion, <i>EXHIBIT D</i> (Tokash, Meghan) (Entered: 01/07/2016)
01/07/2016	<u>529</u>	TEXT ORDER as to defendants, Thamud Eldridge (1), Kevin Allen (3), and Galen Rose (4). A follow-up Final Pretrial Conference is scheduled for January 11, 2016 at 3:00 PM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on January 7, 2016.(DJD) (Entered: 01/07/2016)
01/07/2016	<u>530</u>	DECISION AND ORDER as to Thamud Eldridge addressing motions <i>in limine</i> <u>520</u> . Defendant's motion to disqualify is denied. Defendant's motion to dismiss the Indictment, preclude evidence or hold an evidentiary hearing is denied. Counts 16 and 17 are severed from the Indictment. SO ORDERED. Signed by Hon. Richard J. Arcara on 1/7/16.(LAS) (Entered: 01/07/2016)
01/08/2016	<u>532</u>	MOTION in Limine <i>Regarding Cell Phone Seized September 21, 2005</i> by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 01/08/2016)
01/08/2016	<u>533</u>	MOTION in Limine <i>Regarding Cell Phone Seized September 21, 2005 [AMENDED]</i> by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 01/08/2016)
01/11/2016	<u>535</u>	RESPONSE to Motion by Thamud Eldridge re <u>533</u> MOTION in Limine <i>Regarding Cell Phone Seized September 21, 2005 [AMENDED]</i> (Attachments: # <u>1</u> Certificate of Service) (Addelman, David) (Entered: 01/11/2016)
01/11/2016		Minute Entry for proceedings scheduled for 1/11/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Additional Final Pretrial Conference is held. Appearances: Govt - Joseph Tripi; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (No Court Reporter) (DJD) Modified

A069

		on 3/16/2016 (DJD). (Entered: 03/16/2016)
01/12/2016	<u>536</u>	Proposed Voir Dire by Thamud Eldridge (Attachments: # <u>1</u> Certificate of Service) (Addelman, David) (Entered: 01/12/2016)
01/13/2016		<p>Minute Entry for proceedings held 1/13/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Selection is held. Jury Selection is continued to 1/14/2016 at 9:30 AM.</p> <p>Oral Argument is held as to 541 Motion Allowing Defendant Kevin Allen to Remain Unshackled During Trial, filed by defendant Allen. Over objections by the U.S. Marshals Service, the Court grants the motion and allows defendant Allen as well as defendants Eldridge and Rose to remain unshackled during the trial. In the event a problem arises, the leg shackles will be reapplied. Defts remain in custody.</p> <p>Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/16/2016)</p>
01/14/2016		<p>Minute Entry for proceedings held 1/14/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Selection continues from 1/13/2016. Batson challenge(s) raised by Deft Eldridge. The Court denies the challenge(s). Twelve Jurors and six Alternate Jurors are selected. Jury Trial to commence on 1/15/2016 at 11:00 AM with Preliminary Instructions and Opening Statements. Trial Attorneys to return on 1/15/2016 at 9:15 AM for argument on motions in limine.</p> <p>Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/16/2016)</p>
01/15/2016		<p>Minute Entry for proceedings held 1/15/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Trial commences.</p> <p>The Court addresses various motions in limine including: 1) Court's <i>in camera</i> review of 302's, Pretrial Reports and PSR's - - the Court rules that it has reviewed these documents and finds that they do not contain any 3500 or <i>Giglio</i> material that needs to be disclosed to defense counsel. These documents are marked as COURT EXHIBIT Nos. 1 through 20 and will be filed under seal. 2) Court's <i>in camera</i> review of federal presentence reports and pretrial reports of 10 individuals for any exculpatory or impeachment material - - the Court rules that its review of the reports finds that the presentence reports for two individuals may contain impeachment material. These documents are marked as COURT EXHIBIT Nos. 21 and 22 and will be filed under seal; they will be released to the Govt and defense counsel. The Court finds that the remaining pretrial services reports and presentence reports do contain impeachment or exculpatory material. These documents will be marked as COURT EXHIBIT Nos. 23 through 39 and will be filed under seal. The Court addresses various other issues raised in the motions in limine including Govt's motion to introduce cell phone, Defts Eldridge and Rose's motion to preclude testimony from records custodians at various jails, Deft Allen's renewed motion for severance, and Deft Allen's motion to preclude evidence of tear drop tattoos. In addition, the Defts orally move to have the black drape removed from the well of the courtroom which partitions defense counsel tables from the Govt's counsel tables. The drape was intended to prevent</p>

A070

the jury from seeing the leg shackles on the Defts. However, Defts argue that since the leg shackles have been removed from the Defts there is no longer a need for the drape. The Court denies the request to remove the drape.

Jurors are sworn. The Court gives Preliminary Instructions to the Jurors.

Govt gives Opening Statement. Deft Eldridge gives Opening Statement. Deft Allen gives Opening Statement. Deft Rose gives Opening Statement.

Jury Trial is adjourned to 1/19/2016 at 9:15 AM.

Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/16/2016)

01/19/2016

544

RESPONSE TO MOTION/MEMORANDUM by USA as to Thamud Eldridge, Kevin Allen, Galen Rose *MEMORANDUM OF LAW IN RESPONSE TO DEFENDANTS JOINT MOTION FOR A MISTRIAL AND OTHER RELIEF* (Tripi, Joseph) Modified on 1/20/2016 (DLC). (Entered: 01/19/2016)

01/19/2016

Minute Entry for proceedings held 1/19/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).

Jury Trial continues.

Testimony is given by Witness No. 1, Samuel Cuyler called by the Govt; direct examination; cross examination by Deft Eldridge; redirect examination and re-cross examination by Deft Eldridge.

Testimony is given by Witness No. 2, Scott Perkins called by the Govt; direct examination; cross examination by Deft Rose

Testimony is given by Witness No. 3, Melody Bus called by the Govt; direct examination; cross examination by Deft Rose.

Testimony is given by Witness No. 4, Sam E. Jones called by the Govt; direct examination; cross examination by Deft Eldridge; cross examination by Deft Allen; redirect examination.

Testimony is given by Witness No. 5, Joseph M. Cook called by Govt; direct examination; cross examination by Deft Eldridge.

Testimony is given by Witness No. 6, Alice Collins called by the Govt; direct examination; cross examination by Deft Eldridge.

Jury Trial is adjourned to 1/20/2016 at 9:30 AM for the Jurors.

Defts filed 543 Joint Motion for Mistrial and Other Relief. The Court directs the Govt to file a written response. Written response papers to be filed by 1/20/2016 (12:00 PM). The Court hears argument on the issues in Defts' motion. The Court orally denies the issues presented in Deft's motion other than the request for a photograph of the drape/bunting around defense tables.

Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/16/2016)

A071

01/20/2016	E-Filing Notification: Incorrect event used to electronically file document. For future reference, use (Response to Motion or Memorandum) event. No action required re <u>544</u> Trial Document by USA as to Thamud Eldridge, Kevin Allen, Galen Rose <i>MEMORANDUM OF LAW IN RESPONSE TO DEFENDANTS JOINT MOTION FOR A MISTRIAL AND OTHER RELIEF</i> (Tripi, Joseph) Title of document changed on docket. (DLC) (Entered: 01/20/2016)
01/20/2016	<p>Minute Entry for proceedings held 1/20/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Trial continues.</p> <p>Testimony is given by Witness No. 7, Byron Keith Barnes called by the Govt; direct examination; cross examination by Deft Eldridge; cross examination by Deft Allen.</p> <p>Testimony is given by Witness No. 8, Cindy Walker called by the Govt; direct examination; cross examination by Deft Eldridge, cross examination by Deft Allen, redirect examination.</p> <p>Testimony is given by Witness No. 9, Rufus Feaster called by the Govt; direct examination; cross examination by Deft Eldridge; redirect examination; re-cross examination by Deft Eldridge.</p> <p>Testimony is given by Witness No. 10, Madonna Pursell called by the Govt; direct examination; cross examination by Deft Eldridge; redirect examination.</p> <p>Jury Trial is adjourned to 1/21/2016 at 9:15 AM.</p> <p>Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/16/2016)</p>
01/21/2016	<u>545</u> Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (DLC) (Entered: 01/22/2016)
01/21/2016	<p>Minute Entry for proceedings held 1/21/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Trial continues.</p> <p>Testimony is given by Witness No. 10, Madonna Pursell recalled by the Govt. Redirect examination by Deft Eldridge.</p> <p>Testimony is given by Witness No. 11, Lavel Pearson called by the Govt; direct examination; cross examination by Deft Rose; cross examination by Deft Eldridge; redirect examination.</p> <p>Testimony is given by Witness No. 12, Jay Renfro called by the Govt; direct examination; cross examination by Deft Eldridge; redirect examination.</p> <p>Testimony is given by Witness No. 13, Jamile Lee called by the Govt; direct examination; cross examination by Deft Eldridge; cross examination by Deft Allen; redirect examination. Jury Trial is adjourned to 1/22/2016 at 10:00 AM.</p> <p>Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/17/2016)</p>

01/22/2016		<p>Minute Entry for proceedings held 1/22/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Trial continues.</p> <p>Testimony is given by Witness No. 14, Sung Ook Baik called by the Govt; direct examination; cross examination by Deft Rose; redirect examination.</p> <p>Deft Allen indicates to the Court that a prior severance motion was made concerning a recorded jailhouse telephone call between Deft Eldridge, his girlfriend Tonya Calloway and former co-Deft Kashika Speed. Deft Allen previously moved to sever Deft Allen due to this call, however, the Court denied the motion. Deft Allen is requesting a limiting instruction. The Court denies the request.</p> <p>Testimony is given by Witness No. 15, Matthew Truso; direct examination; cross examination by Deft Eldridge.</p> <p>Testimony is given by Witness No. 16, Stacy Stawicki, direct examination; cross examination by Deft Eldridge; redirect examination.</p> <p>The Court addresses with Juror No. 1 and all other Jurors their concern, as related by Juror No. 1 to the Courtroom Deputy Clerk, about their residence addresses being made known to the trial participants. The Court indicates to the Jurors that the only information made public is what was stated by each Juror in court during jury selection, which was to indicate the general area where they lived. The Court questions the Jurors, generally, if anything has changed since jury selection about their ability to remain open minded and impartial. There is no indication from any of the Jurors that they are unable to remain fair and impartial.</p> <p>The Court will address the concerns next week as to Juror No. 4 (telephone call from employer to Court's Chambers) and Juror No. 5 (financial hardship).</p> <p>Jury Trial is adjourned to 1/25/2016 at 9:15 AM.</p> <p>Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/17/2016)</p>
01/23/2016	<u>546</u>	<p>Trial Document by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose <i>GOVERNMENT'S AMENDMENT TO SECOND AMENDED EXPERT WITNESS LIST DUE TO CLERICAL ERROR</i> (Tripi, Joseph) (Entered: 01/23/2016)</p>
01/25/2016		<p>Minute Entry for proceedings held 1/25/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Trial continues.</p> <p>Testimony is given by Witness No. 17, Steve Martin called by the Govt; direct examination; cross examination by Deft Eldridge; cross examination by Deft Allen. The testimony of Witness, Steve Martin is continued to 1/26/2016.</p> <p>The Court questions Juror No. 4 outside of the presence of the other Jurors concerning his employer's telephone call to the Court's chambers about his jury service and possible conflict with the work schedule. Juror No. 4 acknowledged that he knew his employer called the Court's Chambers, but that it would have no bearing on his continued jury</p> <p style="text-align: center;">A073</p>

service. The Court also questioned Juror No. 4 about his familiarity with name of Govt witness, Mark Kalinowski. Juror No. 4 acknowledged his familiarity with Witness Mark Kalinowski through his employment. Juror No. 4 assured the Court that he would remain fair and impartial.

Counsel for Deft Eldridge suggests to the Court that Govt Witness, Kashika Speed will need counsel. The Court indicates to defense counsel that this is not his concern. Defense Counsel informs the Court that the defense may call Kashika Speed as a defense witness.

Jury Trial is adjourned to 1/26/2016 at 9:15 AM.

Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/17/2016)

01/26/2016

Minute Entry for proceedings held 1/26/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).

Jury Trial continues.

Testimony continues from 1/25/2016 of Witness No. 17, Steve Martin called by the Govt; cross examination by Deft Allen continues; redirect examination.

Testimony is given by Witness No. 18, Harrison Davis called by the Govt; direct examination; cross examination by Deft Eldridge. p>Testimony is given by Witness No. 19, Orlando Davis called by the Govt; direct examination; cross examination by Deft Eldridge.

The Govt reads into the record the Joint Stipulation No. 1 (Origin of Controlled Substances and Interstate Commerce) and Joint Stipulation No. 2 (Controlled Substances - Types and Quantity regarding Govt Exhibit Nos. 30-E, 30-F, 13, 357-B, 357-C, 14, 634, 16, 690-A, 690-B, 17, 691-B and 691-C) entered into by all the parties.

Testimony is given by Witness No. 20, Henry Lloyd called by the Govt; direct examination; cross examination by Deft Allen; redirect examination; re-cross examination by Deft Allen.

Testimony is given by Witness No. 21, Mark Vaughn; direct examination; cross examination by Deft Eldridge.

Testimony is given by Witness No. 22, Randy Jarrett; direct examination; voir dire by Deft Eldridge; cross examination by Deft Eldridge.

Jury Trial is adjourned to 1/27/2016 at 9:15 AM.

Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.)(DJD) (Entered: 03/03/2017)

01/27/2016

Minute Entry for proceedings held 1/27/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).

Jury Trial continues.

