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ON APPEAL PRO SE

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APPEAL,BNDDUTY,CLOSED,EGT

U.S. District Court
Southern District of Florida (Miami)
CRIMINAL DOCKET FOR CASE #: 1:19-cr-20075-RNS All Defendants

Case title: USA v. Lundi

Magistrate judge case number: 1:19-mj-02041-CMM

Date Filed: 02/07/2019

Date Terminated: 02/26/2020

Assigned to: Judge Robert N.
Scola, Jr

Appeals court case number:
20-10898-C

Defendant (1)

Jim Lundi
YOB 1981 English
TERMINATED: 02/26/2020

represented by **Jim Lundi**
19581-104
McCreary-USP
United States Penitentiary
Inmate Mail/Parcels
Post Office Box 3000
Pine Knot, KY 42635
PRO SE

Noticing FPD-MIA
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TERMINATED: 02/12/2019
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Public Defender Appointment

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: CJA Appointment

Exhibit

" A "

19 OF 47

Katherine Carmon

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LEAD ATTORNEY

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Email: kate_taylor@fd.org

ATTORNEY TO BE NOTICED

Designation: Public Defender Appointment

Pending Counts

18:U.S.C.§1591 SEX
TRAFFICKING OF A MINOR
(1)

Disposition

IMPRISONMENT: 300 months. SUPERVISED
RELEASE: 25 years.

Highest Offense Level (Opening)

Felony

Terminated Counts

18:U.S.C.§2251 PRODUCTION
OF CHILD PORNOGRAPHY
(2)

Disposition

Dismissed

**Highest Offense Level
(Terminated)**

Felony

Complaints

18:U.S.C.§1591 SEX
TRAFFICKING OF A MINOR
BY FORCE, FRAUD, OR
COERCION

Disposition

Plaintiff

USA

represented by **Jessica Kahn Obenauf**
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 Email: jessica.obenauf@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
01/11/2019	<u>1</u>		CRIMINAL COMPLAINT as to Jim Lundi (1). (at) (Main Document 1 replaced on 1/15/2019) (at). [1:19-mj-02041-CMM] (Entered: 01/15/2019)
01/15/2019			SYSTEM ENTRY - Docket Entry 2 restricted/sealed until further notice. (at) [1:19-mj-02041-CMM] (Entered: 01/15/2019)
01/15/2019			PAPERLESS NOTICE SETTING Hearing as to Jim Lundi: Initial Appearance set for 1/18/2019 01:30 PM in Miami Division before MIA Duty Magistrate. Per government, writ to follow. (cg1) [1:19-mj-02041-CMM] (Entered: 01/15/2019)
01/15/2019	<u>3</u>		PETITION for Writ of Habeas Corpus ad prosequendum by USA as to Jim Lundi. (cg1) [1:19-mj-02041-CMM] (Entered: 01/15/2019)
01/15/2019	<u>4</u>		ORDER granting <u>3</u> Petition for Writ of Habeas Corpus ad prosequendum as to Jim Lundi (1). Signed by Magistrate Judge Jonathan Goodman on 1/15/2019. <i>See attached document for full details.</i> (cg1) [1:19-mj-02041-CMM] (Entered: 01/15/2019)
01/25/2019			Arrest of Jim Lundi (at) [1:19-mj-02041-CMM] (Entered: 01/29/2019)
01/28/2019	<u>5</u>		Minute Order for proceedings held before Magistrate Judge Alicia M. Otazo-Reyes: Initial Appearance as to Jim Lundi held on 1/28/2019.. Arraignment set for 2/11/2019 AT 10:00 AM in Miami Division before MIA Duty Magistrate. Detention Hearing set for 1/31/2019 AT 10:00 AM in Miami Division before MIA Duty Magistrate. Attorney added: Noticing FPD-MIA for Jim Lundi (Digital 14:11:22,14:27:20) (Signed by Magistrate Judge Alicia M. Otazo-Reyes on 1/28/2019). (at) [1:19-mj-02041-CMM] (Entered: 01/29/2019)
01/29/2019	<u>6</u>		

		Invocation of Right to Silence and Counsel by Jim Lundi (Lomax, Adekunmi) [1:19-mj-02041-CMM] (Entered: 01/29/2019)
01/31/2019	<u>7</u>	Minute Entry for proceedings held before Magistrate Judge Alicia M. Otazo-Reyes: Status Conference re: detention as to Jim Lundi held on 1/31/2019. Bond set as to Jim Lundi (1) Stipulated \$250,000 Csb/Nebbia. (Digital 10:32:34) (cg1) [1:19-mj-02041-CMM] (Entered: 01/31/2019)
02/07/2019	<u>8</u>	INDICTMENT as to Jim Lundi (1) count(s) 1, 2. FORFEITURE ALLEGATIONS. (at) (Additional attachment(s) added on 2/8/2019: # 1 Restricted Unredacted Indictment) (at). (Entered: 02/08/2019)
02/11/2019	<u>9</u>	Minute Order for proceedings held before Magistrate Judge Chris M. McAliley: ARRAIGNMENT as to Jim Lundi (1) Count 1,2 held on 2/11/2019. (Digital 10:18:25) PAPERLESS STANDING DISCOVERY ORDER: The defendant(s) having been arraigned this date in open Court, it is Ordered that within 14 days of the date of this order that all parties to this action shall review and comply with Southern District of Florida Local Rules 88.10 (Criminal Discovery), and 88.9(c) (Motions in Criminal Cases). Upon a sufficient showing, the Court may at any time, upon a properly filed motion, order that the discovery or inspection provided for by this Standing Order be denied, restricted or deferred, or make such other order as is appropriate. It is expected by the Court, however, that counsel for both sides shall make a good faith effort to comply with the letter and spirit of this Standing Order. It shall be the continuing duty of counsel for both sides to immediately reveal to opposing counsel all newly discovered information or other material within the scope of Local Rule 88.10. (Signed by Magistrate Judge Chris M. McAliley on 2/11/2019). (at) (Entered: 02/11/2019)
02/12/2019	<u>10</u>	NOTICE of Reassignment of Assistant Federal Public Defender. Katherine Carmon appearing for Jim Lundi. Noticing FPD-MIA terminated. Attorney Katherine Carmon added to party Jim Lundi(pty:dft). (Carmon, Katherine) (Entered: 02/12/2019)
02/13/2019	<u>11</u>	NOTICE OF ATTORNEY APPEARANCE: Kathleen Elena Handlin Taylor appearing for Jim Lundi . Attorney Kathleen Elena Handlin Taylor added to party Jim Lundi(pty:dft). (Taylor, Kathleen) (Entered: 02/13/2019)
02/13/2019	<u>12</u>	SCHEDULING ORDER as to Jim Lundi. Calendar Call set for 3/26/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Jury Trial set for 4/1/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Signed by Judge Robert N. Scola, Jr on 2/12/2019. <i>See attached document for full details.</i> (jh) <u>Pattern Jury Instruction Builder</u> – To access the latest, up to date changes to the 11th Circuit Pattern Jury Instructions go to https://pji.ca11.uscourts.gov or click here . (Entered: 02/13/2019)
02/15/2019	<u>13</u>	Unopposed MOTION for Protective Order by USA as to Jim Lundi. Responses due by 3/1/2019 (Attachments: # 1 Text of Proposed Order)(Obenauf, Jessica) (Entered: 02/15/2019)
02/20/2019	<u>14</u>	

