18-1033(L)

Consolidated with 18-1618

IN THE

United States Court of Appeals

FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

v.

RAHEEM BRENNERMAN,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

PETITION FOR REHEARING *EN BANC* OF DEFENDANT-APPELLANT

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Counsel for Defendant-Appellant

PRELIMINARY STATEMENT

Defendant-Appellant Raheem Brennerman respectfully petitions this Court under Rule 35 of the Federal Rules of Appellate Procedure for rehearing *en banc* of the panel's decision dated June 9, 2020, affirming Brennerman's conviction for criminal contempt. The panel decision on which rehearing *en banc* is requested, *United States v. Brennerman*, ---Fed. Appx.--- No. 18-1033, 2020 WL 3053867 (2d Cir. June 9, 2020) (Summary Order) is attached hereto as Exhibit A.

Brennerman argues that the full Court should rehear the case and examine the panel's decision upholding Brennerman's conviction and approving the district court's 1) admission of a civil contempt order against Brennerman; 2) failure to compel production of certain exculpatory materials; and 3) preclusion of the admission of evidence pertaining to settlement negotiations because the issues raised are questions of exceptional importance. *See Watson v. Geren*, 587 F.3d 156, 160 (2d Cir. 2009) (per curiam) (en banc) ("En banc review should be limited generally to only those cases that raise issues of important systemic consequences for the development of the law and the administration of justice.").

STATEMENT OF PROCEDURAL HISTORY AND PERTINENT FACTS

Brennerman relies on the statement of facts in the briefing previously filed in this case and incorporates it herein but presents the below facts that are specifically pertinent to the issue of a rehearing.

I. *Blacksands* Lawsuit and Civil Contempt

Brennerman was the CEO and indirect majority shareholder of Blacksands Pacific Group ("Blacksands"), a Delaware-based oil and gas development corporation. In 2015, Blacksands was sued by a London-based bank, ICBC (London) PLC ("ICBC") in connection to a $20

million, 90-day loan agreement entered into between ICBC and Blacksands' subsidiary, Blacksands Alpha Blue, LLC, in 2013. *ICBC London PLC* v. *Blacksands Pacific Group,* 15-CV-70 (LAK) (S.D.N.Y. 2015). ICBC alleged that Blacksands, the loan guarantor, never paid back $5 million withdrawn from the loan. Blacksands had maintained that the loan agreement was just one part of a larger financial arrangement between Alpha Blue and ICBC and that the principal of the loan was supposed to roll over into a 5-year, $70 million revolving credit facility. The district court granted ICBC's motion for summary judgment in lieu of a complaint and a judgment was entered against Blacksands. *ICBC London PLC* v. *Blacksands Pacific Group,* 15-CV-70 (LAK) (S.D.N.Y. 2015) at Dkt. #39.

As part of post-judgment discovery in an effort to locate the company's assets, ICBC served requests and interrogatories on Blacksands on March 24, 2016. Blacksands objected and ICBC filed a motion to compel, which was granted by the district court on August 22, 2016 (the "First Order"). The Order directed Blacksands to comply with all discovery requests within 14 days of the Order. *Id.* at Dkt. #87. Blacksands and ICBC were actively engaged in settlement negotiations at this time, so on September 6, 2016, the deadline of compliance with the First Order, Blacksands' counsel alerted the district court in writing that it had agreed to pay the monetary judgment pending appeal. In anticipation of the payment, ICBC did not immediately seek Blacksands' compliance with the First Order. The district court held two conferences to determine the owed judgment. At the conclusion of the second conference, however, on September 27, 2016, the Court entered an Order (the "Second Order") that Blacksands must either settle or comply with the discovery requests on or before October 3, 2016. It warned that failure to comply might result in the imposition of sanctions as well as civil contempt. *Id.* at Dkt. #92.