Outside of the presence of the Jury, the Govt reports to the Court that yesterday's Govt Witness, Steve Martin was shot at several times a few hours after he testified in court. In

A074

		<p>addition, the Govt reports that the wife of a witness who testified last week was threatened. The Govt comments that information from the courtroom was transferred out of the courtroom even though there was no newspaper coverage of the Martin testimony. The Court indicates that these actions will be addressed by law enforcement.</p> <p>Testimony is given by Witness No. 23, Woodie Johnson III called by the Govt; direct examination; cross examination by Deft Eldridge; cross examination by Deft Allen; redirect examination; re-cross examination by Deft Eldridge.</p> <p>Deft Eldridge requests a proffer of proposed Govt Witness John Fecio, a crime scene technician. Argument is held. The Court will not permit witness John Fecio to testify.</p> <p>Testimony is given by Witness No. 24, Richard Lopez called by the Govt; direct examination. Jury trial adjourned to 1/28/2016 at 9:15 AM.</p> <p>Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.) (DJD) (Entered: 03/03/2017)</p>
01/28/2016	<u>549</u>	TRIAL BRIEF by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Tokash, Meghan) (Entered: 01/28/2016)
01/28/2016		<p>Minute Entry for proceedings held 1/28/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Trial continues.</p> <p>Testimony is given by Witness No. 24, Paula Carducci called by the Govt; direct examination; cross examination by Deft Rose; cross examination by Deft Eldridge; redirect examination.</p> <p>Testimony is given by Witness No. 26, Michael Mordino called by the Govt; direct examination; cross examination by Deft Rose. During the course of cross examination an issue was raised concerning extrinsic evidence a prior inconsistent statement. Argument is held. The Court requires briefing on the issue by 8:00 AM on 1/29/2016. The Court will have its ruling by 9:00 AM on 1/29/2016.</p> <p>Jury Trial is adjourned to 1/29/2016 at 9:15 AM.</p> <p>Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Buth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.) (DJD) (Entered: 03/03/2017)</p>
01/29/2016		<p>Minute Entry for proceedings held 1/29/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4).</p> <p>Jury Trial continues.</p> <p>The Court gives its ruling on Deft Rose's offering of evidence during cross examination of Witness Michael Mordino's testimony pursuant to Federal Rules of Evidence 613(b) which allows a party to impeach a witness through extrinsic evidence of a prior inconsistent statement in certain instances.</p> <p>Testimony continues from 1/28/2016 of Witness No. 26, Michael Mordino called by the Govt; cross examination by Deft Rose continues; redirect examination.</p>

A075

Testimony is given by Witness No. 27, Sandra Easley called by the Govt; direct examination; cross examination by Deft Rose; cross examination by Deft Eldridge.

Testimony is given by Witness No. 28, Bernadette Crawford called by the Govt; direct examination; cross examination by Deft Rose.

Testimony is given by Witness No. 29, Steven Dickey; direct examination; cross examination by Deft Rose; redirect examination.

Testimony is given by Witness No. 30, Delon Moss; direct examination; cross examination by Deft Eldridge.

Testimony is given by Witness No. 31, Joy Jermain called by the Govt; direct examination.

Testimony is given by Witness No. 32, James Maroney called by the Govt; direct examination; cross examination by Deft Eldridge; coss examination by Deft Rose; redirect examination.

Testimony is given by Witness No. 33, Mary Evans called by the Govt; direct examination; cross examination by Deft Eldridge; cross examination by Deft Rose; redirect examination.

Testimony is given by Witness No. 34, Leo Jones, Sr.; direct examination.

Jury Trial adjourned to 2/1/2016 at 9:15 AM.

Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft (Eldridge) - David Addelman; Deft (Allen) - Cheryl Meyers Butth; Deft (Rose) - Daniel Henry (Court Reporter Megan Pelka.) (DJD) (Entered: 03/03/2017)

02/01/2016	<u>550</u>	MOTION in Limine by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tokash, Meghan) (Entered: 02/01/2016)
02/01/2016	<u>551</u>	Second MOTION for Declaration of Mistrial by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Addelman, David) (Entered: 02/01/2016)
02/02/2016	<u>554</u>	Trial Document by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose <i>GOVERNMENTS RESPONSE TO DEFENDANTS SECOND JOINT MOTION FOR A MISTRIAL AND OTHER RELIEF</i> (Tripi, Joseph) (Entered: 02/02/2016)
02/02/2016	<u>555</u>	ORDER as to Thamud Eldridge, Kevin Allen and Galen Rose: Defendants' motion for a mistrial and various other forms of relief 543 is denied in its entirety. SO ORDERED. Signed by Hon. Richard J. Arcara on 2/1/16.(LAS) (Entered: 02/02/2016)
02/02/2016	<u>556</u>	Trial Document by USA as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (Attachments: # <u>1</u> Exhibit)(Tokash, Meghan) (Entered: 02/02/2016)
02/02/2016	<u>557</u>	Trial Document by USA as to Thamud Eldridge, Kevin Allen, Galen Rose <i>Government's Response to Defendant Allen's Motion for a Mistrial</i> (Tripi, Joseph) (Entered: 02/02/2016)
02/04/2016	<u>558</u>	EXHIBIT "A" for Defendants' Second Joint Motion for Mistrial re 543 Joint MOTION for mistrial and other relief by Thamud Eldridge as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Certificate of Service) (Addelman, David) Modified title and terminated as a motion on 2/5/2016 (KLH). (Entered: 02/04/2016)

A076

02/05/2016		E-Filing Notification: Document filed improperly as a motion. Court terminated motion and modified docket text to correctly reflect filing event. No action required. <u>558</u> EXHIBIT "A" for Defendants' Second Joint Motion for Mistrial re 543 Joint MOTION for mistrial and other relief (KLH) (Entered: 02/05/2016)
02/11/2016		Count Redaction as to Thamud Eldridge (1): Former count 1s is now count 1rs. Former count 2s is now count 2rs. Former count 3s is now count 3rs. Former count 4s is now count 4rs. Former count 5s is now count 5rs. Former count 6s is now count 6rs. Former count 7s is now count 7rs. Former count 10s is now count 10rs. Former count 11s is now count 11rs. Former count 12s is now count 12rs. Former count 13s is now count 13rs. Former count 14s is now count 14rs. Former count 15s is now count 15rs. Kevin Allen (3): Former count 1s is now count 1rs. Former count 2s is now count 2rs. Former count 3s is now count 3rs. Former count 4s is now count 4rs. Former count 5s is now count 5rs. Former count 6s is now count 6rs. Former count 7s is now count 7rs. Former count 14s is now count 14rs. Former count 15s is now count 15rs. Former count 13ss is now count 13rss. Galen Rose (4): Former count 8s is now count 8rs. Former count 9s is now count 9rs. Former count 11s is now count 11rs. Former count 12s is now count 12rs. (SG) (Entered: 03/16/2016)
02/11/2016	<u>606</u>	Redacted Indictment-Court Exhibit 43 as to Thamud Eldridge, Kevin Allen, Galen Rose. (SG) Modified on 3/16/2016 to reference exhibit number (SG). (Entered: 03/16/2016)
02/12/2016	<u>561</u>	Sealed Document as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (KLH) (Entered: 02/18/2016)
02/12/2016	<u>562</u>	Sealed Document as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (KLH) (Entered: 02/18/2016)
02/12/2016	<u>563</u>	Sealed Document as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (KLH) (Entered: 02/18/2016)
02/12/2016	<u>565</u>	Sealed Document as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (KLH) (Entered: 02/18/2016)
02/12/2016	<u>567</u>	Sealed Document as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose. (KLH) (Entered: 02/18/2016)
02/17/2016	<u>560</u>	ORDER as to Thamud Eldridge, Kevin Allen, Galen Rose. Signed by Hon. Richard J. Arcara on 02/16/2016.(KLH) (Entered: 02/17/2016)
02/18/2016	<u>568</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 02/22/2016)
02/18/2016	<u>569</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 02/22/2016)
02/18/2016	<u>570</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 02/22/2016)
02/18/2016	<u>571</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 02/22/2016)
02/18/2016	572	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 368.65 for Transcript, Voucher # 160217000025.. Signed by Hon. Richard J. Arcara on 2/11/2016.(KLH) (Entered: 02/23/2016)
02/18/2016	573	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 90.90 for Transcript, Voucher # 160217000024.. Signed by Hon. Richard J. Arcara on 2/11/2016.(KLH) (Entered: 02/23/2016)

A077

02/18/2016	574	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 650.70 for Transcript, Voucher # 160217000023.. Signed by Hon. Richard J. Arcara on 2/9/2016.(KLH) (Entered: 02/23/2016)
02/18/2016	575	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 233.60 for Transcript, Voucher # 160217000020.. Signed by Hon. Richard J. Arcara on 2/9/2016.(KLH) (Entered: 02/23/2016)
02/18/2016	576	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 691.00 for Transcript, Voucher # 160217000018.. Signed by Hon. Richard J. Arcara on 2/9/2016.(KLH) (Entered: 02/23/2016)
02/18/2016	577	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 153.30 for Transcript, Voucher # 160217000017.. Signed by Hon. Richard J. Arcara on 2/9/2016.(KLH) (Entered: 02/23/2016)
02/18/2016	578	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 317.70 for Transcript, Voucher # 160217000016.. Signed by Hon. Richard J. Arcara on 2/9/2016.(KLH) (Entered: 02/23/2016)
02/18/2016	579	CJA 24 as to Thamud Eldridge, Kevin Allen, Galen Rose: Authorization to Pay Megan E. Pelka \$ 1,029.30 for Transcript, Voucher # 160217000015.. Signed by Hon. Richard J. Arcara on 2/9/2016.(KLH) (Entered: 02/23/2016)
02/24/2016		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Status Conference set for 3/21/2016 02:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 03/17/2016)
02/24/2016	<u>617</u>	JURY VERDICT as to Thamud Eldridge (1) Guilty on Count 1rs,2rs,3rs,4rs,5rs,6rs,7rs and Kevin Allen (3) Guilty on Count 1rs,2rs,3rs,4rs,6rs and Galen Rose (4) Guilty on Count 8rs,9rs Thamud Eldridge (1) Not Guilty on Count 10rs. Unredacted verdict maintained in sealed area. (SG) (Entered: 04/01/2016)
02/24/2016	<u>618</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (SG) (Entered: 04/01/2016)
03/03/2016	<u>587</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 03/03/2016)
03/07/2016	<u>588</u>	First MOTION for Extension of Time to File <i>a Rule 33 Motion</i> by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Addelman, David) (Entered: 03/07/2016)
03/08/2016	589	TEXT ORDER granting <u>588</u> Motion for Extension of Time to File as to Thamud Eldridge and Kevin Allen. The Court sua sponte grants the same relief as to Galen Rose. Defendants' Rule 33 motions shall be filed no later than April 11, 2016. SO ORDERED. Issued by Hon. Richard J. Arcara on 3/8/16.(LAS) (Entered: 03/08/2016)
03/08/2016	<u>590</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of the Government's Opening Statement as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/15/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 590 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>591</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/20/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript

A078

		may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 591 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>592</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Jamile Lee as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/21/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 592 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>593</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Lavel Pearson as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/21/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 593 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>594</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Steven Martin as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/25/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 594 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>595</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Randy Jarrett as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/26/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 595 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>596</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Steven Martin as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/26/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 596 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)

A079

03/08/2016	<u>597</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony Woodie Johnson as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/27/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 597 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>598</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Cross Examination of Paula Carducci as to Thamud Eldridge, Kevin Allen, Galen Rose held on 1/28/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 598 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/08/2016	<u>599</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Direct Examination of Lakasha Crosby and Derek McQuiller as to Thamud Eldridge, Kevin Allen, Galen Rose held on 2/2/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/29/2016. Redacted Transcript Deadline set for 4/8/2016. Release of Transcript Restriction set for 6/6/2016. (KLH) (Main Document 599 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/08/2016)
03/09/2016	<u>600</u>	Writ of Habeas Corpus ad Testificandum Returned Executed for Jeffrey Mills on 12/21/2015. (KLH) (Main Document 600 replaced on 3/11/2016) (KLH). (Entered: 03/09/2016)
03/09/2016	<u>601</u>	Writ of Habeas Corpus ad Testificandum Returned Executed for Orlando Davis on 12/21/2015. (KLH) (Main Document 601 replaced on 3/11/2016) (KLH). (Entered: 03/09/2016)
03/11/2016	<u>602</u>	Writ of Habeas Corpus ad Testificandum Returned Executed for Steven Williams on 12/10/2015. Modified on 3/11/2016 to correct title and name. (KM) (Entered: 03/11/2016)
03/11/2016	<u>603</u>	Writ of Habeas Corpus ad Testificandum Returned Executed for Leonard Gonzalez on 7/4/2015. in case as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose (KM) (Entered: 03/11/2016)
03/16/2016	<u>604</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Jeffrey Mills and Frank Nash as to Thamud Eldridge, Kevin Allen, Galen Rose held on 2/3/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/6/2016. Redacted Transcript Deadline set for 4/18/2016. Release of Transcript Restriction set for 6/14/2016. (KLH) (Main Document 604 replaced with