		PROTECTIVE ORDER granting <u>13</u> Motion for Protective Order as to Jim Lundi (1). Signed by Judge Robert N. Scola, Jr on 2/15/2019. <i>See attached document for full details.</i> (jh) (Entered: 02/20/2019)
02/22/2019	<u>15</u>	RESPONSE to Standing Discovery Order by USA as to Jim Lundi (Obenauf, Jessica) (Entered: 02/22/2019)
03/18/2019	<u>16</u>	Unopposed MOTION to Continue Trial by Jim Lundi. Responses due by 4/1/2019 (Attachments: # <u>1</u> Text of Proposed Order)(Carmon, Katherine) (Entered: 03/18/2019)
03/18/2019	<u>17</u>	ORDER TO CONTINUE – Ends of Justice as to Jim Lundi – Time excluded from 3/18/19 until 6/19/2019. Granting <u>16</u> Unopposed MOTION to Continue Trial. Calendar Call set for 6/4/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Jury Trial set for 6/10/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Signed by Judge Robert N. Scola, Jr on 3/18/2019. <i>See attached document for full details.</i> (jh) (Entered: 03/18/2019)
05/17/2019	<u>18</u>	PAPERLESS ORDER setting status conference as to Jim Lundi for May 22, 2019, at 9:00 a.m. in Miami Division before Judge Robert N. Scola, Jr. Signed by Judge Robert N. Scola, Jr. on 5/17/2019. (kbe) (Entered: 05/17/2019)
05/22/2019	<u>19</u>	PAPERLESS Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Status Conference re Defendant's Ore Tenus Motion for New Counsel as to Jim Lundi held on 5/22/2019. Defendant present. Defendant's Motion for New Counsel is granted. This case shall remain on the calendar call for 06/04/2019 at 9:00 AM, unless a continuance is requested. Total time in court: 15 minutes. Attorney Appearance(s): Jessica Kahn Obenauf, Katherine Carmon, Kathleen Elena Handlin Taylor. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. Attorney added: David Adrian Howard for Jim Lundi for Criminal Case CJA representation. Date attorney was appointed CJA: 05/22/2019. (jh) (Entered: 05/22/2019)
05/24/2019	<u>20</u>	ORDER Allowing Federal Public Defender to Withdraw and Appointing CJA Counsel as to Jim Lundi re 19 Status Conference. Defendant's Pro Se Request to Appoint New Counsel is granted. Attorney David A. Howard is court appointed pursuant to the Criminal Justice Act to represent the Defendant in this case. The Federal Public Defender is allowed to withdraw from this case and is relieved of any further responsibility. Signed by Judge Robert N. Scola, Jr on 5/23/2019. <i>See attached document for full details.</i> (pes) Modified text on 5/24/2019 (pes). (Entered: 05/24/2019)
05/31/2019	<u>21</u>	Unopposed MOTION to Continue Trial by Jim Lundi. Responses due by 6/14/2019 (Howard, David) (Entered: 05/31/2019)
06/03/2019	<u>22</u>	ORDER TO CONTINUE – Ends of Justice as to Jim Lundi – Time excluded from 5/31/19 until 8/19/2019. Granting <u>21</u> Unopposed Motion to Continue Trial. Calendar Call set for 8/13/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Jury Trial set for 8/19/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Signed by Judge Robert N. Scola, Jr on 6/3/2019. <i>See attached document for full details.</i> (jh) (Entered: 06/03/2019)

07/18/2019	<u>23</u>	Defendant's MOTION Funding for Audio Enhancement and for a Transcript by Jim Lundi. Responses due by 8/1/2019 (Howard, David) (Entered: 07/18/2019)
07/23/2019	<u>24</u>	ORDER granting <u>23</u> Motion for Funding to Enhance the Audio Quality of Recorded Statement and Produce Transcript as to Jim Lundi (1). Signed by Judge Robert N. Scola, Jr on 7/23/2019. <i>See attached document for full details.</i> (jh) (Entered: 07/23/2019)
08/06/2019	<u>25</u>	MOTION in Limine to <i>Exclude Inadmissible Rape Shield Evidence</i> by USA as to Jim Lundi. Responses due by 8/20/2019 (Obenauf, Jessica) (Entered: 08/06/2019)
08/06/2019	<u>26</u>	Final MOTION to Continue Trial by Jim Lundi. Responses due by 8/20/2019 (Attachments: # <u>1</u> Exhibit Speedy Trial Waiver)(Howard, David) (Entered: 08/06/2019)
08/07/2019	<u>27</u>	NOTICE of Intent to Use <i>Expert Testimonial</i> Evidence by USA as to Jim Lundi (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2) (Obenauf, Jessica) (Entered: 08/07/2019)
08/08/2019	<u>28</u>	ORDER TO CONTINUE – Ends of Justice as to Jim Lundi – Time excluded from 8/6/2019 until 10/15/2019. Granting <u>26</u> Third MOTION to Continue Trial. Calendar Call set for 10/8/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Jury Trial set for 10/15/2019 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Signed by Judge Robert N. Scola, Jr on 8/7/2019. <i>See attached document for full details.</i> (jh) (Entered: 08/08/2019)
08/21/2019		SYSTEM ENTRY – Docket Entry 29 restricted/sealed until further notice. (nc) (Entered: 08/21/2019)
08/21/2019		SYSTEM ENTRY – Docket Entry 30 restricted/sealed until further notice. (nc) (Entered: 08/21/2019)
08/23/2019		SYSTEM ENTRY – Docket Entry 31 restricted/sealed until further notice. (mc) (Entered: 08/23/2019)
09/24/2019	<u>32</u>	NOTICE OF ATTORNEY APPEARANCE William T. Zloch appearing for USA. <i>with responsibility for matters related to criminal forfeiture..</i> Attorney William T. Zloch added to party USA(pty:pla). (Zloch, William) (Entered: 09/24/2019)
10/02/2019	<u>33</u>	Defendant's MOTION Rule 412 Motion to Admit Evidence by Jim Lundi. Responses due by 10/16/2019 (Howard, David) (Entered: 10/02/2019)
10/02/2019	<u>34</u>	NOTICE of Intent to Use <i>902(11) and 803(6)</i> Evidence by USA as to Jim Lundi (Obenauf, Jessica) (Entered: 10/02/2019)
10/02/2019	<u>35</u>	Proposed Voir Dire Questions by USA as to Jim Lundi (Obenauf, Jessica) (Entered: 10/02/2019)
10/02/2019	<u>36</u>	NOTICE of Intent to Use <i>Expert Testimonial</i> Evidence by USA as to Jim Lundi (Attachments: # <u>1</u> Exhibit 1) (Obenauf, Jessica) (Entered: 10/02/2019)
10/04/2019	37	PAPERLESS ORDER: The Government is ordered to respond to <u>33</u> the Defendant's Rule 412 motion to admit evidence by 4:00 pm on Monday, October 7, 2019. Signed by Judge Robert N. Scola, Jr. (kbe) (Entered: 10/04/2019)

		10/04/2019)
10/07/2019	38	PAPERLESS ORDER RESETTIME TIME FOR HEARING as to Jim Lundi. Calendar Call reset to 08:55 AM on 10/8/2019 in Miami Division before Judge Robert N. Scola Jr. Signed by Judge Robert N. Scola, Jr on 10/7/2019. (jh) (Entered: 10/07/2019)
10/07/2019	<u>39</u>	EXHIBIT LIST by USA as to Jim Lundi (Obenauf, Jessica) (Entered: 10/07/2019)
10/07/2019	<u>40</u>	Witness List by USA as to Jim Lundi (Obenauf, Jessica) (Entered: 10/07/2019)
10/07/2019	<u>41</u>	Proposed Jury Instructions by USA as to Jim Lundi (Obenauf, Jessica) (Entered: 10/07/2019)
10/08/2019		SYSTEM ENTRY – Docket Entry 42 restricted/sealed until further notice. (nc) (Entered: 10/08/2019)
10/08/2019		SYSTEM ENTRY – Docket Entry 43 restricted/sealed until further notice. (nc) (Entered: 10/08/2019)
10/08/2019	44	<p>PAPERLESS Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Calendar Call as to Jim Lundi held on 10/8/2019. Defendant present. Parties announced they are trial ready and estimated the trial will last 4 days. Jury selection and oral argument on pending motions set for Tuesday 10/15/2019 at 9:00 AM. Jury trial set for Monday 10/21/2019 at 9:00 AM. Total time in court: 5 minutes. Attorney Appearance(s): AUSA Jessica Kahn Obenauf, AUSA Rilwan Adeduntan, David Adrian Howard, Esquire. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov.</p> <p>NOTICE OF POLICY RE ELECTRONIC SUBMISSION OF EXHIBITS. Local Rule 5.3 provides that within ten (10) days of the conclusion of a hearing or trial, a party must file in CM/ECF an electronic version of most exhibits offered or introduced into evidence. Before electronically filing, the filer must redact any sensitive, confidential, or private information in accordance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and CM/ECF Administrative Procedures, Section 6, or seek an order from the Court either to seal the exhibit or to exempt the exhibit from electronic filing under subsection (b)(3)(C) of the rule. Failure to electronically file exhibits and the The Certificate of Compliance Re Admitted Evidence within ten (10) days may result in the imposition of sanctions. The Local Rule, The Certificate of Compliance Re Admitted Evidence, and the Quick Reference Guide to Electronically Filing Trial Exhibits can be found on the Courts website: http://www.flsd.uscourts.gov. (jh) (Entered: 10/08/2019)</p>
10/08/2019	45	PAPERLESS ORDER: The Court sets hearings on <u>25</u> the Government's motion in limine and <u>33</u> the Defendant's Rule 412 motion to admit evidence for October 15, 2019, at 9:00 AM in Miami Division before Judge Robert N. Scola Jr. Signed by Judge Robert N. Scola, Jr. (kbe) (Entered: 10/08/2019)
10/08/2019	<u>46</u>	TRIAL ORDER as to Jim Lundi. Signed by Judge Robert N. Scola, Jr on 10/8/2019. <i>See attached document for full details.</i> (pes) (Entered: 10/08/2019)