The parties failed to reach a settlement and Blacksands failed to comply with the Second Order's discovery request so ICBC filed a motion to hold Blacksands. On October 20, 2016, the district court held Blacksands in civil contempt. The Court did not elect to commence criminal proceedings, but notified the parties that it would refer the matter to the United States Attorney's Office to consider whether to pursue criminal charges against Blacksands as well as Brennerman, the corporation's principal and non-party. ICBC expressed an intention to initiate civil contempt proceedings against Brennerman.

In November 2016, Brennerman and Blacksands provided substantial document production to ICBC. Despite this production, on December 7, 2016, ICBC moved by order to show cause to hold Brennerman in civil contempt. *Id.* at Dkt. #121. On December 13, 2016, a hearing was held outside the presence of Brennerman and counsel, which found Brennerman in civil contempt. *Id.* at Dkt. 139.

II. Criminal Trial of Raheem Brennerman

Subsequently, Brennerman was indicted for criminal contempt in violation of 18 U.S.C. § 401(3). *See United States v. The Blacksands Pacific Group, Inc.,* 17-CR-155 (LAK). In preparation for trial and in support of his defense that he did not willfully disobey court orders but rather was negotiating a settlement with ICBC, Brennerman subpoenaed ICBC for all documents related to Blacksands as well as any communications between ICBC and the Department of Justice. ICBC did not comply. Brennerman filed a motion to compel which was denied on the bases that the subpoena was unenforceable against a foreign bank, ICBC had not been served, and that the documents were already in defendants' possession. The trial commenced on September 6, 2017 and concluded on September 12, 2017, when a jury returned a guilty verdict for two counts of criminal contempt.

III. Appeal of Conviction

Brennerman filed a *pro se* brief with this Court appealing his conviction. Undersigned counsel was appointed to represent Brennerman in connection with the filing of a supplemental reply brief and for oral argument. On May 27, 2020, this Court held telephonic oral argument and on June 9, 2020 issued a summary order denying Brennerman's appeal. *See United States v. Brennerman*, ---Fed. Appx.--- No. 18-1033, 2020 WL 3053867 (2d Cir. June 9, 2020).

This Court found that the district court did not err in its failure to compel ICBC's production of its entire file because Brennerman did not comply with the rules governing subpoenas under Rule 17(d) of the Federal Rules of Criminal Procedure when he served ICBC's New York-based attorney, not the ICBC's London branch. *Id.* at *1. The Court further concluded that, "the prosecution was under no obligation to make efforts to obtain information beyond what it previously collected and turned over to Brennerman." *Id.*

As to the evidence concerning settlement discussions, this Court found that the district court had allowed Brennerman "to introduce evidence concerning settlement discussions on the condition that he establish his knowledge of the substance of the exhibits and their relationship to the relevant time period…" and that "through cross-examination, Brennerman was able to introduce evidence about the parties' settlement discussions." *Id.* at *2. This Court found that "the district court did not abuse its discretion in admitting some but not all of this evidence, and Brennerman has failed to point to any specific evidence that would have helped his case had it been admitted." *Id.*

In regard to the admission of the civil contempt order against Brennerman, this Court found that "the district court correctly determined, the civil contempt orders were relevant to Brennerman's willfulness. To minimize any potential prejudicial effect, the district court

redacted portions of the orders and instructed the jury on the limited purposes for which it could consider the civil contempt orders in the context of a trial about criminal contempt." *Id.*

REASONS FOR GRANTING *EN BANC* RECONSIDERATION

I. Applicable Law

Federal Rule of Appellate Procedure 35(a) provides that an en banc rehearing "will not be ordered unless (1) en banc consideration is necessary to secure or maintain uniformity of the court's decisions; or (2) the proceeding involves a question of exceptional importance." Fed.R.App.P. 35(a). "En banc review should be limited generally to only those cases that raise issues of important systemic consequences for the development of the law and the administration of justice." *Watson v. Geren*, 587 F.3d 156, 160 (2d Cir. 2009) (per curiam) (en banc).