A080

		revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/16/2016)
03/16/2016	<u>605</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Jeffrey Mills as to Thamud Eldridge, Kevin Allen, Galen Rose held on 2/4/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/6/2016. Redacted Transcript Deadline set for 4/18/2016. Release of Transcript Restriction set for 6/14/2016. (KLH) (Main Document 605 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/16/2016)
03/16/2016		E-Filing Notification: <u>606</u> Redacted Indictment-Court Exhibit 43 as to Thamud Eldridge, Kevin Allen, Galen Rose. (SG) Modified on 3/16/2016 to reference exhibit number (SG). (SG) (Entered: 03/16/2016)
03/18/2016	<u>607</u>	MOTION TO DEFER RETRIAL AS TO THAMUD ELDRIDGE AND KEVIN ALLEN UNTIL APPEAL IS RESOLVED by USA as to Thamud Eldridge, Kevin Allen, Galen Rose. (Tripi, Joseph) (Entered: 03/18/2016)
03/21/2016		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Status Conference set for 5/18/2016 02:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 05/17/2016)
03/21/2016		Minute Entry for proceedings held 3/21/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Status Conference is held. The Govt reports that certain counts remain unresolved. The Govt filed <u>607</u> Motion to Defer Retrial as to defendants, Thamud Eldridge and Kevin Allen until appeal is resolved as to the counts of conviction. Deft Allen has no objection to the motion. Deft Rose, although there may be a different proposal for Deft Rose, has no objection to the motion. Deft Eldridge needs time to review the motion. In the event there is opposition by Deft Eldridge to the motion, the following briefing schedule is set forth: Deft Eldridge response papers due by 4/12/2016; Govt's reply papers due by 4/26/2016. Status Conference is scheduled for 5/18/2016 at 2:00 PM on the unresolved counts. Deft Thamud Eldridge filed <u>588</u> First Motion for Extension of Time to File a Rule 33 Motion. The Court orally grants the motion. The following briefing and oral argument schedule is set forth: Deft Eldridge's motion due by 4/1/2015; Govt's response papers due by 4/15/2016; Oral Argument is scheduled for 5/18/2016 at 2:00 PM. This same schedule will apply to any Rule 33 Motion filed by defendant Kevin Allen. Time is excluded; Govt to submit a Speedy Trial Act Order. Appearances: Govt - Joseph Tripi; Deft Eldridge - David Addelman (w/Deft); Deft Allen - Cheryl Meyers Buth (w/Deft); Deft Rose - Daniel Henry (w/Deft) (Court Reporter Megan Pelka.)(DJD) (Entered: 05/18/2016)
03/23/2016	<u>608</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Stacy Stawicki as to Thamud Eldridge, Kevin Allen, Galen Rose held on January 22, 2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/13/2016. Redacted Transcript Deadline set for 4/25/2016. Release of Transcript Restriction set for 6/13/2016. (KLH) (Main Document 608 replaced with <u>608</u>) (Entered: 03/23/2016)

		revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/23/2016)
03/23/2016	<u>609</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Kirk Kingsbury as to Thamud Eldridge, Kevin Allen, Galen Rose held on February 1, 2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/13/2016. Redacted Transcript Deadline set for 4/25/2016. Release of Transcript Restriction set for 6/21/2016. (KLH) (Main Document 609 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/23/2016)
03/25/2016	<u>610</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on February 2, 2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/15/2016. Redacted Transcript Deadline set for 4/25/2016. Release of Transcript Restriction set for 6/23/2016. (KLH) (Main Document 610 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/25/2016)
03/25/2016	<u>611</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Trial Testimony of Norman Clark, III as to Thamud Eldridge, Kevin Allen, Galen Rose held on February 1, 2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 4/15/2016. Redacted Transcript Deadline set for 4/25/2016. Release of Transcript Restriction set for 6/23/2016. (KLH) (Main Document 611 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 03/25/2016)
03/31/2016	<u>616</u>	First MOTION for Joinder by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Addelman, David) (Entered: 03/31/2016)
04/07/2016	<u>619</u>	RESPONSE to Motion by Thamud Eldridge re <u>607</u> MOTION TO DEFER RETRIAL AS TO THAMUD ELDRIDGE AND KEVIN ALLEN UNTIL APPEAL IS RESOLVED (Attachments: # <u>1</u> Certificate of Service)(Addelman, David) (Entered: 04/07/2016)
04/11/2016	<u>620</u>	First MOTION to Withdraw as Attorney by David R. Addelman. by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Addelman, David) (Entered: 04/11/2016)
04/15/2016	<u>622</u>	ARREST Warrant Returned Executed on 1/19/2016 in case as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 04/15/2016)
05/18/2016		Minute Entry for proceedings held 5/18/2016 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Status Conference is held. Attorney David Addelman, defense counsel for Thamud Eldridge filed <u>620</u> Motion to Withdraw as counsel and for an extension of time to file post-verdict motions until the counsel issue is resolved. The Court grants the motion for new counsel. The Court appoints Attorney Kevin Spitler under the CJA to represent Deft, Thamud Eldridge. Attorney Spitler requests an extension of four months for filing any post-verdict motions due to his demanding trial schedule. The Court will keep Attorney David Addelman on this matter for purposes of assisting Attorney Spitler with the post-trial motions. Attorney

A082

		Spitler will need to address the Govt's <u>607</u> Motion to Defer Retrial as to Defts, Eldridge and Allen until the Appeal is resolved. To allow time for Attorney Spitler to review the file, a further Status Conference as to Defts, Eldridge, Allen and Rose is scheduled for 6/23/2016 at 2:00 PM. A Status Conference as to 06-CR-311 (13-CV-360) in Thamud Eldridge v. United States is also scheduled for 6/23/2016 at 2:00 PM to address Deft Eldridge's Amended Petition to Vacate Sentence under 28 U.S.C. Section 2255. Deft Allen waives his appearance for the 6/23/2016 Status Conference. A Status Conference as to Deft Galen Rose only is scheduled for 6/13/2016 at 2:00 PM. Defts Eldridge, Allen and Rose remain in custody. Appearances: Govt - Joseph Tripi and Megan Tokash; Deft (Eldridge) - David Addelman and Kevin Spitler (w/Deft); Deft (Allen) - Cheryl Meyers Buth (without Deft); Deft (Rose) - Daniel Henry (without Deft). (Court Reporter Megan Pelka.)(DJD) (Entered: 06/10/2016)
05/18/2016		Attorney update in case as to Thamud Eldridge. Attorney Kevin W. Spitler for Thamud Eldridge added. (DJD) (Entered: 06/10/2016)
05/18/2016		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen, Galen Rose: Status Conference set for 6/23/2016 02:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 06/10/2016)
06/15/2016	637	TEXT ORDER as to Thamud Eldridge, Kevin Allen, Galen Rose: The Court authorizes submission of interim vouchers in this once death-eligible and mega-case with one complex trial completed. Because a trial has been completed, counsel are encouraged to confer with case-budgeting attorney Jerry L. Tritz at (212) 857-8726 to minimize potential confusion regarding applicable administrative requirements. Issued by Hon. Richard J. Arcara on 6/15/16.(LAS) (Entered: 06/15/2016)
06/23/2016	642	TEXT ORDER as to defendants, Thamud Eldridge (1), and Kevin Allen (3). A Status Conference as to <u>607</u> Motion to Defer Retrial filed by the United States is scheduled by the Court for June 29, 2016 at 9:00 AM. Defendants need not be produced for the Status Conference. SO ORDERED. Issued by Hon. Richard J. Arcara on June 23, 2016.(DJD) (Entered: 06/23/2016)
06/23/2016		Minute Entry for proceedings held 6/23/2016 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Status Conference is held. Atty. Kevin Spitler, recently appointed as new counsel for Thamud Eldridge, reports that he met with Deft Eldridge at the Niagara County Jail to discuss the Rule 29 and Rule 33 Motions. Atty. Spitler also met with former counsel for Deft Eldridge. Atty. Spitler advises the Court that Rule 29 and Rule 33 Motions will be filed by former counsel, however, Atty. Spitler requires a six month extension for purposes of reviewing the trial transcript to determine if any other issues need to be included in the post-trial motions. Counsel for Deft Kevin Allen will defer to whatever schedule the Court will put in place. The following briefing schedule is set forth: trial transcripts due by 9/1/2016; post-trial motions due by 1/6/2017; Govt's response papers due by 2/6/2017; reply papers (limited to 5 pages) due by 2/20/2017. Oral argument on the motions is scheduled for 3/10/2017 at 9:00 AM. Counsel for Galen Rose reports that a resolution has been reached between the Govt and Deft Rose; the parties will enter into a stipulation on 6/29/2016 at 9:00 AM. Appearances: Govt - Meghan Tokash; Deft Eldridge by Kevin Spitler (with Deft); Deft Allen by Daniel Henry appearing for Cheryl Meyers Buth (without Deft); Deft Rose by Daniel Henry (without Deft) (Court Reporter Megan Pelka.)(DJD) (Entered: 03/01/2017)
06/29/2016		Sealed document 291 returned from Second Circuit. (KM) (Entered: 07/07/2016)
06/29/2016		Minute Entry for proceedings held 6/29/2016 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1), Kevin Allen (3) and Galen Rose (4). Regarding Deft Eldridge: Deft Eldridge was not produced for this status conference. Status Conference is held on

A083

607 Govt's Motion to Defer Retrial. Deft Eldridge was previously undecided as to his position on the motion to defer retrial of the unresolved counts. The issue of the severed counts (Counts 16 and 17) was raised. Defense counsel reports that he will advise Deft Eldridge to hold the severed counts in abeyance pending the Rule 29 and Rule 33 motions and possible subsequent appeal of the counts of conviction. A Status Conference as to the severed counts is scheduled for 7/29/2016 at 9:00 AM. Time is excluded to 3/10/2017; Govt to submit a Speedy Trial Act Order.

Regarding Deft Allen:

Deft Allen was not produced for this status conference. Status Conference is held on 607 Govt's Motion to Defer Retrial. The Govt reports that Deft Allen previously consented to the motion pending disposition of the appeal. Deft Allen will be filing Rule 29 and Rule 33 motions. The schedule will be the same as that for Deft Eldridge which is (as slightly modified and applicable to Defts Eldridge and Allen): post-trial motions due by 1/17/2017; Govt's response papers due by 2/6/2017; reply papers (limited to 5 pages) due by 2/20/2017. Oral argument on the motions is scheduled for 3/10/2017 at 9:00 AM. Time is excluded pending resolution of the appeal.

Regarding Deft Rose:

Today, the Govt and Deft Rose will enter into a Stipulation to resolve the outstanding counts. The Govt hands up to the Court a written Stipulation signed by the parties. The Govt reads the Stipulation into the record. The Court questions Deft Rose's understanding of and agreement with the Stipulation. The Court further questions Deft Rose's voluntary signing of the Stipulation. Deft Rose responds that he understands, agrees with and voluntarily enters into the Stipulation. **Sentencing of Deft Rose is scheduled for 10/6/2016 at 12:30 PM.**

The schedule for the submission of sentencing papers for Deft Rose is as follows: the initial Presentence Investigation Report is due by 8/22/2016; Statement with Respect to Sentencing Factors, objections and/or motions, due by 9/15/2016; responses to objections and/or motions due by 9/22/2016; character letters and/or sentencing memorandum in support of the defendant due by 9/22/2016; motions to adjourn sentencing due by 9/26/2016; final Presentence Investigation Report due by 9/29/2016; government's response papers to legal arguments in defendant's sentencing memorandum due by 9/29/2016.

Appearances: Govt - Joseph Tripi; Deft (Eldridge) - Kevin Spitler (without Deft); Deft (Allen) - Cheryl Meyers Buth (without Deft); Deft (Rose) - Daniel Henry (with Deft) (Court Reporter Megan Pelka.)(DJD) (Entered: 03/01/2017)

07/29/2016

Set/Reset Hearings as to Thamud Eldridge: Status Conference set for 8/5/2016 at 10:00 AM before Hon. Richard J. Arcara. Oral Argument set for 9/30/2016 at 09:00 AM before Hon. Richard J. Arcara. Jury Selection and Jury Trial set for 1/24/2017 at 09:30AM before Hon. Richard J. Arcara. (JDK) (Entered: 07/29/2016)

07/29/2016

649

Minute Entry for proceedings held 7/29/2016 before Hon. Richard J. Arcara as to Deft, Thamud Eldridge (1). Status Conference is held. Newly appointed CJA Attorney Kevin Spitler is present without Deft, Thamud Eldridge and informs the Court that he is in the process of reviewing the file and getting up to speed. Counsel report that Deft, Thamud Eldridge requests a trial date on Severed Counts 16 and 17. Jury selection as to Deft, Thamud Eldridge on Severed Counts 16 and 17 is scheduled for 1/24/2017 at 9:30 AM. Deft intends to call Govt attorney Joseph Tripi as a trial witness. Govt opposes. Court sets briefing schedule on the issue as follows: Deft's papers due 8/26/2016; Govt reply due 9/8/2016; Oral Argument is scheduled for 9/30/2016 at 9:30 AM. Additional Status Conference is scheduled for 8/5/2016 at 10:00 AM. Time is excluded, Govt to submit

A084

		Speedy Trial Act Order. Deft Eldridge remains in custody. Appearances: Govt - Joseph Tripi; Deft - Kevin Spitler (without Deft). (Court Reporter Megan Pelka.)(JDK) (Entered: 08/02/2016)
08/09/2016	<u>650</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen, Galen Rose Time excluded from 3/21/2016 until 5/18/2016. Signed by Hon. Richard J. Arcara on 8/8/2016.(KLH) (Entered: 08/09/2016)
08/09/2016	<u>651</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen, Galen Rose Time excluded from May 18, 2016 until June 23, 2016. Signed by Hon. Richard J. Arcara on 8/8/2016.(KLH) (Entered: 08/09/2016)
09/15/2016		E-Filing Notification: <u>590</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 590 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (NRE) (Entered: 09/15/2016)
09/15/2016	<u>659</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 01/19/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>591</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 591 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (NRE) (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>592</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT and <u>593</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 592 and Main Document 593 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>608</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 608 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>594</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 594 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>595</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT and <u>596</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 595 and 596 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>597</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 597 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>598</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 598 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>609</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT and <u>611</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 609 and 611 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (NRE) (Entered: 09/15/2016) A085