10/08/2019			SYSTEM ENTRY – Docket Entry 47 restricted/sealed until further notice. (nc) (Entered: 10/08/2019)
10/11/2019	<u>48</u>		PAPERLESS ORDER: The Court <u>46</u> ordered the Defendant to file his proposed voir dire questions, witness list, and exhibit list—or a notice indicating he did not intend to submit questions, call any witnesses, or proffer any exhibits—by noon on October 9, 2019. That deadline has passed and counsel has not complied. Defense counsel must immediately comply with <u>46</u> the Court's order or show cause why he should not be sanctioned for failing to comply with the Court's order. Signed by Judge Robert N. Scola, Jr. (kbe) (Entered: 10/11/2019)
10/11/2019	<u>49</u>		Witness List by Jim Lundi (Howard, David) (Entered: 10/11/2019)
10/11/2019	<u>50</u>		NOTICE of Compliance <i>WITH THE COURTS OCTOBER 8, 2019</i> by Jim Lundi re <u>46</u> Order on Trial Instructions (Howard, David) (Entered: 10/11/2019)
10/15/2019	<u>51</u>		PAPERLESS Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Motion Hearing as to Jim Lundi held on 10/15/2019 re <u>33</u> Defendant's MOTION Rule 412 Motion to Admit Evidence filed by Jim Lundi, and <u>25</u> MOTION in Limine to Exclude Inadmissible Rape Shield Evidence filed by USA. Defendant present. Total time in court: 1 hour and 30 minutes. Attorney Appearance(s): AUSA Jessica Kahn Obenauf, AUSA Rilwan Adeduntan, David Adrian Howard, Esquire. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. (jh) (Entered: 10/15/2019)
10/15/2019	<u>52</u>		Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Jury Selection/Voir Dire as to Jim Lundi held on 10/15/2019. Day 1. Jury trial to resume Monday 10/21/2019 at 9:00 AM. See attached minute entry for details. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. (jh) (Entered: 10/15/2019)
10/15/2019	<u>53</u>		ORDER on Pretrial Evidentiary Motions granting in part and denying in part <u>33</u> Motion Pretrial Evidentiary Motions as to Jim Lundi (1); granting in part and denying in part <u>25</u> Motion in Limine as to Jim Lundi (1). Signed by Judge Robert N. Scola, Jr on 10/15/2019. <i>See attached document for full details.</i> (pes) (Entered: 10/16/2019)
10/17/2019			SYSTEM ENTRY – Docket Entry 54 restricted/sealed until further notice. (nc) (Entered: 10/17/2019)
10/21/2019	<u>55</u>		Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Jury Trial begun on 10/21/2019. Day 2. Defendant announced he wanted to plead guilty. Jury trial concluded. See attached minute entry for details. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. (jh) (Entered: 10/22/2019)
10/21/2019	<u>56</u>		PAPERLESS Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Change of Plea Hearing as to Jim Lundi held on 10/21/2019. Jim Lundi (1) Guilty Count 1 of the indictment (NO PLEA AGREEMENT/PROFFER). Sentencing hearing set for 01/10/2020 at 8:30 AM. Total time in court: 25 minutes. Attorney Appearance(s): AUSA Jessica Kahn Obenauf, AUSA Rilwan Adeduntan, David Adrian Howard, Esquire.

		Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. (jh) (Entered: 10/22/2019)
10/22/2019	<u>57</u>	ORDER Setting Sentencing Hearing and Adopting Sentencing Procedures as to Jim Lundi. Signed by Judge Robert N. Scola, Jr on 10/22/2019. Sentencing set for 1/10/2020 08:30 AM in Miami Division before Judge Robert N. Scola Jr.. (pes) (Entered: 10/22/2019)
10/22/2019	58	Notice of Presentence Investigation Assignment of Jim Lundi to US Probation Officer Sherika Prospere in the Miami Wilkie D. Ferguson, Jr. U.S. Courthouse and she can be contacted at (305)523-5447 or Sherika_Prospere@flsp.uscourts.gov. (lrn) (Entered: 10/22/2019)
12/06/2019	<u>59</u>	DRAFT Disclosure of Presentence Investigation Report of Jim Lundi. This is a limited access document. Report access provided to attorneys William T. Zloch, Jessica Kahn Obenauf, David Adrian Howard by USPO (Attachments: # <u>1</u> Position of Parties)(mcl1) (Entered: 12/06/2019)
12/27/2019	<u>60</u>	Unopposed MOTION to Continue Sentencing Hearing by Jim Lundi. Responses due by 1/10/2020 (Howard, David) (Entered: 12/27/2019)
12/30/2019	61	PAPERLESS ORDER granting <u>60</u> Motion to Continue Sentencing Hearing as to Jim Lundi (1). Objections to PSI Report due by 1/30/2020. Sentencing is continued to 02/13/2020 08:30 AM in Miami Division before Judge Robert N. Scola Jr. Signed by Judge Robert N. Scola, Jr on 12/30/2019. (jh) (Entered: 12/30/2019)
01/29/2020	62	PAPERLESS ORDER RESETTING SENTENCING HEARING as to Jim Lundi. Signed by Judge Robert N. Scola, Jr on 1/29/2020. Sentencing is reset to Tuesday 2/11/2020 09:00 AM in Miami Division before Judge Robert N. Scola Jr. Due to a scheduling conflict on the Court's calendar, the sentencing hearing is reset to the date and time specified herein. (jh) (Entered: 01/29/2020)
01/30/2020	<u>63</u>	OBJECTIONS TO PRESENTENCE INVESTIGATION REPORT by Jim Lundi <i>and Motion for Downward Variance</i> (Howard, David) (Entered: 01/30/2020)
02/03/2020	<u>64</u>	Defendant's MOTION to Withdraw Plea of Guilty by Jim Lundi. (Howard, David) (Entered: 02/03/2020)
02/04/2020	65	PAPERLESS ORDER REQUIRING RESPONSE from AUSA as to Jim Lundi re <u>64</u> Defendant's MOTION to Withdraw Plea of Guilty filed by Jim Lundi. Government's response is due by 2/10/2020. Signed by Judge Robert N. Scola, Jr on 2/4/2020. (jh) (Entered: 02/04/2020)
02/04/2020	<u>66</u>	FINAL Addendum 1 Disclosure of Presentence Investigation Report of Jim Lundi. This is a limited access document. Report access provided to attorneys William T. Zloch, Jessica Kahn Obenauf, David Adrian Howard by USPO (Attachments: # <u>1</u> Addendum)(mcl1) (Entered: 02/04/2020)
02/06/2020	<u>67</u>	MOTION to Continue Sentencing Hearing and for Extension of Time to File Response to Defendant's Motion to Withdraw Plea by USA as to Jim Lundi. Responses due by 2/20/2020 (Obenauf, Jessica) (Entered: 02/06/2020)