II. Discussion

A. Failure to Compel ICBC Production

Brennerman's central argument concerning the ICBC production requests is that there existed exculpatory materials that were not provided to him and could not otherwise be compelled due to Rule 17 limitations regarding foreign entities. This Court did not address Brennerman's arguments that, if the government claimed that it had produced all documents in its possession but the omission of the entire file was glaringly obvious, then it follows that the government was aware that relevant information existed and was, therefore, withholding material that it could (and should) have obtained, in violation of *Brady v. Maryland*, 373 U.S. 83 (1963).

Because Brennerman was effectively barred from obtaining relevant evidence, such as the entirety of his communications with ICBC representatives, due to subpoena constraints, he was denied the opportunity to put forth a complete defense.

Because no meaningful inquiry was conducted, either at the district court or before this Court, concerning the discrepancies between the government's representations that the production was complete and the obviously incomplete materials produced, the issue of whether *Brady* obligations were flouted by the government remains open. The sanctity of *Brady* obligations cannot be interpreted as anything less than a question of exceptional importance warranting rehearing en banc to permit further reconsideration on this point.

B. Failure to Permit Full Settlement Negotiation Evidence

Without the entire ICBC file, Brennerman was precluded from presenting evidence regarding settlement negotiations between Blacksands and ICBC. Brennerman posits that evidence of these negotiations would have convinced the jury that he had not willfully disobeyed any court orders.

Although Brennerman was permitted certain lines of questioning concerning settlement negotiations, the admitted evidence was woefully inadequate to set forth his complete defense. Brennerman was attempting to elicit evidence of settlement discussions with agents of ICBC that, he argued, would have demonstrated that he was not willfully disobeying the district court's discovery orders but was instead prioritizing settlement with ICBC over his discovery obligations. This evidence was not permitted, could not be elicited through cross-examination of witnesses, and was not a part of the jury instructions. *See United States v. The Blacksands Pacific Group, Inc.,* 17-CR-155 (LAK) Tr. 236-277. Although such evidence was plainly relevant to the issue of Brennerman`s willfulness in failing to comply with the court`s discovery orders, the record was devoid of the precise evidence that would have demonstrated the defendant`s lack and intent. The district court exacerbated the harm by instructing the jury that settlement discussions in a civil case did not excuse a defendant`s failure to comply with the

court`s discovery order absent an order suspending or modifying the requirement to comply. Tr. 509-510; 538-544.

The limitation on evidence of settlement negotiations was not merely an evidentiary issue, but rather, a constitutional one which violated Brennerman's right to present a defense. The violation was compounded by the fact that the district court essentially eviscerated the element of intent in determining whether Brennerman was guilty of criminal contempt. The panel's decision failed to address the manner in which the district court's evidentiary rulings precluded Brennerman's right to present a complete defense and rehearing *en banc* is warranted to permit a full examination of this point.

C. Admission of the Civil Contempt Order

The question of whether the civil contempt order was improperly admitted against Brennerman goes beyond a simple analysis of Rules 403 and 404(b) of the Federal Rules of Evidence. Brennerman was a non-party in the civil lawsuit at the time of the order. Because the order was erroneously adjudged against him, its erroneous admission had more serious legal implications, above and beyond an abuse of discretion analysis.

This Court has previously held that "because the power of a district court to impose contempt liability is carefully limited, our review of a contempt order for abuse of discretion is more rigorous than would be the case in other situations in which abuse-of-discretion review is conducted." *Hester Indus., Inc. v. Tyson Foods, Inc.,* 160 F.3d 911, 916 (2d. Cir. 1998). "Moreover, we think it is fundamentally unfair to hold [a non-party] in contempt as if he were a party without sufficient legal support for treating him, a non-party, as a party but only for the purposes of discovery." *OSRecovery, Inc. v. One Groupe Int'l, Inc.*, 462 F.3d 87, 94 (2d Cir. 2006). In *OSRecovery,* this Court had found that the district court abused its discretion by

holding a person "in contempt as a party without sufficient explanation or citation to legal authority supporting the bases upon which the court relied in treating [him] as a party—for discovery purposes only—despite the fact that [he] was not actually a party." *Id.* at 93.