09/15/2016		E-Filing Notification: <u>599</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT and <u>610</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 599 and 610 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>604</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 604 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016		E-Filing Notification: <u>605</u> NOTICE OF FILING OF OFFICIAL TRANSCRIPT (Main Document 605 replaced with revised version on 9/15/2016) (NRE). Modified on 9/15/2016 (NRE). (Entered: 09/15/2016)
09/15/2016	<u>660</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 01/29/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016	<u>661</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/05/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016	<u>662</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/09/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016	<u>663</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/10/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016	<u>664</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/11/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted

A086

		Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016	<u>665</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/12/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016	<u>666</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/16/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/15/2016	<u>667</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/17/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/6/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/14/2016. (NRE) (Entered: 09/15/2016)
09/16/2016	<u>668</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/19/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (NRE) (Entered: 09/16/2016)
09/16/2016	<u>669</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/22/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (NRE) (Entered: 09/16/2016)
09/16/2016	<u>670</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/23/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (NRE) (Entered: 09/16/2016)

A087

09/16/2016	<u>671</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Jury Trial Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 02/24/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (NRE) (Entered: 09/16/2016)
09/21/2016	<u>674</u>	NOTICE OF ATTORNEY APPEARANCE Joel L. Violanti appearing for USA. <i>REMOVING JOEL.L.VIOLANTI</i> (Violanti, Joel) (Entered: 09/21/2016)
09/26/2016	<u>675</u>	First MOTION to Adjourn / <i>Cancel Proceeding</i> by Thamud Eldridge. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 09/26/2016)
09/28/2016	676	TEXT ORDER as to defendant Thamud Eldridge (1). The defense filed <u>675</u> First Motion to Adjourn/Cancel Proceeding (Oral Argument date of 9/30/2016) as to the issue of defendant Eldridge calling AUSA Joseph Tripi as a trial witness. The motion is granted. The parties will be further notified of a new date for the oral argument. SO ORDERED. Issued by Hon. Richard J. Arcara on September 28, 2016.(DJD) (Entered: 09/28/2016)
10/04/2016	<u>677</u>	DECISION AND ORDER as to Thamud Eldridge and Kevin Allen: The Government's motion to defer retrial of the unresolved counts <u>607</u> is granted. Defendant Eldridge's motion to adjourn <u>675</u> the January 24, 2017 trial of the severed counts is also granted. The Court finds that time to try the Severed Counts is also excluded from the Speedy Trial Act clock pursuant to Section 3161(h)(7)(A) of Title 18 of the United States Code through January 17, 2017. SO ORDERED. Signed by Hon. Richard J. Arcara on 10/4/16. (LAS) (Main Document 677 replaced on 10/5/2016) (LAS). (Entered: 10/04/2016)
11/23/2016	681	CJA 24 as to Thamud Eldridge: Authorization to Pay Megan E. Pelka \$ 8,159.45 for Transcript, Voucher # 209.0000477. Signed by Hon. Richard J. Arcara on 11/3/2016. (KLH) (Entered: 12/06/2016)
01/25/2017	<u>686</u>	MOTION TO SET A DATE FOR SENTENCING by USA as to Thamud Eldridge, Kevin Allen. (Tokash, Meghan) (Entered: 01/25/2017)
02/02/2017	<u>687</u>	AFFIDAVIT in Opposition by Thamud Eldridge re <u>686</u> MOTION TO SET A DATE FOR SENTENCING (Attachments: # <u>1</u> Certificate of Service)(Spitler, Kevin) (Entered: 02/02/2017)
02/10/2017	691	TEXT ORDER as to Thamud Eldridge, Kevin Allen: Defendant Eldridge's Rule 29 and Rule 33 Motions shall be filed on or before March 3, 2017. The Government's response is to be filed no later than March 24, 2017. An oral argument date for both defendants' post trial motions will be rescheduled in due course. SO ORDERED. Issued by Hon. Richard J. Arcara on 2/10/17.(LAS) (Entered: 02/10/2017)
03/03/2017	<u>693</u>	First MOTION for Extension of Time to File <i>Rule 29 & Rule 33 Motions</i> by Thamud Eldridge. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 03/03/2017)
03/03/2017	694	TEXT ORDER as to Thamud Eldridge: Defendant's <u>693</u> Motion for Extension of Time to file his Rule 29 and Rule 33 Motions is granted, up to and including March 6, 2017. SO ORDERED. Issued by Hon. Richard J. Arcara on 3/3/17.(LAS) (Entered: 03/03/2017)
03/06/2017	<u>695</u>	First MOTION to Vacate <i>Conviction and for a New Trial</i> by Thamud Eldridge. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 03/06/2017)

A088

03/22/2017	<u>698</u>	MOTION for Extension of Time to File Response/Reply as to <u>695</u> First MOTION to Vacate <i>Conviction and for a New Trial</i> by USA as to Thamud Eldridge. (Tokash, Meghan) (Entered: 03/22/2017)
03/23/2017	699	TEXT ORDER granting the Government's <u>698</u> Motion for Extension of Time to File Response/Reply as to Thamud Eldridge. The Government's response to defendant's motion to vacate his conviction and for a new trial <u>695</u> is due on or before April 7, 2017. SO ORDERED. Issued by Hon. Richard J. Arcara on 3/23/17.(LAS) (Entered: 03/23/2017)
04/07/2017	<u>700</u>	MOTION for Extension of Time to File Response/Reply as to <u>695</u> First MOTION to Vacate <i>Conviction and for a New Trial</i> by USA as to Thamud Eldridge. (Tokash, Meghan) (Entered: 04/07/2017)
04/10/2017	701	TEXT ORDER as to defendant Thamud Eldridge (1). The United States filed <u>700</u> Motion for Extension of Time to File Response Papers. The motion is granted nunc pro tunc. Response papers are due April 13, 2017 as requested on <u>695</u> Motion to Vacate Conviction and for a New Trial filed by defendant Eldridge. SO ORDERED. Issued by Hon. Richard J. Arcara on April 10, 2017.(DJD) (Entered: 04/10/2017)
04/13/2017	<u>702</u>	NOTICE OF ATTORNEY APPEARANCE Joseph M. Guerra, III appearing for USA. (Guerra, Joseph) (Entered: 04/13/2017)
04/13/2017	<u>703</u>	RESPONSE in Opposition by USA as to Thamud Eldridge re <u>695</u> First MOTION to Vacate <i>Conviction and for a New Trial</i> (Tripi, Joseph) (Entered: 04/13/2017)
04/26/2017	<u>704</u>	First MOTION to Vacate <i>Conviction and for a New Trial</i> , MOTION for New Trial by Thamud Eldridge. (Attachments: # <u>1</u> Certificate of Service)(Spitler, Kevin) (Entered: 04/26/2017)
07/12/2017	706	TEXT ORDER as to defendants Thamud Eldridge (1) and Kevin Allen (3). Oral Argument is scheduled for July 28, 2017 at 9:30 AM before Hon. Richard J. Arcara as to 682 Motion for New Trial Pursuant to Rules 29 and 33 of the Federal Rules of Criminal Procedure filed by defendant Kevin Allen, and <u>695</u> First Motion to Vacate Conviction and for a New Trial Pursuant to Rules 29 and 33 of the Federal Rules of Criminal Procedure filed by defendant Thamud Eldridge. Response papers were filed. Reply papers, if any, limited to five pages, shall be filed by July 21, 2017. SO ORDERED. Issued by Hon. Richard J. Arcara on July 13, 2017.(DJD) (Entered: 07/12/2017)
07/28/2017		Minute Entry for proceedings held 7/28/2017 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1) and Kevin Allen (3). Oral Argument is held on Deft's Rule 29 and 33 Motions 682 , <u>695</u> . Decision is reserved. Defts remain in custody. Appearances: Govt - Joseph Tripi and Megan Tokash; Deft (Eldridge) - Kevin Spitler (with Deft); Deft (Allen) - Cheryl Meyers Buth (without Deft, Deft refused transport); USPO - David Ball. (Court Reporter Megan Pelka.) Modified on 8/7/2017 to indicate Deft Allen refused transport (JDK). (Entered: 07/28/2017)
07/31/2017	708	CJA 30: Authorization to Pay David R. Addelman in Death Penalty Proceedings as to Thamud Eldridge Amount: \$ 72,140.40, Voucher # 0209.0457596. Signed by Hon. Richard J. Arcara on 6/19/2017.(KLH) (Entered: 07/31/2017)
08/28/2017	<u>710</u>	DECISION AND ORDER as to Thamud Eldridge (01) and Kevin Allen (03): For the reasons stated in the attached Decision and Order, defendant Kevin Allen and defendant Thamud Eldridge's motions for a judgment of acquittal and a new trial, 682 <u>695</u> <u>704</u> pursuant to Rules 29 and 33 of the Federal Rules of Criminal Procedure, are denied in their entirety. Counsel shall appear before Hon. Richard J. Arcara on Wednesday, August 30, 2017 at 10:00 a.m. for a status conference and to set dates for defendants' sentencings.

A089

		SO ORDERED. Signed by Hon. Richard J. Arcara on 8/28/17.(LAS) (Entered: 08/28/2017)
08/30/2017	714	Minute Entry for proceedings held 8/30/2017 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1) and Kevin Allen (3). Status Conference is held. Discussion held with respect to Severed Counts and Hung Counts. All parties agree the Severed Counts and Hung Counts are held in abeyance and time is excluded through and including 12/21/2017. Govt to submit a Speedy Trial Act Order. Defts remain in custody. Appearances: Govt - Joseph Tripi; Deft (Eldridge) - Kevin Spitler (without Deft); Deft (Allen) - no appearances; USPO - David Ball. (Court Reporter Megan Pelka.)(JDK) (Entered: 11/09/2017)
08/30/2017	715	TEXT ORDER as to defendant, Thamud Eldridge (1). Sentencing is scheduled for 12/20/2017 at 12:30 PM before Hon. Richard J. Arcara. The following schedule is established for the submission of sentencing papers: initial Presentence Investigation Report due by 11/6/2017; Statement with Respect to Sentencing Factors, objections and/or motions due by 11/29/2017; responses to objections and/or motions due by 12/6/2017; character letters and/or sentencing memorandum in support of the defendant due by 12/6/2017; motions to adjourn sentencing due by 12/11/2017; final Presentence Investigation Report due by 12/13/2017; government's response papers to legal arguments in defendant's sentencing memorandum due by 12/13/2017. SO ORDERED. Issued by Hon. Richard J. Arcara on 8/30/2017.(JDK) (Entered: 11/09/2017)
08/31/2017	<u>711</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen Time excluded from August 30, 2017 until December 21, 2017. Signed by Hon. Richard J. Arcara on 8/30/2017. (KLH) (Entered: 09/01/2017)
11/06/2017	<u>713</u>	PRESENTENCE INVESTIGATION REPORT (Sealed) as to Thamud Eldridge. (Diebel, Patricia) (Entered: 11/06/2017)
11/17/2017	<u>717</u>	MOTION to Adjourn Sentencing by Thamud Eldridge. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 11/17/2017)
11/18/2017	<u>718</u>	STATEMENT WITH RESPECT TO SENTENCING FACTORS by USA as to Thamud Eldridge (Tripi, Joseph) (Entered: 11/18/2017)
11/21/2017	720	TEXT ORDER as to defendant, Thamud Eldridge (1). The defendant filed <u>717</u> Motion to Adjourn Sentencing date of 12/20/2017. The motion is granted. Sentencing is adjourned to 4/2/2018 at 12:30 PM before Hon. Richard J. Arcara. The schedule for the submission of sentencing papers is amended as follows: Statement with Respect to Sentencing Factors, objections and/or motions, including 5K1.1 motion, government notice not to file 5K1.1 motion, or government motion for extension of time to file 5K1.1 motion if applicable, due by 3/12/2018; notice by the defendant of government failure to file 5K1.1 motion, if applicable, due by 3/16/2018; responses to objections and/or motions due by 3/19/2018; character letters and/or sentencing memorandum in support of the defendant due by 3/19/2018; motions to adjourn sentencing due by 3/23/2018; final Presentence Investigation Report due by 3/26/2018; government's response papers to legal arguments in defendant's sentencing memorandum due by 3/26/2018. SO ORDERED. Issued by Hon. Richard J. Arcara on 11/21/2017.(JDK) (Entered: 11/21/2017)
11/22/2017	<u>721</u>	First MOTION to Produce <i>Defendant</i> by Thamud Eldridge. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 11/22/2017)
11/27/2017	<u>722</u>	LETTER MOTION for free trial transcripts by Thamud Eldridge. (KLH) (Entered: 11/27/2017)
11/30/2017	<u>723</u>	Sealed Document. (KLH) (Entered: 11/30/2017)