02/06/2020	68		<p>PAPERLESS ORDER granting <u>67</u> Motion for Extension of Time to File Response to Defendant's <u>64</u> Motion to Withdraw Guilty Plea and Motion to Continue Sentencing Hearing as to Jim Lundi (1). Government's response is due by 2/21/2020. Sentencing is continued to 2/26/2020 09:00 AM in Miami Division before Judge Robert N. Scola Jr.</p> <p>The Court has reserved one hour for sentencing hearing.</p> <p>Signed by Judge Robert N. Scola, Jr on 2/6/2020. (jh) (Entered: 02/06/2020)</p>
02/06/2020	<u>69</u>		<p>NOTICE of <i>No Objection</i> by Jim Lundi re <u>67</u> MOTION to Continue Sentencing Hearing and for Extension of Time to File Response to Defendant's Motion to Withdraw Plea (Howard, David) (Entered: 02/06/2020)</p>
02/06/2020	<u>70</u>		<p>TRANSCRIPT of change of plea hearing as to Jim Lundi held on 10/21/19 before Judge Robert N. Scola, Jr, 1-13 pages, Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased by contacting the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/27/2020. Redacted Transcript Deadline set for 3/9/2020. Release of Transcript Restriction set for 5/6/2020. (tnr) (Entered: 02/06/2020)</p>
02/07/2020	71		<p>PAPERLESS ORDER RESETTING SENTENCING HEARING as to Jim Lundi. Signed by Judge Robert N. Scola, Jr on 2/7/2020. Sentencing is reset to Thursday 2/27/2020 09:00 AM in Miami Division before Judge Robert N. Scola Jr.</p> <p>Defendant's Ore Tenus Motion to Reset Hearing Due to a Scheduling Conflict is granted. (jh) (Entered: 02/07/2020)</p>
02/21/2020	<u>72</u>		<p>RESPONSE in Opposition by USA as to Jim Lundi re <u>64</u> Defendant's MOTION to Withdraw Plea of Guilty Replies due by 2/28/2020. (Attachments: # <u>1</u> Exhibit 1) (Obenaus, Jessica) (Entered: 02/21/2020)</p>
02/24/2020	<u>73</u>		<p>United States of America's Objection and Response to Defendant's Objections to the Presentence Investigation Report by USA as to Jim Lundi to <u>63</u> Objections to Presentence Investigation Report (Obenaus, Jessica) (Entered: 02/24/2020)</p>
02/24/2020	74		<p>PAPERLESS ORDER SETTING HEARING on <u>64</u> Defendant's MOTION to Withdraw Plea of Guilty: as to Jim Lundi. Motion Hearing set for 2/26/2020 10:30 AM in Miami Division before Judge Robert N. Scola Jr., at the Wilkie D. Ferguson U.S. Courthouse, 400 North Miami Avenue, Courtroom 12-3, 12th floor, Miami, Florida. Defendant is required to be present.</p> <p>Sentencing hearing is reset to 2/26/2020 at 10:30 AM. If the motion to withdraw plea of guilty is granted, the sentencing hearing will be canceled. Signed by Judge Robert N. Scola, Jr on 2/24/2020. (jh) (Entered: 02/24/2020)</p>
02/24/2020	75		<p>PAPERLESS ORDER RESETTING SENTENCING HEARING as to Jim Lundi. Signed by Judge Robert N. Scola, Jr on 2/24/2020. Sentencing hearing is reset to Wednesday 2/26/2020 10:30 AM in Miami Division before Judge Robert N. Scola Jr. (jh) (Entered: 02/24/2020)</p>

02/25/2020	<u>76</u>		MOTION for Court Order Approving Restitution Amount by USA as to Jim Lundi. Responses due by 3/10/2020 (Obenauf, Jessica) (Entered: 02/25/2020)
02/25/2020			SYSTEM ENTRY – Docket Entry 77 restricted/sealed until further notice. (nc) (Entered: 02/25/2020)
02/25/2020			SYSTEM ENTRY – Docket Entry 78 restricted/sealed until further notice. (nc) (Entered: 02/25/2020)
02/26/2020	79		PAPERLESS Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Motion Hearing as to Jim Lundi held on 2/26/2020 re <u>64</u> Defendant's MOTION to Withdraw Plea of Guilty filed by Jim Lundi. Defendant Jim Lundi sworn and testified. Motion to withdraw guilty plea is denied. Total time in court: 55 minutes. Attorney Appearance(s): AUSA Jessica Kahn Obenauf, David Adrian Howard, Esquire. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. (jh) (Entered: 02/26/2020)
02/26/2020	80		PAPERLESS Minute Entry for proceedings held before Judge Robert N. Scola, Jr: Sentencing held on 2/26/2020 as to Jim Lundi. Imprisonment for a term of 300 months as to count 1. Supervised release for 25 years. Special conditions of supervision imposed, see judgment. Special assessment of \$100.00. Restitution in the amount of \$4,780.00 to the victim in this case. Defendant was informed of his right to appeal within 14 days and remanded to the custody of the U.S. Marshals. Recommendations to BOP: 1) 500-hour RDAP Program; 2) mental health treatment; and 3) South Florida facility. No fine or additional special assessment imposed. If the Government is seeking forfeiture, AUSA shall submit a proposed order within 3 days. Total time in court: 40 minutes. Victim present and addressed the Court. U.S. Probation Officer: Sherika Prospere. Attorney Appearance(s): AUSA Jessica Kahn Obenauf, David Adrian Howard, Esquire. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. (jh) (Entered: 02/26/2020)
02/26/2020	<u>84</u>		JUDGMENT as to Jim Lundi, Count 1, IMPRISONMENT: 300 months. SUPERVISED RELEASE: 25 years.; Count 2, Dismissed. Restitution: \$4,780.00 Assessment: \$100.00. Closing Case for Defendant. Signed by Judge Robert N. Scola, Jr on 2/26/2020. <i>See attached document for full details.</i> (scn) (Entered: 02/28/2020)
02/27/2020	81		PAPERLESS ORDER granting in part <u>76</u> Motion for Court Order Approving Restitution Amount as to Jim Lundi (1). The Court orders restitution in the amount of \$4,780.00 for reasons stated on the record at sentencing held 02/26/2020. Signed by Judge Robert N. Scola, Jr on 2/27/2020. (jh) (Entered: 02/27/2020)
02/27/2020			SYSTEM ENTRY – Docket Entry 82 restricted/sealed until further notice. (nc) (Entered: 02/27/2020)
02/27/2020	<u>83</u>		ORDER denying <u>64</u> Motion to Withdraw Plea of Guilty as to Jim Lundi (1). Signed by Judge Robert N. Scola, Jr on 2/26/2020. <i>See attached document for full details.</i> (jas) (Entered: 02/28/2020)
03/05/2020	<u>85</u>		NOTICE OF APPEAL by Jim Lundi Re: <u>84</u> Judgment,. Filing fee \$ 505.00. CJA Appointment with Date of Appointment 05/22/2019. Within fourteen

		days of the filing date of a Notice of Appeal, the appellant must complete the Eleventh Circuit Transcript Order Form regardless of whether transcripts are being ordered [Pursuant to FRAP 10(b)]. For information go to our FLSD website under Transcript Information. (Howard, David) (Entered: 03/05/2020)
03/06/2020		Transmission of Notice of Appeal and Docket Sheet as to Jim Lundi to US Court of Appeals re <u>85</u> Notice of Appeal – Final Judgment. Notice has been electronically mailed. (hh) (Entered: 03/06/2020)
03/10/2020	<u>86</u>	Acknowledgment of Receipt of NOA from USCA as to Jim Lundi re <u>85</u> Notice of Appeal – Final Judgment, date received by USCA: 3/6/20. USCA Case Number: 20-10898-C. (hh) (Entered: 03/11/2020)
03/19/2020	<u>87</u>	TRANSCRIPT INFORMATION FORM as to Jim Lundi re <u>85</u> Notice of Appeal – Final Judgment, filed by Jim Lundi. Hearings, Trial, Sentencing transcript(s) ordered. Order placed by David A. Howard. Email sent to Court Reporter Coordinator. (Howard, David) (Entered: 03/19/2020)
04/06/2020	<u>88</u>	COURT REPORTER ACKNOWLEDGMENT as to Jim Lundi re <u>87</u> Transcript Information Form, <u>85</u> Notice of Appeal – Final Judgment,. Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. (Nestor, Tammy) (Entered: 04/06/2020)
04/20/2020	<u>89</u>	TRANSCRIPT of jury trial as to Jim Lundi held on 10/15/20 before Judge Robert N. Scola, Jr, Volume Number 1, 1-167 pages, re: <u>85</u> Notice of Appeal – Final Judgment, Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased by contacting the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/11/2020. Redacted Transcript Deadline set for 5/21/2020. Release of Transcript Restriction set for 7/20/2020. (Nestor, Tammy) (Entered: 04/20/2020)
04/20/2020	<u>90</u>	TRANSCRIPT of sentencing hearing as to Jim Lundi held on 2/26/20 before Judge Robert N. Scola, Jr, 1-63 pages, re: <u>85</u> Notice of Appeal – Final Judgment, Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased by contacting the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/11/2020. Redacted Transcript Deadline set for 5/21/2020. Release of Transcript Restriction set for 7/20/2020. (Nestor, Tammy) (Entered: 04/20/2020)
04/20/2020	<u>91</u>	TRANSCRIPT NOTIFICATION as to Jim Lundi – Transcript(s) ordered on: 3/24/2020 by David Howard, Esq. has/have been filed by Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov re <u>88</u> Court Reporter Acknowledgment, <u>87</u> Transcript Information Form, <u>85</u> Notice of Appeal – Final Judgment,. (Nestor, Tammy) (Entered: 04/20/2020)
05/17/2021	<u>92</u>	MOTION to Compel <i>Attorney David Howard to Surrender Case File</i> by Jim Lundi. Responses due by 6/1/2021 (mc) (Entered: 05/17/2021)
05/17/2021	<u>93</u>	NOTICE of Inquiry by Jim Lundi (Copy of Docket Sheet and Transcript Order Form mailed) (mc) (Entered: 05/17/2021)