Here Judge Lewis A. Kaplan (the same district court judge whose contempt order this Court found inappropriate in *OSRecovery*) held Brennerman in civil contempt as a non-party and failed to provide any legal authority or present any particular theory for treating him as a party solely for the purpose of discovery. *See ICBC London PLC* v. *Blacksands Pacific Group,* 15-CV-70 (LAK) (S.D.N.Y. 2015) at Dkt. #139-140. No court orders, subpoenas, or motions to compel were ever directed at Brennerman personally nor was he present during the civil case's various proceedings.

The erroneous admission of the civil contempt order was more than an evidentiary error. It violated this Court's instructions concerning contempt orders against non-parties. To affirm the district court's rulings would create a disparity with this Court's treatment and review of such orders and would place exceptional burdens on non-parties. Therefore, the Court should rehear the case *en banc* to reconsider this issue.

CONCLUSION

For the foregoing reasons, the Court should grant Brennerman's request for rehearing *en banc*.

Dated: New York, NY
June 23, 2020

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Raheem Brennerman

EXHIBIT A

18-1033(L)
United States v. Raheem Brennerman

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

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.

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 9th day of June, two thousand twenty.

Present: ROSEMARY S. POOLER,
REENA RAGGI,
WILLIAM J. NARDINI,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,

v. 18-1033, 18-1618

RAHEEM BRENNERMAN,

Defendant-Appellant,

THE BLACKSANDS PACIFIC GROUP, INC.,

Defendant.

Appearing for Appellant: John C. Meringolo, Meringolo & Associates, P.C., Brooklyn, N.Y.

Appearing for Appellee: Danielle Renee Sassoon, Assistant United States Attorney
(Nicholas Tyler Roos, Robert B. Sobelman, Anna M. Skotko,

Assistant United States Attorneys, *on the brief*), *for* Geoffrey S. Berman, United States Attorney for the Southern District of New York, New York, N.Y.

Appeal from the United States District Court for the Southern District of New York (Kaplan, *J.*).

ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment be and it hereby is **AFFIRMED**.

Defendant-Appellant Raheem Brennerman appeals from the May 21, 2018, judgment of conviction entered in the United States District Court for the Southern District of New York (Kaplan, *J.*), sentencing him principally to 24 months' imprisonment followed by 3 years' supervised release. Following a jury trial, Brennerman was convicted of two counts of criminal contempt, in violation of 18 U.S.C. § 401(3). We assume the parties' familiarity with the underlying facts, procedural history, and specification of issues for review.

On appeal, Brennerman argues that the district court committed reversible error by: (1) denying his motion to compel compliance with a subpoena that sought the production of certain documents from the Industrial and Commercial Bank of China's London branch ("ICBC"); (2) making improper evidentiary rulings; (3) denying his second Rule 33 motion as untimely; and (4) imposing a procedurally and substantively unreasonable sentence. He further argues that he received constitutionally deficient assistance of counsel.

I. ICBC Subpoena

Rule 17 of the Federal Rules of Criminal Procedure governs the issuance of trial subpoenas in criminal cases. A decision to deny, quash, or modify a subpoena "must be left to the trial judge's sound discretion" and "is not to be disturbed on appeal unless it can be shown that [the district court] acted arbitrarily and abused its discretion or that its finding was without support in the record." *In re Irving*, 600 F.2d 1027, 1034 (2d Cir. 1979).

We find that the district court appropriately concluded that Brennerman failed to effect service of the subpoena on ICBC as required by Rule 17(d). Significantly, Rule 17 provides that "[t]he server must deliver a copy of the subpoena to the witness." Fed. R. Crim. P. 17(d). In an attempt to serve the subpoena, Brennerman sent a copy to ICBC's New York-based attorney in the underlying civil case, not to ICBC's London branch. This plainly did not comply with the rule.