A090

12/12/2017	<u>726</u>	MOTION To Exclude Time Under Speedy Trial Act Clock by USA as to Thamud Eldridge, Kevin Allen. (Tokash, Meghan) (Entered: 12/12/2017)
12/20/2017	728	TEXT ORDER as to Thamud Eldridge: In light of the adjournment of defendant Eldridge's sentencing to April 2, 2018, the motion to produce defendant is denied as moot and without prejudice. Defense counsel may renew the request at a time closer to defendant's sentencing date. SO ORDERED. Issued by Hon. Richard J. Arcara on 12/20/17.(LAS) (Entered: 12/20/2017)
12/20/2017	729	TEXT ORDER as to Thamud Eldridge and Kevin Allen: For the reasons set forth in the Government's motion <u>726</u> Speedy Trial Act time is excluded as to the Unresolved Counts from December 21, 2017 through April 9, 2018 pursuant to Section 3161(h)(7)(A) of Title 18 of the United States Code. On or before December 29, 2017, counsel for defendants are instructed to file affidavits confirming that, as stated in the Government's motion, they have no objection to the exclusion of time through April 9, 2018. SO ORDERED. Issued by Hon. Richard J. Arcara on 12/20/17.(LAS) (Entered: 12/20/2017)
03/27/2018	<u>733</u>	Second MOTION to Adjourn Sentencing by Thamud Eldridge. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 03/27/2018)
03/28/2018	734	TEXT ORDER as to defendant, Thamud Eldridge (1). The defendant filed <u>733</u> Motion to Adjourn Sentencing date of 4/2/2018. The motion is granted. Sentencing is adjourned to 6/6/2018 at 1:00 PM before Hon. Richard J. Arcara. The schedule for the submission of sentencing papers is amended as follows: Statement with Respect to Sentencing Factors, objections and/or motions, including 5K1.1 motion, government notice not to file 5K1.1 motion, or government motion for extension of time to file 5K1.1 motion if applicable, due by 5/16/2018; responses to objections and/or motions due by 5/23/2018; character letters and/or sentencing memorandum in support of the defendant due by 5/23/2018; motions to adjourn sentencing due by 5/29/2018; final Presentence Investigation Report due by 5/20/2018; government's response papers to legal arguments in defendant's sentencing memorandum due by 5/30/2018. SO ORDERED. Issued by Hon. Richard J. Arcara on 3/28/2018.(JDK) (Entered: 03/28/2018)
04/08/2018	<u>737</u>	MOTION for Speedy Trial by USA as to Thamud Eldridge. (Tokash, Meghan) (Entered: 04/08/2018)
04/09/2018	738	TEXT ORDER as to Thamud Eldridge: Counsel for defendant Eldridge shall respond to the Government's motion for Speedy Trial exclusion <u>737</u> no later than 5:00 PM on Wednesday April 11, 2018. Signed by Hon. Richard J. Arcara on 4/9/18.(LAS) (Entered: 04/09/2018)
04/13/2018	<u>740</u>	RESPONSE to Motion by Thamud Eldridge re <u>737</u> MOTION for Speedy Trial (Attachments: # <u>1</u> Certificate of Service)(Spitler, Kevin) (Entered: 04/13/2018)
04/13/2018	741	TEXT ORDER as to Thamud Eldridge and Kevin Allen: For the reasons set forth in the Government's motion <u>737</u> and upon consent of defendant Eldridge <u>740</u> , Speedy Trial Act time is excluded as to the unresolved counts from April 13, 2018 through June 6, 2018 pursuant to Section 3161(h)(7)(A) of Title 18 of the United States Code. Speedy Trial Act time is excluded as to defendant Kevin Allen, also through June 6, 2018, pursuant to section 3161(h)(6) of Title 18 of the United State Code. SO ORDERED. Issued by Hon. Richard J. Arcara on 4/13/2018.(LAS) (Entered: 04/13/2018)
05/16/2018	<u>748</u>	First MOTION for Extension of Time to File <i>Statement with Respect to Sentencing Factors</i> by Thamud Eldridge. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 05/16/2018)
05/17/2018	749	TEXT ORDER as to Thamud Eldridge: Defendant's <u>748</u> Motion for Extension of Time

A091

		until May 18, 2018 to file his Statement with Respect to Sentencing Factors is granted. Issued by Hon. Richard J. Arcara on 5/17/2018.(LAS) (Entered: 05/17/2018)
05/18/2018	<u>750</u>	NOTICE by Thamud Eldridge re <u>713</u> Presentence Investigation Report <i>Objections</i> (Attachments: # <u>1</u> Declaration, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 05/18/2018)
05/24/2018	<u>751</u>	REVISED PRESENTENCE INVESTIGATION REPORT (Sealed) as to Thamud Eldridge. (Schrack, Joette) (Entered: 05/24/2018)
05/24/2018	<u>752</u>	RECOMMENDATION (Sealed) as to Thamud Eldridge. (Schrack, Joette) (Entered: 05/24/2018)
05/25/2018	<u>753</u>	Letter filed by Thamud Eldridge <i>Letters of Support</i> (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Certificate of Service)(Spitler, Kevin) (Entered: 05/25/2018)
06/04/2018	<u>754</u>	RECOMMENDATION (Sealed) as to Thamud Eldridge. (Schrack, Joette) (Entered: 06/04/2018)
06/06/2018	755	TEXT ORDER as to Thamud Eldridge: The sentencing scheduled for June 6, 2018 at 1:00 p.m. is converted to a sentencing status conference. Issued by Hon. Richard J. Arcara on 6/6/2018.(LAS) (Entered: 06/06/2018)
06/06/2018		Set/Reset Hearings as to Thamud Eldridge: Sentencing set for 8/2/2018 01:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 06/06/2018)
06/06/2018		Set/Reset Hearings as to Thamud Eldridge: Sentencing set for 8/2/2018 01:00 PM before Hon. Richard J. Arcara. (DJD) (Entered: 06/08/2018)
06/06/2018		Minute Entry for proceedings held 6/6/2018 before Hon. Richard J. Arcara as to Deft, Thamud Eldridge (1). Status Conference is held regarding sentencing. Sentencing proceeding previously scheduled for 6/6/2018 is not held. Te Court converted today's sentencing to a status conference in view of the number of objections to the presentence investigation report that Deft filed. The Court will need a response from the Govt on the objections. The following briefing schedule is set forth: Govt's response paper are due by 6/22/2018; Deft's reply papers are due by 6/29/2018. Sentencing is rescheduled for 8/2/2018 at 1:00 PM. The Govt is requesting that time be excluded as there are still unresolved counts in this matter, however, if the Second Circuit affirms the counts of conviction as to Deft Eldridge on appeal, the Deft may not face retrial for the unresolved counts. The Court excludes the time; Govt to submit a Speedy Trial Act Order. Appearances: Govt - Joseph Tripi and Meghan Tokash; Deft - Kevin Spitler (with Deft) (Court Reporter Megan Pelka.)(DJD) Modified on 8/31/2018 to correct date of the proceeding (DJD). (Entered: 08/31/2018)
06/11/2018	<u>757</u>	MEMORANDUM/BRIEF <i>Government's Revised Statement with Respect to Sentencing Factors, Sentencing Memorandum, and Responses to the Defendant's Objections to the PSR</i> by USA as to Thamud Eldridge (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Tripi, Joseph) (Entered: 06/11/2018)
07/24/2018	<u>764</u>	REVISED PRESENTENCE INVESTIGATION REPORT (Sealed) as to Thamud Eldridge. (Schrack, Joette) (Entered: 07/24/2018)
07/26/2018	<u>765</u>	First MOTION to Adjourn Sentencing by Thamud Eldridge. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 07/26/2018)
07/26/2018	<u>766</u>	RESPONSE in Opposition by USA as to Thamud Eldridge re <u>765</u> First MOTION to Adjourn Sentencing (Tokash, Meghan) (Entered: 07/26/2018)

A092

07/27/2018	767	TEXT ORDER as to defendant, Thamud Eldridge (1). The defendant filed <u>765</u> a motion to adjourn the 8/2/2018 sentencing. The United States filed <u>766</u> response papers opposing the adjournment. Upon consideration of the papers, the motion to adjourn is granted. Sentencing is adjourned to 9/4/2018 at 2:00 PM before Hon. Richard J. Arcara. The schedule for the submission of sentencing papers is amended as follows: Statement with Respect to Sentencing Factors, objections and/or motions due by 8/14/2018; responses to objections and/or motions due by 8/21/2018; character letters and/or sentencing memorandum in support of the defendant due by 8/21/2018; motions to adjourn sentencing due by 8/24/2018; final Presentence Investigation Report due by 8/28/2018; government's response papers to legal arguments in defendant's sentencing memorandum due by 8/28/2018. SO ORDERED. Issued by. Signed by Hon. Richard J. Arcara on July 27, 2018.(DJD) (Entered: 07/27/2018)
08/13/2018	<u>773</u>	MOTION to Exclude <i>Time Under Speedy Trial Act Clock</i> by USA as to Thamud Eldridge, Kevin Allen. (Tripi, Joseph) (Entered: 08/13/2018)
08/17/2018	775	TEXT ORDER as to Thamud Eldridge and Kevin Allen: The Defendants may respond to the Government's <u>773</u> motion to exclude Speedy Trial Act time on or before August 22, 2018. SO ORDERED. Issued by Hon. Richard J. Arcara on 8/17/18.(LAS) (Entered: 08/17/2018)
08/20/2018	<u>777</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge - Status Conference held on June 6, 2018 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 9/10/2018. Redacted Transcript Deadline set for 9/20/2018. Release of Transcript Restriction set for 11/19/2018. (KLH) (Entered: 08/20/2018)
08/27/2018	778	TEXT ORDER: For the reasons set forth in the Government's motion <u>773</u> and in light of no objections by defendants, Speedy Trial Act time is excluded as to defendants Thamud Eldridge and Kevin Allen as to the unresolved counts, pursuant to Sections 3161(h)(7)(A) and 3161(h)(6) of Title 18 of the United States Code, from August 13, 2018 through September 11, 2018. SO ORDERED. Issued by Hon. Richard J. Arcara on 8/27/2018. (LAS) (Entered: 08/27/2018)
08/28/2018	<u>779</u>	REVISED PRESENTENCE INVESTIGATION REPORT (Sealed) as to Thamud Eldridge. (Schrack, Joette) (Entered: 08/28/2018)
08/30/2018	<u>780</u>	OBJECTION TO PRESENTENCE INVESTIGATION REPORT by Thamud Eldridge (Attachments: # <u>1</u> Certificate of Service)(Spitler, Kevin) (Entered: 08/30/2018)
08/31/2018	781	TEXT ORDER as to Thamud Eldridge: If the Government elects to file a response to the additional objections to the presentence report <u>780</u> , it should be filed by 3:00 pm today, 8/31/2018. The sentencing will go forward as scheduled on September 4, 2018 at 2:00 pm. SO ORDERED. Issued by Hon. Richard J. Arcara on 8/31/2018.(LAS) (Entered: 08/31/2018)
08/31/2018	<u>782</u>	MEMORANDUM IN OPPOSITION re <u>780</u> Objection to Presentence Investigation Report by USA as to Thamud Eldridge (Attachments: # <u>1</u> Exhibit A)(Tripi, Joseph) (Entered: 08/31/2018)
09/04/2018		Minute Entry for proceedings held 9/4/2018 before Hon. Richard J. Arcara as to Deft, Thamud Eldridge (1). Sentencing proceeding previously scheduled for 9/4/2018 is not held. The Court is filing a Decision and Order on Deft's objections to the factual findings of the Presentence Investigation Report, and its calculation of the Sentencing Guidelines.

A093

		Due to the complexity of the calculations, the Court opts to reduce its findings to a written decision and order, rather than give oral findings, so that it is possible for the parties to take time to review the calculations. The Court determines that a brief adjournment of sentencing is appropriate. Sentencing is rescheduled for 9/10/2018 at 12:30 PM. A copy of the Court's Decision and Order is distributed to the parties at today's proceeding. Deft remains in custody. Appearances: Govt - Joseph Tripi; Deft - Kevin Sptitler (with Deft); USPO - Alexandra Piskorz (Court Reporter Mary Schulze, Jack W. Hunt & Associates, Inc. Buffalo, New York (716)853-5600)(DJD) (Entered: 09/04/2018)
09/04/2018		Set/Reset Hearings as to Thamud Eldridge: Sentencing set for 9/10/2018 12:30 PM before Hon. Richard J. Arcara. (DJD) (Entered: 09/04/2018)
09/05/2018	<u>783</u>	DECISION AND ORDER as to Thamud Eldridge: For the reasons outlined in the attached Decision and Order, Defendant's motion for free copies of his trial transcripts <u>722</u> is denied. The Clerk of Court shall mail a copy of this Decision and Order to the Defendant. SO ORDERED. Signed by Hon. Richard J. Arcara on 9/5/2018.(LAS) -CLERK TO FOLLOW UP- (Entered: 09/05/2018)
09/06/2018	<u>785</u>	DECISION AND ORDER as to Thamud Eldridge: Decision and Order on Defendant's objections to the Presentence Investigation Report. SO ORDERED. Signed by Hon. Richard J. Arcara on 9/4/2018.(LAS) (Entered: 09/06/2018)
09/06/2018	<u>786</u>	REVISED PRESENTENCE INVESTIGATION REPORT (Sealed) as to Thamud Eldridge. (Schrack, Joette) (Entered: 09/06/2018)
09/10/2018		Minute Entry for proceedings held 9/10/2018 before Hon. Richard J. Arcara as to Deft, Thamud Eldridge (1), Counts 1, 2, 3, 4, 5, 6 and 7. (Redacted Superseding Indictment). Sentencing is held following Deft's conviction by a trial jury. The Court reads into the record its Decision and Order dated 9/4/2018. Defense counsel informs the Court that Deft was never offered a plea disposition for this matter. The Govt responds to inform the Court that a plea offer was never requested. The Court directs defense counsel to initiate and continue with Deft's appeal unless relieved by the Second Circuit Court of Appeals. Deft is committed to the custody of the Bureau of Prisons for a total term of 600 months as follows: 240 months as to each of Counts 1, 2 and 6 to be served concurrently with each other and with Counts 3 and 5; 120 months as to Count 3 to be served concurrently with Counts 1, 2, 5 and 6; 240 months as to Count 5 to be served concurrently to Counts 1, 2, 3 and 6; 60 months as to Count 4 to be served consecutively to Counts 1, 2, 3, 5, 6 and 7; 300 months as to Count 7 to be served consecutively to Counts 1, 2, 3, 4, 5 and 6; the cost of incarceration fee is waived. In the event Deft's release from imprisonment occurs, the following term of supervised release is imposed: 3 years as to each of Counts 1, 2 and 6 to be served concurrently; 4 years as to each of Counts 3, 4, 5 and 7 to be served concurrently; and all counts to be served concurrently to each other.