05/18/2021	<u>94</u>	PAPERLESS ORDER as to Jim Lundi re <u>92</u> Pro Se Motion to Compel attorney David Howard to Surrender Case File filed by Jim Lundi. Attorney David Howard shall file a response to the pro se motion by 6/7/2021. Signed by Judge Robert N. Scola, Jr on 5/18/2021. (jh) (Entered: 05/18/2021)
06/07/2021	<u>95</u>	RESPONSE to Motion by Jim Lundi re <u>92</u> MOTION to Compel <i>Attorney David Howard to Surrender Case File Per Paperless Order entered on May 18, 2021</i> Replies due by 6/14/2021. (Attachments: # <u>1</u> Exhibit) (Howard, David) (Entered: 06/07/2021)
06/09/2021	<u>96</u>	PAPERLESS ORDER deferring ruling on <u>92</u> Pro Se Motion to Compel Attorney David Howard to Surrender Case File to Jim Lundi filed by Jim Lundi. Attorney David Howard is ordered to file a copy of the 11th Circuit Court of Appeals' ruling on Jim Lundi's motion to substitute counsel within five days of the ruling. Signed by Judge Robert N. Scola, Jr on 6/9/2021. (jh) (Entered: 06/09/2021)
07/16/2021	<u>97</u>	NOTICE of Inquiry by Jim Lundi (pes) (Entered: 07/19/2021)
07/16/2021	<u>98</u>	CLERK'S NOTICE of Mailing Docket Sheet as to Jim Lundi re <u>97</u> Notice (Other) (pes) (Entered: 07/19/2021)
07/26/2021	<u>99</u>	TRANSCRIPT of jury trial day 2 as to Jim Lundi held on 10/21/19 before Judge Robert N. Scola, Jr, 1-253 pages, Court Reporter: Tammy Nestor, 305-523-5148 / Tammy_Nestor@flsd.uscourts.gov. Transcript may be viewed at the court public terminal or purchased by contacting the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 8/16/2021. Redacted Transcript Deadline set for 8/26/2021. Release of Transcript Restriction set for 10/25/2021. (tnr) (Entered: 07/26/2021)
10/27/2021	<u>100</u>	NOTICE of Filing Judicial Notice of Transmission of Transcripts by Jim Lundi (Attachments: # <u>1</u> Transcript Order Form) (hh) (Entered: 10/27/2021)
11/01/2021	<u>101</u>	NOTICE of Filing by Jim Lundi (Howard, David) (Entered: 11/01/2021)
11/01/2021	<u>102</u>	NOTICE of Filing by Jim Lundi (Howard, David) (Entered: 11/01/2021)
11/02/2021	<u>103</u>	PAPERLESS ORDER denying <u>92</u> Motion to Compel as to Jim Lundi (1). The 11th Circuit Court of Appeals has denied Lundi's motion to substitute counsel. Therefore, appellate counsel David Howard is not required to provide his file to the Defendant. Signed by Judge Robert N. Scola, Jr (RNS) (Entered: 11/02/2021)
11/16/2021	<u>104</u>	NOTICE of Inquiry by Jim Lundi (pes) (Entered: 11/16/2021)

PACER fee: Exempt CJA Change

General Docket
United States Court of Appeals for the Eleventh Circuit

Court of Appeals Docket #: 20-10898
USA v. Jim LUNDI
Appeal From: Southern District of Florida
Fee Status: IFP Granted

Docketed: 03/06/2020**Case Type Information:**

- 1) Criminal
- 2) Direct Criminal
- 3) -

Originating Court Information:

District: 113C-1 : 1:19-cr-20075-RNS-1
Court Reporter: Tammy Nestor
Sentencing Judge: Robert N. Scola, Junior, U.S. District Judge
Date Filed: 02/07/2019
Date NOA Filed:
 03/05/2020

Prior Cases:

None

Current Cases:

None

UNITED STATES OF AMERICA

Plaintiff - Appellee

Emily M. Smachetti
 [COR NTC US Attorney]
 U.S. Attorney's Office
 Firm: 305-961-9003
 99 NE 4TH ST
 MIAMI, FL 33132

Sivashree Sundaram
 Direct: 561-209-1039
 [COR NTC US Attorney]
 U.S. Attorney's Office
 Firm: 561-820-8711
 500 S AUSTRALIAN AVE STE 400
 WEST PALM BEACH, FL 33401

U.S. Attorney Service - Southern District of Florida
 [COR NTC US Attorney]
 U.S. Attorney Service - SFL
 99 NE 4TH ST 5TH FL
 MIAMI, FL 33132-2111

versus

JIM LUNDI (Federal Prisoner: 19581-104)

Defendant - Appellant

David A. Howard
 Direct: 786-360-6056
 [COR LD NTC CJA Appointment - DC]
 David A. Howard, PA
 Firm: 786-360-6056
 25 SE 2ND AVE STE 1105
 MIAMI, FL 33131

Jim LUNDI
 [NTC Not Applicable]
 USP McCreary - Inmate Legal Mail
 PO BOX 3000
 PINE KNOT, KY 42635-3000

Exhibit "B"
 32 OF 47

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JIM LUNDI,

Defendant - Appellant.

03/06/2020	<input type="checkbox"/>	CRIMINAL APPEAL DOCKETED. Notice of appeal filed by Appellant Jim Lundi on 03/05/2020. Fee Status: IFP Granted. [Entered: 03/10/2020 03:41 PM]
03/10/2020	<input type="checkbox"/>	CJA appointment issued by this court to Attorney David A. Howard for Appellant Jim Lundi. [Entered: 03/10/2020 03:44 PM]
03/16/2020	<input type="checkbox"/>	APPEARANCE of Counsel Form filed by Sivashree Sundaram for USA [20-10898] (ECF: Sivashree Sundaram) [Entered: 03/16/2020 11:43 AM]
03/16/2020	<input type="checkbox"/>	APPEARANCE of Counsel Form filed by Emily M. Smachetti for USA. [20-10898] (ECF: Emily Smachetti) [Entered: 03/16/2020 11:49 AM]
03/18/2020	<input type="checkbox"/>	Certificate of Interested Persons and Corporate Disclosure Statement filed by Sivashree Sundaram for Ariana Fajardo Orshan. On the same day the CIP is served, the party filing it must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-2(b). [20-10898] (ECF: Sivashree Sundaram) [Entered: 03/18/2020 12:27 PM]
03/19/2020	<input type="checkbox"/>	Certificate of Interested Persons and Corporate Disclosure Statement filed by Attorney David A. Howard for Appellant Jim Lundi. On the same day the CIP is served, the party filing it must also complete the court's web-based stock ticker symbol certificate at the link here http://www.ca11.uscourts.gov/web-based-cip or on the court's website. See 11th Cir. R. 26.1-2(b). [20-10898] (ECF: David Howard) [Entered: 03/19/2020 12:51 PM]
03/19/2020	<input type="checkbox"/>	TRANSCRIPT INFORMATION FORM PROCESSED. Transcript Order: Filer: Jim Lundi, Court Reporter: Tammy Nestor, Proceeding Type and Date: Pre-Trial Proceedings 10/15/2019 , Trial 10/15/2019 , Sentencing 02/26/2020 , voir dire 10/15/2019 , Motion Hearing 02/26/2020. [Entered: 03/20/2020 08:46 AM]
04/09/2020	<input type="checkbox"/>	Court Reporter Acknowledgment filed. Transcript Order: Tammy Nestor, 03/19/2020, Jim Lundi, Trial 10/15/2019 , Sentencing 02/26/2020 , voir dire 10/15/2019 , Motion Hearing 02/26/2020 , Pre-Trial Proceedings 10/15/2019. [Entered: 04/09/2020 09:46 AM]
05/14/2020	<input type="checkbox"/>	TRANSCRIPTS FILED. Transcript Order: Court Reporter: Tammy Nestor, Filer: Jim Lundi, Dt. all Trans. Filed: 04/20/2020, Proceeding Type and Date: Sentencing 02/26/2020 , voir dire 10/15/2019 , Motion Hearing 02/26/2020 , Pre-Trial Proceedings 10/15/2019 , Trial 10/15/2019. [Entered: 05/14/2020 02:20 PM]
05/14/2020	<input type="checkbox"/>	TRANSCRIPTS FILED.. [Entered: 05/14/2020 02:20 PM]
05/15/2020	<input type="checkbox"/>	Briefing Notice issued to Appellant Jim Lundi. The appellant's brief is due on or before 06/23/2020. The appendix is due no later than 7 days from the filing of the appellant's brief. [Entered: 05/15/2020 10:57 AM]
06/22/2020	<input type="checkbox"/>	MOTION for extension of time to file appellant's brief to 08/24/2020 filed by Jim Lundi. Motion is Unopposed. [9118294-1] [20-10898] (ECF: David Howard) [Entered: 06/22/2020 04:28 PM]
06/25/2020	<input type="checkbox"/>	ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9118294-2] Appellants brief due on 08/24/2020. BBM [Entered: 06/25/2020 02:05 PM]
08/21/2020	<input type="checkbox"/>	MOTION for extension of time to file appellant's brief to 10/08/2020 filed by Jim Lundi. Motion is Unopposed. [9168294-1] [20-10898] (ECF: David Howard) [Entered: 08/21/2020 12:04 AM]
08/25/2020	<input type="checkbox"/>	ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9168294-2] Appellants brief due on 10/08/2020. BBM [Entered: 08/25/2020 10:06 AM]
10/08/2020	<input type="checkbox"/>	MOTION for extension of time to file appellant's brief to 11/09/2020 filed by Jim Lundi. Motion is Unopposed. [9208385-1] [20-10898] (ECF: David Howard) [Entered: 10/08/2020 06:25 PM]
10/16/2020	<input type="checkbox"/>	ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9208385-2] Appellants brief due on 11/09/2020. BBM [Entered: 10/16/2020 12:50 PM]
11/09/2020	<input type="checkbox"/>	MOTION for extension of time to file appellant's brief to 12/09/2020 filed by Jim Lundi. Motion is Unopposed. [9233699-1] [20-10898] (ECF: David Howard) [Entered: 11/09/2020 04:39 PM]
11/13/2020	<input type="checkbox"/>	ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9233699-2] Appellants brief due on 12/09/2020. BBM (See attached order for complete text) [Entered: 11/13/2020 05:07 PM]
12/09/2020	<input type="checkbox"/>	MOTION for extension of time to file appellant's brief to 01/25/2021 filed by Jim Lundi. Motion is Unopposed. [9256831-1] [20-10898] (ECF: David Howard) [Entered: 12/09/2020 08:38 PM]
12/14/2020	<input type="checkbox"/>	ORDER: The motion for extension of time to and including January 25, 2021, in which to file the Appellant's brief is GRANTED, with the appendix due seven days from the filing of the brief. [9256831-2] BBM [Entered: 12/14/2020 01:01 PM]
01/25/2021	<input type="checkbox"/>	MOTION for extension of time to file appellant's brief to 02/24/2021 filed by Jim Lundi. Opposition to Motion