To the extent Brennerman argues that the government was required to retrieve the documents for him, that argument is also meritless. ICBC is not an agent of the government, and therefore the prosecution was under no obligation to make efforts to obtain information beyond what it previously collected and turned over to Brennerman. *Cf. United States v. Yousef*, 327 F.3d 56, 112 (2d Cir. 2003).

II. Evidentiary Rulings

Brennerman next challenges the exclusion of certain evidence concerning settlement discussions with opposing counsel in the civil case, as well as documents Brennerman purportedly provided to ICBC in 2013. He also argues that the district court improperly admitted the redacted civil contempt orders.

"We review a district court's evidentiary rulings under a deferential abuse of discretion standard, and we will disturb an evidentiary ruling only where the decision to admit or exclude evidence was manifestly erroneous." *United States v. McGinn*, 787 F.3d 116, 127 (2d Cir. 2015) (internal quotation marks and citation omitted). "Under Rule 403, so long as the district court has conscientiously balanced the proffered evidence's probative value with the risk for prejudice, its conclusion will be disturbed only if it is arbitrary or irrational." *United States v. Awadallah*, 436 F.3d 125, 131 (2d Cir. 2006).

As to the settlement discussions, Brennerman argues that the district court should have allowed him to introduce certain evidence of those discussions because it showed he was acting in good faith to comply with the court's orders. But we disagree with Brennerman's characterization of the record. The record shows that the district court did allow Brennerman to introduce evidence concerning settlement discussions on the condition that he establish his knowledge of the substance of the exhibits and their relationship to the relevant time period. At the end of trial, the district court admitted those exhibits for which the connection was made. Also, through cross-examination, Brennerman was able to introduce evidence about the parties' settlement discussions. In summation, defense counsel relied on that evidence to argue that Brennerman did not willfully disregard the orders. In our view, the district court did not abuse its discretion in admitting some but not all of this evidence, and Brennerman has failed to point to any specific evidence that would have helped his case had it been admitted.

Brennerman's challenge to the district court's exclusion of documents he turned over to ICBC in 2013 also fails. Such evidence, Brennerman argues, would have cast doubt on his willfulness on his behalf in disobeying orders, because it would have shown that he did not realize he had to re-produce documents that ICBC already possessed. But, as the district court aptly noted, the documents were evidently provided to ICBC long before the civil case began, and were only minimally response to ICBC's discovery requests, so their production was not probative at all of Brennerman's compliance with those discovery requests and subsequent court orders.

Finally, with respect to the admission of the redacted contempt orders, we find no error. As the district court correctly determined, the civil contempt orders were relevant to Brennerman's willfulness. To minimize any potential prejudicial effect, the district court redacted portions of the orders and instructed the jury on the limited purposes for which it could consider the civil contempt orders in the context of a trial about criminal contempt. Thus, the district court appropriately accounted for the probative value of the evidence as well as its potentially prejudicial effect, and we cannot conclude that its decision was arbitrary, irrational, or manifestly erroneous.

III. Rule 33 Motion

Brennerman first filed a Rule 33 motion on February 14, 2018, which was denied without prejudice in the event that he were to terminate counsel and proceed pro se. Brennerman elected to proceed without counsel on February 26, and on February 28, 2018 he filed another Rule 33 motion. He then filed what he styles as an amended Rule 33 motion on March 26, 2018, also pro se. On appeal, Brennerman challenges the district court's denial of his March 26 motion as untimely.

A Rule 33 motion for a new trial on grounds other than newly discovered evidence must be filed within fourteen days after the verdict. Fed. R. Crim. P. 33(b)(2). Pursuant to Rule 45(b)(1)(B), however, this time limit may be extended if the moving party failed to act because of "excusable neglect." Fed. R. Crim. P. 45(b)(1)(B). When, as here, a defendant does not raise an argument below, we review for plain error. *United States v. Alcantara*, 396 F.3d 189, 207 (2d Cir. 2005.)