A094

		<p>Should supervised release commence, Deft shall comply with the standard and special conditions as set forth in the Judgement of Conviction including, but not limited to, those set forth herein. Deft shall cooperate in the collection of a DNA sample as required by the Justice for All Act of 2004.</p> <p>No fine. Deft to pay \$700.00 (\$100.00 as to each of seven counts) mandatory assessment, due immediately.</p> <p>Deft is remanded.</p> <p>As to unresolved Counts 11 through 15, and the trial of severed Counts 16 and 17 which remain pending while Deft's pursues his appeal, the Court reaffirms its October 4, 2016 Decision and Order to exclude time.</p> <p>Status Conference on the outstanding counts is scheduled for 1/25/2019 at 9:00 AM.</p> <p>Appearances: Govt - Joseph Tripi; Deft - Kevin Spitler (with Deft); USPO - Alexandria Piskorz (Court Reporter Megan Pelka.)(DJD) (Entered: 10/11/2018)</p>
09/10/2018		Set/Reset Hearings as to Thamud Eldridge: Status Conference set for 1/25/2019 09:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 10/11/2018)
09/14/2018	<u>791</u>	Mail Returned as Undeliverable: <u>783</u> Order denying Motion for free trial transcripts, sent to Thamud Eldridge. (KLH) (Entered: 09/14/2018)
09/20/2018	<u>792</u>	NOTICE OF APPEAL. Fee Status: no fee due, CJA. (Attachments: # <u>1</u> Certificate of Service)(Spitler, Kevin) Modified on 9/21/2018 (KLH). (Entered: 09/20/2018)
09/24/2018	<u>794</u>	Letter from Thamud Eldridge, dated 9/15/2018, to Clerk. (Transcript order form and a copy of <u>783</u> Decision and Order have been mailed to Mr. Eldridge at updated address, Northeast Ohio Correctional Facility.) (KLH) (Entered: 09/24/2018)
10/15/2018	<u>802</u>	JUDGMENT as to Thamud Eldridge (1). Additional certified copies forwarded to USPO, USM, US Attorney, Debt Collection, Financial Department. Signed by Hon. Richard J. Arcara on 9/14/2018. (KLH) (Entered: 10/15/2018)
10/15/2018	<u>803</u>	Sealed Document (Statement of Reasons) as to Thamud Eldridge. (KLH) (Entered: 10/15/2018)
10/15/2018	<u>804</u>	MOTION to correct, enlarge, or modify the trial record for appeal by Thamud Eldridge. (KLH) (Entered: 10/15/2018)
01/11/2019	812	CJA 30: Authorization to Pay William T. Easton, Jr. in Death Penalty Proceedings as to Thamud Eldridge Amount: \$14,860.90, Voucher #0209.0751579. Signed by Hon. Richard J. Arcara on 12/21/2018. (KLH) (Entered: 01/11/2019)
01/25/2019		Set/Reset Hearings as to Thamud Eldridge: Status Conference set for 6/20/2019 09:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 01/28/2019)
01/25/2019		Minute Entry for proceedings held 1/25/2019 before Hon. Richard J. Arcara as to Deft, Thamud Eldridge (1). Status Conference is held regarding unresolved Counts 11 through 15, and the trial of severed Counts 16 and 17. Deft is not present for this proceeding due to his term of incarceration with the Bureau of Prisons pursuant to his conviction in this matter (Rule 43). The parties are awaiting the outcome of Deft's appeal on the counts for which he was convicted. Further status conference is scheduled for 6/20/2019 at 9:00 AM. Time is excluded; Govt to submit a Speedy Trial Act Order. Appearances: Govt by Joseph Tripi; Deft - No appearance (Court Reporter Megan Pelka.)(DJD) (Entered: 02/11/2019)

A095

02/05/2019	<u>814</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Sentencing as to Thamud Eldridge held on September 4, 2018 before Judge Richard J. Arcara. Court Reporter/Transcriber Mary Schulze, Email management@jwhcorp.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/26/2019. Redacted Transcript Deadline set for 3/8/2019. Release of Transcript Restriction set for 5/6/2019. (KLH) (Entered: 02/05/2019)
02/07/2019	<u>815</u>	DESIGNATION OF RECORD ON APPEAL by Thamud Eldridge re <u>792</u> Notice of Appeal CLERK TO FOLLOW UP (Attachments: # <u>1</u> Certificate of Service)(Spitler, Kevin) (Entered: 02/07/2019)
02/07/2019		E-Filing Notification: Entry #161 Motion had been incorrectly labeled on the docket as stricken in 2012, but it was Document #163 Response that was stricken by <u>169</u> Order. Although the correct document had been removed in 2012, the docket entries were not labeled properly at that time. The Clerk has added the stricken message to the entry at #163 and removed the stricken message from the entry at #161, to correct the case record. (KLH) (Entered: 02/07/2019)
02/07/2019	<u>816</u>	CLERKS CERTIFICATE regarding <u>815</u> Index as to Thamud Eldridge filed and electronically sent to Court of Appeals. (KLH) (Entered: 02/07/2019)
02/12/2019	817	CJA 30: Authorization to Pay Kevin W. Spitler in Death Penalty Proceedings as to Thamud Eldridge Amount: \$15,949.61, Voucher #0209.0454757. Signed by Hon. Richard J. Arcara on 2/6/2019. (KLH) (Entered: 02/12/2019)
02/15/2019	818	CJA 30: Authorization to Pay Angelo Musitano in Death Penalty Proceedings as to Thamud Eldridge Amount: \$62,468.20, Voucher #0209.0751608. Signed by Hon. Richard J. Arcara on 12/21/2018. (KLH) (Entered: 02/15/2019)
02/25/2019	819	TEXT ORDER as to Thamud Eldridge: The parties shall appear for an Attorney Appointment Hearing on 2/27/2019 at 11:30 AM before Hon. Richard J. Arcara. It is not necessary for defendant Thamud Eldridge to be present at this hearing. SO ORDERED. Issued by Hon. Richard J. Arcara on 2/25/2019.(LAS) (Entered: 02/25/2019)
02/26/2019	<u>820</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 6/8/2011 before Judge Hugh B. Scott. Court Reporter/Transcriber Christi A. Macri, contact info: christimacri50@gmail.com. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (CM) (Entered: 02/26/2019)
02/26/2019	<u>821</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference re: Attorney representation/evidentiary hearing as to Thamud Eldridge, Kevin Allen, Galen Rose held on 2/20/2015 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>822</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 3/6/2015 before Judge Richard J. Arcara. Court Reporter/Transcriber m, Telephone number 716-364-6449. Transcript may be

A096

		viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>823</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 3/21/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>824</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 3/27/2015 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>825</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 5/18/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>826</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 5/22/2015 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>827</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference re: Defendant/Petitioner's 28 USC Section 2255 Motion to Vacate as to Thamud Eldridge, Kevin Allen, Galen Rose held on 06/26/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>828</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference re Governement's motion to defer retrial as to Thamud Eldridge, Kevin Allen, Galen Rose held on 6/29/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public

A097

		terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>829</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 7/29/2016 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>830</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen held on 8/30/2017 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>831</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference as to Thamud Eldridge, Kevin Allen, Galen Rose held on 7/28/2017 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>832</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Oral Argument re Government's motion to remove court appointed second counsel as to Thamud Eldridge, Kevin Allen, Galen Rose held on 8/22/2014 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>833</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Oral Argument re Defendant's objections to report and recommendation of Magistrate Judge Hugh B. Scott as to Thamud Eldridge, Galen Rose held on 9/9/2013 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>834</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Oral Argument following evidentiary hearing on evidence issue(s) as to Thamud Eldridge, Kevin Allen, Galen Rose held on 10/29/2015 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court

A098

		public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/26/2019	<u>835</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Sentencing as to Thamud Eldridge held on 9/10/2018 before Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, Telephone number 716-364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/19/2019. Redacted Transcript Deadline set for 3/29/2019. Release of Transcript Restriction set for 5/28/2019. (KLH) (Entered: 02/26/2019)
02/27/2019		Minute Entry for proceedings held 2/27/2019 before Hon. Richard J. Arcara as to Deft, Thamud Eldridge (1). Attorney Appointment Hearing is held. The Court re-appoints Attorney Kevin Spitler under the CJA to represent Thamud Eldridge. Deft's appeal of the counts for which he was convicted is pending. Further Status Conference is scheduled for 6/20/2019 at 9:00 AM. Appearances: Govt - Charles Volkert appearing for Joseph Tripi; Deft - Kevin Spitler (without Deft) (Court Reporter Megan Pelka.)(JDK) (Entered: 02/27/2019)
03/04/2019	<u>836</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen Time excluded from January 25, 2019 until June 20, 2019. Signed by Hon. Richard J. Arcara on 3/1/2019. (KLH) (Entered: 03/04/2019)
03/13/2019	<u>837</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 03/13/2019)
03/13/2019	<u>838</u>	Sealed Document as to Thamud Eldridge, Kevin Allen, Galen Rose. (KLH) (Entered: 03/13/2019)
06/19/2019		NOTICE OF RESCHEDULING as to defendant, Thamud Eldridge (1) and Kevin Allen (3). The June 20, 2019 status conference is adjourned by the Court to June 24, 2019 at 9:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 06/19/2019)
06/24/2019		Minute Entry for proceeding held 6/24/2019 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1) and Kevin Allen (3). Status conference is held. Defense counsel for Deft Allen reports that briefs are due to the Second Circuit by 6/28/2019. It will be some time before the appeal is heard. Further status conference is scheduled for 12/6/2019 at 9:00 AM. Time is excluded; Govt to submit a Speedy Trial Act Order. Defts remain incarcerated. Appearances: Govt by Meghan Tokash; Deft Eldridge - No appearance; Deft Allen by Cheryl Meyers Buth (without Deft) (Court Reporter Megan Pelka.)(DJD) (Entered: 06/24/2019)
06/24/2019		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen: Status Conference set for 12/6/2019 09:00 AM before Hon. Richard J. Arcara. (DJD) (Entered: 06/24/2019)
08/30/2019	<u>842</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen Time excluded from June 24, 2019 until December 6, 2019. Signed by Hon. Richard J. Arcara on 8/30/2019. (KLH) (Entered: 08/30/2019)
11/14/2019	<u>843</u>	MOTION to Dismiss on Speedy Trial by Thamud Eldridge. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Certificate of Service)(Spitler, Kevin) (Entered: 11/14/2019)
11/15/2019	844	TEXT ORDER as to Thamud Eldridge: Counsel for defendant Eldridge shall file a memorandum in support of his motion to dismiss <u>843</u> on or before December 2, 2019. Upon filing of the memorandum of the defendant in support of the motion to dismiss on or before that due date, the Court will set a schedule for the response of the United States,

A099

		and a reply by the defendant. SO ORDERED. Issued by Hon. Richard J. Arcara on 11/15/2019.(LAS) (Entered: 11/15/2019)
12/04/2019	845	TEXT ORDER as to defendants Thamud Eldridge (1) and Kevin Allen (3). The December 6, 2019 status conference is adjourned by the Court to December 11, 2019 at 9:00 AM before Hon. Richard J. Arcara. SO ORDERED. Issued by Hon. Richard J. Arcara on December 4, 2019.(DJD) (Entered: 12/04/2019)
12/11/2019		Set/Reset Hearings as to Thamud Eldridge: Oral Argument on jurisdictional element of Deft's motion to dismiss set for 1/30/2020 08:30 AM before Hon. Richard J. Arcara. (DJD) (Entered: 01/16/2020)
12/11/2019		Minute Entry for proceeding held 12/11/2019 before Hon. Richard J. Arcara as to Defts Thamud Eldridge (1) and Kevin Allen (3). Status conference is held. Deft Eldridge filed <u>843</u> a motion to dismiss, on Speedy Trial Act grounds, Counts 16 and 17 which are the severed counts. Deft Eldridge filed this motion due to the amount of time, 13-1/2 years, since the alleged offenses in those counts occurred. The Court points out that Deft Eldridge agreed to waive the time on the severed counts until the appeal is resolved on Deft's counts of conviction. The Govt states that prior to this motion, Deft did not file a previous motion to dismiss on Speedy Trial Act grounds. As to the appeal filed by both Defts, all briefing has been submitted. The parties are awaiting an oral argument date from the Second Circuit. The Govt contends that the District Court lacks jurisdiction pursuant to Rule 12.1 of the Federal Rules of Appellate Procedure. The Court directs Deft Eldridge to file a memorandum of law on the jurisdiction element by 12/30/2019; response papers are due by 1/13/2020; oral argument is scheduled for 1/30/2020 at 8:30 AM. Before concluding today's proceeding, the Govt offers its interpretation as to AUSA Joseph Tripi being a witness on the severed counts to impeach Officer Earl Perrin. The Govt claims the Court never decided AUSA Tripi was to be a witness. Counsel for Deft Allen requests permission to waive her appearance on 1/30/2020 which is approved by the Court. Appearances: Govt by Joseph Tripi; Deft (Eldridge) by Kevin Spitler (without Deft); Deft (Allen) by Cheryl Meyers Buth (without Deft) (Court Reporter Megan Pelka.) (DJD) (Entered: 01/16/2020)
01/23/2020	846	TEXT ORDER as to defendant, Thamud Eldridge (1). A status conference is scheduled for January 28, 2020 at 1:00 PM before Hon. Richard J. Arcara on <u>843</u> defendant's motion to dismiss. The oral argument previously scheduled for January 30, 2020 is adjourned by the Court. SO ORDERED. Issued by Hon. Richard J. Arcara on January 23, 2020.(DJD) (Entered: 01/23/2020)
01/28/2020		Minute Entry for proceeding held 1/28/2020 before Hon. Richard J. Arcara as to Deft, Thamud Eldridge (1). Status conference is held regarding <u>843</u> Deft, Eldridge's motion to dismiss. Defense counsel indicates to the Court that the motion may be premature and requests that the motion be held in abeyance pending Deft's 3/10/2020 oral argument at the Second Circuit. Attorney Devin McLaughlin is Deft's counsel on the appeal. The Court questions whether the motion should be denied without prejudice. The Govt argues that Deft Eldridge never requested a speedy trial on the severed counts. The Govt contends that all the factors within the Court's Decision and Order dated October 4, 2016 apply today. Defense counsel needs to discuss these matters with the Deft who is presently in the custody of the Bureau of Prisons. A status conference is scheduled for 5/1/2020 at 9:00 AM. Both Thamud Eldridge and Kevin Allen are to be produced for the status conference. Both Defts remain in custody. Time is excluded; Govt to submit a Speedy Trial Act Order. Appearances: Govt by Joseph Tripi; Deft by Kevin Spitler (without Deft) (Court Reporter Megan Pelka.)(DJD) (Entered: 02/10/2020)
01/28/2020		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen: Status Conference for both defendants set for 5/1/2020 09:00 AM before Hon. Richard J. Arcara. Both defendants