- 6 pg, 157.98 KB *is Unknown. [9291893-1] [20-10898] (ECF: David Howard) [Entered: 01/25/2021 11:53 PM]*
- 01/27/2021 ☐ ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9291893-2] Appellants brief due on 02/24/2021. BBM (See attached order for complete text) [Entered: 01/27/2021 02:46 PM]
- 02/08/2021 ☐ Notice of receipt: Letter dated January 21, 2021 as to Appellant Jim Lundi. NO ACTION WILL BE TAKEN because Appellant is represented by counsel. [Entered: 02/18/2021 04:28 PM]
- 02/24/2021 ☐ MOTION for extension of time to file appellant's brief to 03/03/2021 filed by Jim Lundi. Motion is Unopposed. [9318054-1] [20-10898] (ECF: David Howard) [Entered: 02/24/2021 11:37 PM]
- 02/26/2021 ☐ ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9318054-2] Appellants brief due on 03/03/2021. BBM (See attached order for complete text) [Entered: 02/26/2021 10:23 AM]
- 03/04/2021 ☐ MOTION for extension of time to file appellant's brief to 03/15/2021 filed by Jim Lundi. Motion is Unopposed. [9325143-1] [20-10898] (ECF: David Howard) [Entered: 03/04/2021 11:13 PM]
- 03/09/2021 ☐ ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9325143-2] Appellants brief due on 03/15/2021. BBM (See attached order for complete text) [Entered: 03/09/2021 09:55 AM]
- 03/15/2021 ☐ MOTION for extension of time to file appellant's brief to 04/14/2021 filed by Jim Lundi. Motion is Unopposed. [9333450-1] [20-10898] (ECF: David Howard) [Entered: 03/15/2021 10:51 PM]
- 03/19/2021 ☐ ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9333450-2] Appellants brief due on 04/14/2021. BBM (See attached order for complete text) [Entered: 03/19/2021 11:52 AM]
- 04/14/2021 ☐ MOTION for extension of time to file appellant's brief to 05/14/2021 filed by Jim Lundi. Motion is Unopposed. [9359820-1] [20-10898] (ECF: David Howard) [Entered: 04/14/2021 06:14 PM]
- 04/16/2021 ☐ ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9359820-2] Appellants brief due on 05/14/2021. BBM (See attached order for complete text) [Entered: 04/16/2021 01:45 PM]
- 04/22/2021 ☐ Notice of receipt: April 19, 2021, letter from Appellant requesting supplemental briefing as to Appellant Jim Lundi. NO ACTION WILL BE TAKEN See 11th Cir. R. 25-1 Filings from Party Represented by Counsel. When a party is represented by counsel, the clerk may not accept filings from the party. [Entered: 04/28/2021 08:45 AM]
- 05/14/2021 ☐ MOTION for extension of time to file appellant's brief to 06/14/2021 filed by Jim Lundi. Motion is Unopposed. [9386842-1] [20-10898] (ECF: David Howard) [Entered: 05/14/2021 08:24 PM]
- 05/14/2021 ☐ MOTION to discharge counsel filed by Appellant Jim Lundi. Opposition to Motion is Unknown [9394066-1] [Entered: 05/25/2021 09:55 AM]
- 05/14/2021 ☐ MOTION for appointment of counsel filed by Appellant Jim Lundi. Opposition to Motion is Unknown [9394075-1] [Entered: 05/25/2021 10:00 AM]
- 05/21/2021 ☐ ORDER: Motion for extension to file appellant brief filed by Appellant Jim Lundi is GRANTED. [9386842-2] Appellants brief due on 06/14/2021. BBM (See attached order for complete text) [Entered: 05/21/2021 12:13 PM]
- 06/01/2021 ☐ Compliance Letter to Order of May 25, 2021 filed by Attorney David A. Howard for Appellant Jim Lundi. [20-10898] (ECF: David Howard) [Entered: 06/01/2021 11:47 PM]
- 06/02/2021 ☐ Notice of deficient Response (#38-Compliance Letter...) filed by David A. Howard for Jim Lundi. Document Not Complete-Missing referenced exhibits. Counsel must file a corrected response within 3 days of this notice. [Entered: 06/02/2021 05:02 PM]
- 06/02/2021 ☐ Cover letter with Compliance letter and Exhibits of Court's May 25, 2021 directive filed by Attorney David A. Howard for Appellant Jim Lundi. [20-10898] (ECF: David Howard) [Entered: 06/02/2021 07:18 PM]
- 06/10/2021 ☐ **No action taken-See 11th Cir R 31-1(b)**MOTION for extension of time to file appellant's brief to 07/14/2021 filed by Jim Lundi. Motion is Opposed. [9408269-1] [20-10898]-[Edited 06/11/2021 by TLR] (ECF: David Howard) [Entered: 06/10/2021 05:16 PM]
- 06/11/2021 ☐ Notice of receipt: MOTION for extension of time to file appellant's brief to 07/14/2021 as to Appellant Jim Lundi. NO ACTION WILL BE TAKEN -Appellant's brief is currently not due. The pending motion for appointment of counsel & motion to discharge counsel toll the briefing schedule. See 11th Cir R 31-1(b). [Entered: 06/11/2021 05:07 PM]
- 07/15/2021 ☐ Notice of receipt: Request for copy of Docket Sheets as to Appellant Jim Lundi.. [Entered: 08/06/2021 02:22 PM]