A100

		are to be produced for the status conference. (DJD) (Entered: 02/10/2020)
01/31/2020	<u>847</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen Time excluded from 1/28/20 until 5/1/20. Signed by Hon. Richard J. Arcara on 1/30/20.(SG) (Entered: 02/04/2020)
03/04/2020	<u>849</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of STATUS CONFERENCE as to Thamud Eldridge held on 1/28/20 before Judge Arcara. Court Reporter/Transcriber Megan E. Pelka, RPR, Contact Info Megan_Pelka@nywd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/25/2020. Redacted Transcript Deadline set for 4/6/2020. Release of Transcript Restriction set for 6/2/2020. (SG) (Entered: 03/04/2020)
04/20/2020	<u>850</u>	TEXT ORDER as to defendants, Thamud Eldridge (1) and Kevin Allen (3). In view of the National Emergency Declaration by the President of the United States in response to the outbreak of the COVID-19 pandemic, local conditions and the severity of risks posed to participants in court proceedings and the public, the May 1, 2020 status conference is adjourned to July 1, 2020 at 9:00 AM. The Court previously excluded Speedy Trial Act time through May 1, 2020 for all of the reasons set forth on the record on January 28, 2020 and in docket item number 847. The Court finds that these grounds continue to apply for the exclusion of time until the next status conference. The Court grants an exclusion of time through July 1, 2020, pursuant to 18 U.S.C. section 3161(h)(7)(A), for the reasons stated on January 28, 2020 and in docket number 847 and with this Court specifically finding that the ends of justice are served in protecting the health and welfare of the defendants and all other persons during this time of unprecedented national emergency due to the COVID-19 pandemic, as fully described in the General Order issued on March 13, 2020, by Chief Judge Frank P. Geraci, Jr., and those interests outweigh the interests of the public and the defendants in a more speedy trial. The Government is instructed to submit a proposed order. SO ORDERED. Issued by Hon. Richard J. Arcara on April 20, 2020.(DJD) (Entered: 04/20/2020)
05/12/2020	<u>855</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Arraignment Proceedings as to Thamud Eldridge, Kashika Speed, Kevin Allen, Galen Rose held on 09/29/2009 before Judge Hon. Hugh B. Scott. Court Reporter/Transcriber Megan E. Pelka, RPR, Contact Info (716) 364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/2/2020. Redacted Transcript Deadline set for 6/12/2020. Release of Transcript Restriction set for 8/10/2020. (JLV) (Entered: 05/12/2020)
05/13/2020	<u>856</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Attorney Appointment Proceedings as to Thamud Eldridge, Kevin Allen, Galen Rose held on 10/7/2009 before Judge Hon. Hugh B. Scott. Court Reporter/Transcriber Megan E. Pelka, RPR, Contact Info (716) 364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 6/3/2020. Redacted Transcript Deadline set for 6/15/2020. Release of Transcript Restriction set for 8/11/2020. (JLV) (Entered: 05/13/2020)
05/22/2020	<u>859</u>	Letter from Thamud Eldridge, dated 4/21/20, to Judge Skrenty (SG) (Entered: 05/26/2020)
06/30/2020		NOTICE as to defendants Thamud Eldridge (1) and Kevin Allen (3). The court proceeding scheduled for July 1, 2020 at 9:00 AM will be held remotely via Zoom for Government before Hon. Richard J. Arcara. Public access to the proceeding can be

		obtained by viewing Judge Arcara's calendar on the public website at www.nywd.uscourts.gov or contacting Judge Arcara's chambers at 716-551-1810. (DJD) (Entered: 06/30/2020)
07/01/2020		Set/Reset Hearings as to Thamud Eldridge (1), Kevin Allen (3): Status Conference set for 9/15/2020 11:30 AM before Hon. Richard J. Arcara. (DJD) (Entered: 07/01/2020)
07/01/2020	<u>881</u>	ORDER regarding use of video or teleconferencing as to Thamud Eldridge, Kevin Allen. Signed by Hon. Richard J. Arcara on 7/1/2020.(CGJ) received for docketing on 9/14/2020 (Entered: 09/14/2020)
07/01/2020		<p>Minute Entry for proceeding held 7/1/2020 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1) and Kevin Allen (2).</p> <p>Status conference is held.</p> <p>This proceeding is held remotely via video teleconferencing pursuant to consent of the defendants. The Court will sign an order titled, "Order Regarding Use of Video or Teleconferencing".</p> <p>The Courtroom Deputy Clerk reads an admonition against recording any part of the proceeding; a violation of the prohibition could result in sanctions including a finding of contempt of court.</p> <p>The Courtroom Deputy Clerk describes the steps taken to permit public access of this proceeding.</p> <p>The Govt reports that oral argument was held before the Second Circuit Court of Appeals in March on the trial conviction counts. The parties are awaiting a decision.</p> <p>Deft Eldridge is demanding a trial date on the undecided counts, and a decision on his motion <u>843</u> to dismiss the severed counts (Counts 16 and 17). Deft Eldridge speaks directly to the Court specifically about, among other things, Counts 16 and 17, the Speedy Trial Act violation, Brady materials, fingerprint and boot print evidence. The Govt responds and indicates that all of the Govt's discovery obligations were satisfied during the trial. In the interest of judicial economy, the Govt contends it would be prudent to await the decision of the Second Circuit before proceeding with a trial and refers to the Court's <u>677</u> decision and order dated 10/4/2016. Should the Second Circuit affirm the convictions, the Govt would move to dismiss the remaining counts of the indictment which would include the severed counts and the undecided counts. Should the Second Circuit not affirm the convictions, the Govt intends to rejoin the severed counts and the unresolved counts for one trial. Discussion is held on the 18 U.S.C. 924(c) component as to the severed counts. The Court reserves decision on Deft Eldridge's <u>843</u> motion. The Court schedules a further status conference for 9/15/2020 at 11:30 AM. Time is excluded over the objection of Deft Eldridge. Govt to submit a Speedy Trial Act Order.</p> <p>Appearances: all by video/audio teleconferencing through Zoom for Government: Govt by Joseph Tripi (video); Deft Eldridge by Kevin Spitler (video); Deft Allen by Cheryl Meyers Buth (video); Deft Eldridge (video); Deft Allen (video) (Court Reporter Megan Pelka.)(DJD) (Entered: 09/14/2020)</p>
08/04/2020	<u>878</u>	DECISION AND ORDER as to Thamud Eldridge (1): For the reasons stated, defendant Thamud Eldridge's request for an immediate trial date as to the remaining counts of the Indictment is denied, and defendant's motion to dismiss Counts 16 and 17 of the Indictment is denied without prejudice. SO ORDERED. Signed by Hon. Richard J. Arcara on 8/3/2020.(LAS) (Entered: 08/04/2020)

A102

09/14/2020		NOTICE OF RESCHEDULING as to defendants, Thamud Eldridge (1) and Kevin Allen (3). The September 15, 2020 status conference is adjourned by the Court to September 24, 2020 at 10:30 AM before Hon. Richard J. Arcara. The status conference will be held remotely via Zoom for Government. The Zoom invitation will be sent on the business day before the proceeding. (DJD) (Entered: 09/14/2020)
09/23/2020		NOTICE OF TIME CHANGE for court proceeding as to defendants, Thamud Eldridge (1) and Kevin Allen (3). The time of the September 24, 2020 status conference is changed by the Court to 11:00 AM on September 24, 2020 before Hon. Richard J. Arcara. The proceeding will be held remotely via Zoom for Government. (DJD) (Entered: 09/23/2020)
09/23/2020		NOTICE as to defendants Thamud Eldridge (1) and Kevin Allen (3). The court proceeding scheduled for September 24, 2020 will be held remotely via Zoom for Government before Hon. Richard J. Arcara. Public audio access to the proceeding can be obtained by viewing Judge Arcara's calendar on the public website at www.nywd.uscourts.gov or contacting Judge Arcara's chambers at 716-551-1810. (DJD) (Entered: 09/23/2020)
09/24/2020		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen: Status Conference set for 12/1/2020 09:30 AM before Hon. Richard J. Arcara. (DJD) (Entered: 09/25/2020)
09/24/2020		<p>Minute Entry for proceeding held 9/24/2020 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1) and Kevin Allen (3). Status conference is held.</p> <p>This proceeding is held remotely via video teleconferencing. The appearances of both Defts is waived. The Court will sign an order titled, "Order Regarding Use of Video or Teleconferencing".</p> <p>The Courtroom Deputy Clerk reads an admonition against recording any part of the proceeding; a violation of the prohibition could result in sanctions including a finding of contempt of court.</p> <p>The Courtroom Deputy Clerk describes the steps taken to permit public access of this proceeding.</p> <p>The Govt reports that the parties are awaiting a decision from the Second Circuit of trial conviction appeals of both Defts, Eldridge and Allen. The appeals were argued in March. A further status conference is scheduled for 12/1/2020 at 9:30 AM. The status conference will be held remotely via Zoom for Government. Time is excluded; Govt to submit a Speedy Trial Act Order. Deft Eldridge renews his motion to dismiss on Speedy Trial Act grounds.</p> <p>Appearances: Govt by Joseph Tripi (video) and Meghan Tokash (video); Deft Eldridge by Kevin Spitler (audio); Deft Allen by Cheryl Meyers Buth (video); Deft Eldridge (appearance waived); Deft Allen (appearance waived) (Court Reporter Megan Pelka.) (DJD) (Entered: 02/23/2021)</p>
09/24/2020	<u>887</u>	ORDER Regarding Use of Video or Teleconferencing as to Thamud Eldridge, Kevin Allen. Signed by Hon. Richard J. Arcara on 9/24/2020. (JLV) (Entered: 02/24/2021)
11/30/2020		NOTICE OF DATE CHANGE as to defendants Thamud Eldridge (1) and Kevin Allen (3). The December 1, 2020 status conference is changed by the Court to December 3, 2020 at 10:00 AM before Hon. Richard J. Arcara. The status conference will be held remotely via Zoom for Government. (DJD) (Entered: 11/30/2020)
12/02/2020		NOTICE OF RESCHEDULING as to defendants, Thamud Eldridge (1) and Kevin Allen

A103

		(3). Upon the informal request of counsel for defendant Thamud Eldridge, the December 3, 2020 status conference is adjourned to December 7, 2020 at 9:30 AM before Hon. Richard J. Arcara. The status conference will be held remotely via Zoom for Government. (DJD) (Entered: 12/02/2020)
12/04/2020		NOTICE as to defendants Thamud Eldridge (1) and Kevin Allen (3). The court proceeding scheduled for December 7, 2020 will be held remotely via Zoom for Government before Hon. Richard J. Arcara. Public audio access to the proceeding may be obtained by viewing Judge Arcara's calendar on the public website at www.nywd.uscourts.gov or contacting Judge Arcara's chambers at 716-551-1810. (DJD) (Entered: 12/04/2020)
12/07/2020		Set/Reset Hearings as to Thamud Eldridge, Kevin Allen: Status Conference set for 3/22/2021 09:30 AM before Hon. Richard J. Arcara. (DJD) (Entered: 12/07/2020)
12/07/2020		Minute Entry for proceeding held 12/7/2020 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1) and Kevin Allen (3). Status conference is held. This proceeding is held remotely via video teleconferencing. The appearance of both Defts is waived. The Court will sign an order titled, "Order Regarding Use of Video or Teleconferencing". The Courtroom Deputy Clerk reads an admonition against recording any part of the proceeding; a violation of the prohibition could result in sanctions including a finding of contempt of court. The Courtroom Deputy Clerk describes the steps taken to permit public access of this proceeding. The parties report that they continue to await a decision from the Second Circuit as to the trial conviction counts. A further status conference is scheduled for 3/22/2021 at 9:30 AM. The proceeding will be held remotely via Zoom for Government. Should the Second Circuit render a decision before the 3/22/2021 date, the parties may request an earlier status conference. The Govt indicates that time is excluded pursuant to reasons set forth in the Court's earlier Decision and Order (see Dkt No. 677). Deft Eldridge renews his request for a trial date as to the unresolved trial counts and severed counts 16 and 17. The Court informs the parties that there is an expected General Order in this district continuing any criminal jury trials through February. Both Defts remain in custody. Appearances: Govt by Meghan Tokash (video); Deft Eldridge by Kevin Spitler (audio); Deft Allen by Cheryl Meyers Buth (video); Defts Eldridge and Allen (appearances waived) (Court Reporter Megan Pelka.)(DJD) (Entered: 02/23/2021)
12/07/2020	<u>888</u>	ORDER Regarding use of Video or Teleconferencing as to Thamud Eldridge, Kevin Allen. Signed by Hon. Richard J. Arcara on 12/7/2020. (JLV) (Entered: 02/24/2021)
12/08/2020	<u>883</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen. Time excluded from 12/7/2020 until 3/22/2021. Signed by Hon. Richard J. Arcara on 12/7/2020. (JLV) (Entered: 12/08/2020)
03/04/2021	889	TEXT ORDER OF REFERRAL Hon. H. Kenneth Schroeder Jr., United States Magistrate Judge, is hereby designated to act in this case as follows: All pre-trial matters in this case are referred to the above-named United States Magistrate Judge, including all pre-trial matters that a Magistrate Judge may hear and determine pursuant to 28 U.S.C. Section 636(b)(1)(A), and those which a Magistrate Judge may hear and thereafter file a

A104

	report and recommendation for disposition pursuant to Section 636(b)(1)(B).All procedural aspects of matters properly before the Magistrate Judge under this Order, including scheduling and the filing of briefs or other supporting material, shall be determined by the Magistrate Judge. All motions or applications shall be filed with the Clerk and made returnable before the Magistrate Judge. IT IS SO ORDERED. Signed by Hon. Richard J. Arcara on 3/4/2021. (JLV) (Entered: 03/04/2021)
03/09/2021	Case as to Thamud Eldridge, Kevin Allen no longer referred to Hon. H. Kenneth Schroeder Jr. (JLV) (Entered: 03/09/2021)
03/19/2021	TEXT ORDER as to defendants Thamud Eldridge (1) and Kevin Allen (3). The March 22, 2021 status conference is adjourned by the Court to March 24, 2021 at 12:30 PM. The proceeding will be held remotely via Zoom for Government. SO ORDERED. Issued by Hon. Richard J. Arcara on March 19, 2021.(DJD) (Entered: 03/19/2021)
03/23/2021	NOTICE as to defendant, Thamud Eldridge (1) and Kevin Allen (3). The court proceeding scheduled for March 24, 2021 will be held remotely via Zoom for Government before Hon. Richard J. Arcara. Public audio access to the proceeding may be obtained by viewing Judge Arcara's calendar on the public website at www.nywd.uscourts.gov or contacting Judge Arcara's chambers at 716-551-1810. (DJD) (Entered: 03/23/2021)
03/24/2021	Set/Reset Hearings as to Thamud Eldridge (1), Kevin Allen (3): Status Conference set for 4/28/2021 01:30 PM before Hon. Richard J. Arcara. The proceeding will be held remotely via Zoom for Government. (DJD) (Entered: 03/24/2021)
03/24/2021	<p>Minute Entry for proceeding held 3/24/2021 before Hon. Richard J. Arcara as to Defts, Thamud Eldridge (1) and Kevin Allen (3).</p> <p>Status conference is held.</p> <p>This proceeding is held remotely via video teleconferencing. The appearance of both Defts is waived. The Court will sign an order titled, "Order Regarding Use of Video or Teleconferencing".</p> <p>The Courtroom Deputy Clerk reads an admonition against recording any part of the proceeding; a violation of the prohibition could result in sanctions including a finding of contempt of court.</p> <p>The Courtroom Deputy Clerk describes the steps taken to permit public access of this proceeding.</p> <p>The parties report that they continue to await a decision from the Second Circuit as to the trial conviction counts. A further status conference is scheduled for 4/28/2021 at 1:30 PM. The proceeding will be held remotely via Zoom for Government. Deft Eldridge wants to appear remotely for the 4/28/2021 status conference. Deft Eldridge was previously at Northeast Ohio Correctional Center, but is now being held locally at the Chautauqua County Jail. Deft Allen waives his appearance for the 4/28/2021 status conference. The Govt indicates that time is excluded pursuant to reasons set forth in the Court's earlier Decision and Order (see Dkt. No. 677). Deft Eldridge renews his request for a trial date as to severed counts 16 and 17. The Court informs the parties that there is a General Order in this district staying any criminal jury trials through April 23, 2021 due to the Covid-19 pandemic. Govt to submit a Speedy Trial Act Order. Both Defts remain in custody.</p> <p>Appearances all by remote technology: Govt by Joseph Tripi (video); Deft Eldridge by Kevin Spitler (video); Deft Allen by Cheryl Meyers Buth (video); Defts Eldridge and</p>

		Allen (appearances waived) (Court Reporter Megan Pelka.)(DJD) Modified on 3/30/2021 to correct the date the court proceeding was held. (DJD). (Entered: 03/29/2021)
03/24/2021	<u>890</u>	ORDER Regarding Use of Video or Teleconferencing as to Thamud Eldridge, Kevin Allen. Signed by Hon. Richard J. Arcara on 3/24/2021. (JLV) (Entered: 03/30/2021)
04/07/2021	<u>891</u>	ORDER TO CONTINUE - Ends of Justice as to Thamud Eldridge, Kevin Allen Time excluded from 3/24/2021 until 4/28/2021. Signed by Hon. Richard J. Arcara on 4/7/2021. (JLV) (Entered: 04/07/2021)
04/27/2021		NOTICE as to defendants, Thamud Eldridge (1) and Kevin Allen (3). The court proceeding scheduled for April 28, 2021 will be held remotely via Zoom for Government before Hon. Richard J. Arcara. Public audio access to the proceeding may be obtained by viewing Judge Arcara's calendar on the public website at www.nywd.uscourts.gov or contacting Judge Arcara's chambers at 716-551-1810. (DJD) (Entered: 04/27/2021)
04/28/2021		Set/Reset Hearings as to Thamud Eldridge (1), Kevin Allen (3): Status Conference set for 6/25/2021 09:00 AM before Hon. Richard J. Arcara. The proceeding will be held in the courtroom.(DJD) (Entered: 04/28/2021)
04/28/2021	<u>895</u>	ORDER Regarding Use of Video or Teleconferencing as to Thamud Eldridge, Kevin Allen. Signed by Hon. Richard J. Arcara on 4/28/2021. (JLV) (Entered: 04/29/2021)
06/25/2021		Minute Entry for proceedings held on 6/25/2021 before Hon. Richard J. Arcara as to defendant, Thamud Eldridge (1). Status Conference is held. The Second Circuit has rejected the Appeal as to the trial conviction counts. The matter is adjourned to address the pending charges. The Government indicates that time is excluded pursuant to reasons set forth in the Court's earlier Decision and Order (see Dkt. No. 677). The Government to submit a Speedy Trial Act Order. This matter is adjourned for a Status Conference set for 7/29/2021 at 9:00 AM before Hon. Richard J. Arcara. Defendant remains in custody. Appearances: Joseph Tripi, AUSA; Kevin Spitler, Esq. with defendant. (Court Reporter Megan Pelka.) (BK) (Entered: 07/06/2021)
07/14/2021	<u>904</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Status Conference Proceedings as to Thamud Eldridge, Kevin Allen held on 04/28/2021 before Honorable Judge Richard J. Arcara. Court Reporter/Transcriber Megan E. Pelka, RPR, (716) 364-6449. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/4/2021. Redacted Transcript Deadline set for 8/16/2021. Release of Transcript Restriction set for 10/12/2021. (MEP) (Entered: 07/14/2021)
07/27/2021	<u>905</u>	ORDER OF DISMISSAL as to Thamud Eldridge, Kevin Allen.. Signed by Hon. Richard J. Arcara on 7/26/2021. (CGJ) (Entered: 07/27/2021)
07/27/2021		DISMISSAL OF COUNTS on Government Motion as to Thamud Eldridge, Kevin Allen. (CGJ) (Entered: 07/27/2021)
07/29/2021		Minute Entry for proceedings held on 7/29/2021 before Hon. Richard J. Arcara as to defendants Thamud Eldridge and Kevin Allen. Status Conference was held. An Order of Dismissal was filed, and based on that there are no unresolved or pending counts in this case. Appearances: Joseph Tripi, AUSA; Kevin Spitler, Esq., (with defendant Eldridge); Cheryl Buth, Esq., (without defendant Allen). (Court Reporter Megan Pelka.) (BK) (Entered: 07/29/2021)
09/02/2021	<u>908</u>	MANDATE of USCA (certified copy) as to Thamud Eldridge, Kevin Allen re 811 Notice of Appeal, <u>792</u> Notice of Appeal. IT IS HEREBY ORDERED, ADJUDGED and DECREED that Eldridge and Allen's convictions and sentences are AFFIRMED in all

United States Code Annotated
Title 18. Crimes and Criminal Procedure (Refs & Annos)
Part I. Crimes (Refs & Annos)
Chapter 44. Firearms (Refs & Annos)

18 U.S.C.A. § 924

§ 924. Penalties

Effective: December 21, 2018

Currentness

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), (f), or (p) of this section, or in section 929, whoever--

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (f), (k), or (q) of section 922;

(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(l); or

(D) willfully violates any other provision of this chapter,

shall be fined under this title, imprisoned not more than five years, or both.

(2) Whoever knowingly violates subsection (a)(6), (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years, or both.

(3) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly--

(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

(B) violates subsection (m) of section 922,

shall be fined under this title, imprisoned not more than one year, or both.

(4) Whoever violates section 922(q) shall be fined under this title, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.

(5) Whoever knowingly violates subsection (s) or (t) of section 922 shall be fined under this title, imprisoned for not more than 1 year, or both.

(6)(A)(i) A juvenile who violates section 922(x) shall be fined under this title, imprisoned not more than 1 year, or both, except that a juvenile described in clause (ii) shall be sentenced to probation on appropriate conditions and shall not be incarcerated unless the juvenile fails to comply with a condition of probation.

(ii) A juvenile is described in this clause if--

(I) the offense of which the juvenile is charged is possession of a handgun or ammunition in violation of section 922(x)(2); and

(II) the juvenile has not been convicted in any court of an offense (including an offense under section 922(x) or a similar State law, but not including any other offense consisting of conduct that if engaged in by an adult would not constitute an offense) or adjudicated as a juvenile delinquent for conduct that if engaged in by an adult would constitute an offense.

(B) A person other than a juvenile who knowingly violates section 922(x)--

(i) shall be fined under this title, imprisoned not more than 1 year, or both; and

(ii) if the person sold, delivered, or otherwise transferred a handgun or ammunition to a juvenile knowing or having reasonable cause to know that the juvenile intended to carry or otherwise possess or discharge or otherwise use the handgun or ammunition in the commission of a crime of violence, shall be fined under this title, imprisoned not more than 10 years, or both.

(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.

(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm or any ammunition in interstate or foreign commerce shall be fined under this title, or imprisoned not more than ten years, or both.

(c)(1)(A) Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of

any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime--

(i) be sentenced to a term of imprisonment of not less than 5 years;

(ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and

(iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years.

(B) If the firearm possessed by a person convicted of a violation of this subsection--

(i) is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, the person shall be sentenced to a term of imprisonment of not less than 10 years; or

(ii) is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, the person shall be sentenced to a term of imprisonment of not less than 30 years.

(C) In the case of a violation of this subsection that occurs after a prior conviction under this subsection has become final, the person shall--

(i) be sentenced to a term of imprisonment of not less than 25 years; and

(ii) if the firearm involved is a machinegun or a destructive device, or is equipped with a firearm silencer or firearm muffler, be sentenced to imprisonment for life.

(D) Notwithstanding any other provision of law--

(i) a court shall not place on probation any person convicted of a violation of this subsection; and

(ii) no term of imprisonment imposed on a person under this subsection shall run concurrently with any other term of imprisonment imposed on the person, including any term of imprisonment imposed for the crime of violence or drug trafficking crime during which the firearm was used, carried, or possessed.

(2) For purposes of this subsection, the term “drug trafficking crime” means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or chapter 705 of title 46.

(3) For purposes of this subsection the term “crime of violence” means an offense that is a felony and--

(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(4) For purposes of this subsection, the term “brandish” means, with respect to a firearm, to display all or part of the firearm, or otherwise make the presence of the firearm known to another person, in order to intimidate that person, regardless of whether the firearm is directly visible to that person.

(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section--

(A) be sentenced to a term of imprisonment of not less than 15 years; and

(B) if death results from the use of such ammunition--

(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.

(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1986 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: *Provided*, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, or lapse of or court termination of the restraining order to which he is subject, the seized or relinquished firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

United States Code Annotated
Title 18. Crimes and Criminal Procedure (Refs & Annos)
Part I. Crimes (Refs & Annos)
Chapter 95. Racketeering (Refs & Annos)

18 U.S.C.A. § 1951

§ 1951. Interference with commerce by threats or violence

Currentness

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

(b) As used in this section--

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15, sections 52, 101-115, 151-166 of Title 29 or sections 151-188 of Title 45.

CREDIT(S)

(June 25, 1948, c. 645, 62 Stat. 793; Pub.L. 103-322, Title XXXIII, § 330016(1)(L), Sept. 13, 1994, 108 Stat. 2147.)

18 U.S.C.A. § 1951, 18 USCA § 1951

Current through PL 117-55.

United States Code Annotated
Constitution of the United States
Annotated
Amendment VI. Jury Trial for Crimes, and Procedural Rights (Refs & Annos)

U.S.C.A. Const. Amend. VI-Jury Trials

Amendment VI. Jury trials for crimes, and procedural
rights [Text & Notes of Decisions subdivisions I to XXII]

Currentness

<Notes of Decisions for this amendment are displayed in multiple documents.>

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

U.S.C.A. Const. Amend. VI-Jury Trials, USCA CONST Amend. VI-Jury Trials
Current through PL 117-55.

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.