08/11/2021	<input type="checkbox"/>	Public Communication: "Re: Full/Complete Copy Appeal Docket in US v. Lundi, case 20-10898-C" filed by Appellant Jim Lundi. (Clerk's Office response issued) [Entered: 08/19/2021 10:31 AM]
08/23/2021	<input type="checkbox"/>	Public Communication: Letter from Appellant for copy of public docket sheet. [Entered: 08/26/2021 08:34 AM]
10/15/2021	<input type="checkbox"/>	**FILED WITHOUT LEAVE-SEE 11TH Cir 25-1** Appellant's brief filed by Jim Lundi. Deficiencies: Missing CIP. Service date: 10/10/2021 [20-10898] Attorney for Appellee: Smachetti - email; Attorney for Appellee: Sundaram - email; Attorney for Appellee: U.S. Attorney Service - Southern District of Florida - email.-- [Edited 10/18/2021 by TLR] [Entered: 10/18/2021 11:07 AM]
10/15/2021	<input type="checkbox"/>	Notice of receipt: Appellant's pro se brief as to Appellant Jim Lundi. NO ACTION WILL BE TAKEN 11th Cir. R. 25-1 Filings from Party Represented by Counsel. When a party is represented by counsel, the clerk may not accept filings from the party. [Entered: 10/18/2021 02:29 PM]
10/15/2021	<input type="checkbox"/>	<i>"Motion for termination/waiver of appellate Counsel; Proceed pro se removing 11th Cir 25-1..."</i> construed as MOTION to proceed pro se, to discharge counsel filed by Appellant Jim Lundi. Opposition to Motion is Unknown [9514087-1] [Entered: 10/25/2021 11:34 AM]
10/18/2021	<input type="checkbox"/>	Notice of receipt: "Defendant/Appellant, JIM SCOTT LUNDI'S, Independent Joint Appendix of Record on Appeal" construed as Appellant pro se appendix as to Appellant Jim Lundi. NO ACTION WILL BE TAKEN 11th Cir. R. 25-1 Filings from Party Represented by Counsel. When a party is represented by counsel, the clerk may not accept filings from the party. [Entered: 10/18/2021 02:37 PM]
10/29/2021	<input type="checkbox"/>	ORDER: Motion to proceed pro se filed by Appellant Jim Lundi is DENIED. [9514087-2]; Motion to discharge counsel filed by Appellant Jim Lundi is DENIED. [9514087-3], Motion to discharge counsel filed by Appellant Jim Lundi is DENIED. [9394066-2]; Motion for appointment of counsel filed by Appellant Jim Lundi is DENIED. [9394075-2] ELB (See attached order for complete text) [Entered: 10/29/2021 09:34 AM]
11/15/2021	<input type="checkbox"/>	Notice of receipt: Letter from Appellant dated November 9, 2021 as to Appellant Jim Lundi. NO ACTION WILL BE TAKEN Copy fee notice issued. [Entered: 12/02/2021 12:09 PM]

12/3/21, 12:14 PM

20-10898 Docket

Clear All

☒ **Documents and Docket Summary**

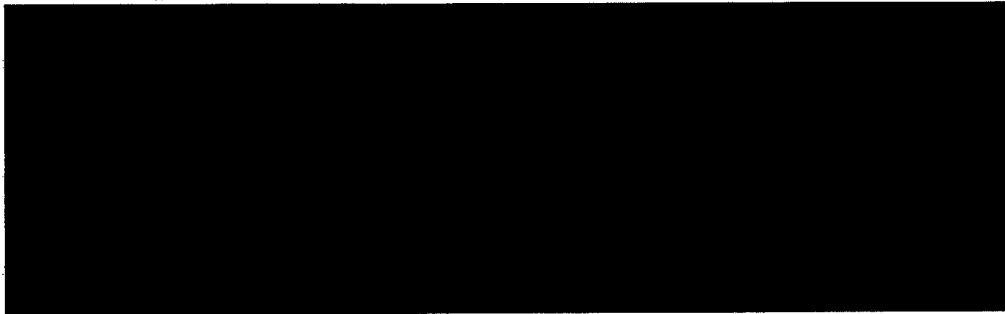
☐ **Documents Only**

☐ **Include Page Numbers**

Selected Pages: 0

Selected Size: 0 KB

View Selected



Case #: 20-10898-BB
United States Eleventh Circuit
Court of Appeals for Southern
District of Florida At Miami

United States of America,
Plaintiff/Appellee,
v.
Jim Scott Lund,
Defendant/Appellant.

Motion for Termination/Waiver of
Appellate Counsel, Proceeding Pro Se
Removing 11th Cir. R. 25-1, Record on
Appeal, Proof of Service Attached.

• Now comes the Defendant/Appellant JIM LUND ("appellant"),
pro se, unrepresented by effective legal counsel, respectfully makes
and request this Court's GRANTING termination and waiver of
appellate, except Fed. App. R. 34's argument by stand-in, effective
counsel, to proceed in pro se, removing Fed. Cir. R. 25-1 to do so
(clerk's taking "judicial notice") filing merit brief, appending and
ect. necessary, and issue and order/transmission of district
Court's record on this appeal, respectfully. A memorandum is in
support clearly stating appellant's position and explanation for
granting this motion respectfully.

Respectfully Submitted,
Jim Lund

Jim S. Lund, 1958-1-104 (1-B-227)

USP McGraw Hill
330 Federal Way
P.O. Box 3000
Pine Knot, Kentucky 40355-3000

EXHIBIT
B-2

Memoranda

Facts

On June 14, 2020, defense counsel Mr. David A. Howard's ("Mr. Howard") timely filed a Notice of Appeal ("NOA"), docket ("DE") #85, without filing a Transcript Information Form ("TIF") of Volume ("Vol.") 2's October 21, 2019 jury trial and Change of Plea Hearing (DE 70) on October 21, 2019 transcripts, for Court Reporter, Ms. Tammy Nestor's ("CR Ms. Nestor"), preparation, as transcription, and forwarding to district clerk's transmission of Vol. 2 and Change of Plea transcripts to this Eleventh Circuit Court of Appeals ("this Court") per Fed. App. R. 10 et seq. See, Appellant's ("Apt") Exhibit ("Ex.") "A" (Criminal Docket ("CD") attached to Appendix ("Appx.")). After appellant's several complaints to Mr. Howard's not filing a TIF for Vol. 2's jury trial and Change of Plea transcripts, Vol. 2's transcript was filed (DE 99) on July 26, 2021 and Change of Plea was filed (DE 70) on February 6, 2020 in the district clerk's office, but not transmitted to this Court: clerk's office for this Court's review and determination of "facts" in violation of the United States Constitution and its case law. See, Apt's Ex. "K" (Appeal Docket ("AD") attached to Appx.).

Argument/Law

As this Court's investigative internal (or below) review and reasoning outcome why, Mr. Howard's and Ms. Nestor's conduct, i.e., "cause", failure to file, as receive, for (not) filing a TIF's acknowledgement and notification of Vol. 2's jury trial transcripts up to this Court, it's obvious Mr. Howard's appeal representation DID NOT want this Court's review and determination of Vol. 2's transcript factual constitutional violations of and for appellant's reversible meritorious issues on appeal, constitutes his ineffectiveness on this appeal, compare Daghs v. California (1963), 372 US 353, with Evitts v. Lucey (1985), 469 US 387, which qualifies two standard "cause and prejudice" requirements of Strickland v. Washington (1984), 466 US 668, with an "outcome that would've been differently" is still yet appeal pending and resolution of appeal merit brief's issues of question(s) review-determination, compare Knowles v. Mirzayan (2000), 556 US 111, 127 []; Williams v. Taylor (2000), 529 US 362, 391; also see Eagle v. Lincham (11 Cir 2001), 279 F.3d 426, 443-44, only if, however, record on appeal is "ordered", e.g. Penson v. Ohio (1980), 488 US 75, 85, citing Evitts, supra, "transmitted", Fed. App. R. 10 (a)(6)(i-iii). And if not but for, as appellant's "prejudicial" of Mr. Howard's and Ms. Nestor's "caused" conduct error, i.e., "ordering" of (not) filing TIF's transmissions acknowledgement and notification of, if filed, Vol. 2 October 21, 2019 jury trial transcripts, would've already been "transmitted/forwarded" and yet delayed up to this Court's review and determination, on direct appeal, of constitutional issue(s) violations.

absence "prejudicial" Mr. Howard's ineffectiveness, and Ms. Nestor's complicit assistance, misleading silenced, except district clerk's filing, Vol. 2 transcripts record; not docketing that record. Fed. App. R. 10(b)(2); R. 11 and 12; Milligan-Hitt v. Bd. of Trs. of Sheridan Cty. Sch. Dist. No. 2 (10 Cir 2008), 523 F.3d 1219, 1231-32.

Waiver of Appellate Counsel

And upon considerations, as affirmatively proven and expressed above, of Mr. Howard's prima facie or absence thereof [in]effectiveness on this appeal, since appellant CAN'T receive an effective assistance of appellate counsel on his direct appeal right Douglas-Evitts, supra, he hereby knowingly, intelligently, and voluntarily waives his right; with exception, to appellate counsel and proceeds in pro se on direct, i.e., filing his merit brief, any motions, and reply brief or ect., representation, compare, McKaskle v. Wiggins (1984), 465 U.S. 168, 174, citing Faretta v. California (1975), 422 U.S. 806, 821; US v. Garey (11 Cir 2008), 540 F.3d 1253, 1257. This appellant will still proceed pro se, regardless without exception to, and only request, if applicable, this Court's orders Fed. App. R. 34's "oral argument" and then sua sponte appointment of, as stand-in by, appellate counsel or unless conveys appellant for "oral argument."

Respectfully Submitted,

Jim Lunch
Jim S. Lunch

Clerk's 11 Cir R 25-1's Conflict Notice

Since this appellant's proceeding PRO SE on appeal, i.e., filing his merit brief, appendix, reply brief, and ect, this clerk's taking "judicial notice" Fed. 11 Cir. R. 25-1 doesn't apply and would be in conflict with appellant's pro se right, McKaskle - Garey, supra, and harmonized by Anders v. California (1967), 386 US 738, with exception of this Court's sua sponte Fed. App. R 34's "oral argument" appointment of appellate counsel.

Record On Appeal/Forwarded

As expressed and due to Mr. Howard's ineffectiveness on appeal and Ms. Nestor's conspiratorial conduct(s) in violation of Vol. 2 jury trial transcripts "still pending" within district clerk's docket, and appellant request this Court's issue an ORDER (or as appellant's provided a completed TIF form attached) to district clerk or Ms. Nestor to transmit, as forward, and file Vol. 2 transcripts within this clerk's docket case number 20-10898, Fed. App. R. 11 and 12.

Conclusion

This appellant prays this motion be well-taken and, the same GRANTED to proceed PRO SE and an ORDER or TIF be issued, respectfully.

Respectfully Submitted,

Jim Lund

Jim Lund

Proof of Service

This appellant hereby acknowledges a true and correct COPY was serviced through this Clerk's ECF, to service all parties on the record, respectfully.

PART I. TRANSCRIPT ORDER INFORMATION

Appellant to complete and file with the District Court Clerk and the Court of Appeals Clerk within 14 days of the filing of the notice of appeal in all cases, including those in which there was no hearing or for which no transcript is ordered.

Short Case Style: United States of America vs Jim Scott Lundt

District Court No.: 1:19-cr-20075 Date Notice of Appeal Filed: 3-5-2020 Court of Appeals No.: 20-10898 (If Available)

CHOOSE ONE: ☐ No hearing ☐ No transcript is required for appeal purposes ☐ All necessary transcript(s) on file
☒ I AM ORDERING A TRANSCRIPT OF THE FOLLOWING PROCEEDINGS:

Check appropriate box(es) and provide all information requested:

	HEARING DATE(S)	JUDGE/MAGISTRATE	COURT REPORTER NAME(S)
<input type="checkbox"/> Pre-Trial Proceedings			
<input checked="" type="checkbox"/> Trial	<u>Volume 2 October 21, 2019</u>	<u>Robert N. Scola</u>	<u>Tammy Nestor</u>
<input type="checkbox"/> Sentence			
<input checked="" type="checkbox"/> Plea	<u>Hearing October 21, 2019</u>	<u>Robert N. Scola</u>	<u>Tammy Nestor</u>
<input type="checkbox"/> Other			

METHOD OF PAYMENT:

☐ I CERTIFY THAT I HAVE CONTACTED THE COURT REPORTER(S) AND HAVE MADE SATISFACTORY ARRANGEMENTS WITH THE COURT REPORTER(S) FOR PAYING THE COST OF THE TRANSCRIPT.

☒ CRIMINAL JUSTICE ACT. Attached for submission to District Judge/Magistrate is my completed CJA Form 24 requesting authorization for government payment of transcript. [A transcript of the following proceedings will be provided ONLY IF SPECIFICALLY AUTHORIZED in Item 13 on CJA Form 24: Voir Dire; Opening and Closing Statements of Prosecution and Defense; Prosecution Rebuttal; Jury Instructions.]

Ordering Counsel/Party: Jim Scott Lundt, IN PROSE
Name of Firm: USP McCrory
Street Address/P.O. Box: 330 Federal Way / P.O. Box 3000
City/State/Zip Code: Pine Knot, Kentucky 42635-3000 Phone No.: N/A

I certify that I have completed and filed PART I with the District Court Clerk and the Court of Appeals Clerk, sent a copy to the appropriate Court Reporter(s) if ordering a transcript, and served all parties.

DATE: 10-10-21 SIGNED: Jim Lundt Attorney for: IN PROSE

PART II. COURT REPORTER ACKNOWLEDGMENT

Court Reporter to complete and file with the District Court Clerk within 14 days of receipt. The Court Reporter shall send a copy to the Court of Appeals Clerk and to all parties.

Date Transcript Order received: _____

☐ Satisfactory arrangements for paying the cost of the transcript were completed on: _____
☐ Satisfactory arrangements for paying the cost of the transcript have not been made.

No. of hearing days: _____ Estimated no. of transcript pages: _____ Estimated filing date: _____
DATE: _____ SIGNED: _____ Phone No.: _____

NOTE: The transcript is due to be filed within 30 days of the date satisfactory arrangements for paying the cost of the transcript were completed unless the Court Reporter obtains an extension of time to file the transcript.

PART III. NOTIFICATION THAT TRANSCRIPT HAS BEEN FILED IN DISTRICT COURT

Court Reporter to complete and file with the District Court Clerk on date of filing transcript in District Court. The Court Reporter shall send a copy to the Court of Appeals Clerk on the same date.

This is to certify that the transcript has been completed and filed with the district court on (date): _____

Actual No. of Volumes and Hearing Dates: _____

Date: _____ Signature of Court Reporter: _____

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

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

October 18, 2021

Jim Lundi
USP McCreary - Inmate Legal Mail
PO BOX 3000
PINE KNOT, KY 42635-3000

Appeal Number: 20-10898-BB
Case Style: USA v. Jim Lundi
District Court Docket No: 1:19-cr-20075-RNS-1

Notice of receipt: Appellant's pro se brief as to Appellant Jim Lundi.

NO ACTION WILL BE TAKEN 11th Cir. R. 25-1 Filings from Party Represented by Counsel.
When a party is represented by counsel, the clerk may not accept filings from the party.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Tonya L. Richardson, BB
Phone #: (404) 335-6174

MP-1

EXHIBIT "C"

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

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.call.uscourts.gov

October 18, 2021

Jim Lundi
USP McCreary - Inmate Legal Mail
PO BOX 3000
PINE KNOT, KY 42635-3000

Appeal Number: 20-10898-BB
Case Style: USA v. Jim Lundi
District Court Docket No: 1:19-cr-20075-RNS-1

Notice of receipt: "Defendant/Appellant, JIM SCOTT LUNDI'S, Independent Joint Appendix of Record on Appeal" construed as Appellant pro se appendix as to Appellant Jim Lundi.

NO ACTION WILL BE TAKEN 11th Cir. R. 25-1 Filings from Party Represented by Counsel.
When a party is represented by counsel, the clerk may not accept filings from the party.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Tonya L. Richardson, BB
Phone #: (404) 335-6174

MP-1

EXHIBIT "D"
45 OF 47

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-10898-BB

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

JIM LUNDI,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Florida

ORDER:

Jim Lundi's motions to discharge court-appointed counsel, David A. Howard, appoint substitute counsel on appeal are DENIED. Additionally, Lundi's subsequent motion to proceed on appeal *pro se* is DENIED.

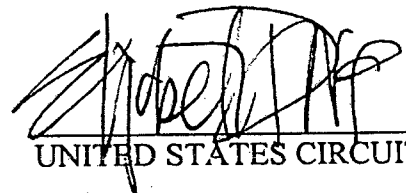

UNITED STATES CIRCUIT JUDGE

EXHIBIT "E"
46 OF 47

Cir. R. 25-1. Filings from Party Represented by Counsel

When a party is represented by counsel, the clerk may not accept filings from the party.

Research References and Practice Aids

Federal Procedure:

20A Moore's Federal Practice (Matthew Bender 3d ed.), ch 325, Filing and Service § 325.11.