Brennerman concedes that his March 26 motion was untimely, but he argues excusable neglect because his counsel withdrew. We are not convinced that Brennerman's justification is sufficient for a finding of excusable neglect. Brennerman was permitted to proceed pro se on February 26 and nonetheless timely file his February 28 motion. Nor is there any allegation that the information contained in the March 26 motion was newly discovered. Accordingly, because the delay was not justified, the district court did not err—let alone plainly err—by denying the March 26 motion as untimely. In any event, the district court addressed the merits of Brennerman's motion.

IV. Sentence

Brennerman further challenges the procedural and substantive reasonableness of his sentence. A district court commits procedural error if it fails to calculate the Guidelines range, makes a mistake in its Guidelines calculation, treats the Guidelines as mandatory, does not consider the Section 3553(a) factors, or rests its sentence on a clearly erroneous finding of fact. *United States v. Cavera*, 550 F.3d 180, 190 (2d Cir. 2008) (en banc). Facts in support of a sentencing calculation need be established only by a preponderance of the evidence. *United States v. Beverly,* 5 F.3d 633, 642 (2d Cir. 1993).

In calculating Brennerman's Guidelines range, the district properly found that Brennerman's conduct "resulted in substantial interference with the administration of justice" and applied the appropriate offense level enhancement, pursuant to U.S.S.G. § 2J1.2(b)(2). Examples of "substantial interference with the administration of justice" include "the unnecessary expenditure of substantial governmental or court resources." U.S.S.G. § 2J1.2 cmt. n.1. The district court found that Brennerman lied to and withheld documents from the court, requiring the government to spend substantial time and resources in connection with his trial for criminal contempt. Accordingly, the district court's decision to impose a three-level enhancement was not an abuse of discretion.

In reviewing claims of substantive unreasonableness, we consider "the totality of the circumstances, giving due deference to the sentencing judge's exercise of discretion," and we "will . . . set aside a district court's *substantive* determination only in exceptional cases where the

trial court's decision cannot be located within the range of permissible decisions." *Cavera*, 550 F.3d at 189-90 (internal quotation marks and citations omitted).

On the record before us, Brennerman's sentence of 24 months' imprisonment is not substantively unreasonable. The district court imposed a sentence on the low end of the Guidelines range. Indeed, Brennerman makes no argument, and cites no authority or facts, to support his claim that his conduct warranted a below-Guidelines sentence. In light of these circumstances and the deference we owe to the district court, we cannot say that the sentence falls outside the range of permissible decisions.

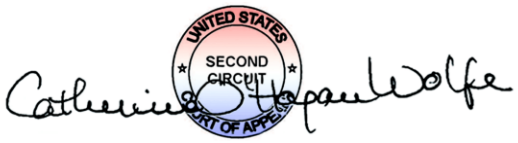
V. Ineffective Assistance of Counsel

Lastly, Brennerman faults his attorney for failing to obtain records from ICBC and for moving to disqualify the district court judge. We decline to address Brennerman's ineffective assistance of counsel arguments at this time.

Our Circuit has "a baseline aversion to resolving ineffectiveness claims on direct review." *United States v. Khedr*, 343 F.3d 96, 99 (2d Cir. 2003). Though we have exercised our discretion to address these claims when their resolution is beyond a doubt, *id.*, we decline to do so here given the absence of a fully developed record on this issue. *See Sparman v. Edwards*, 154 F.3d 51, 52 (2d Cir. 1998) (explaining that, "except in highly unusual circumstances," a lawyer charged with ineffectiveness should be given "an opportunity to be heard and to present evidence, in the form of live testimony, affidavits, or briefs"). Accordingly, we dismiss Brennerman's ineffective assistance counsel claims without prejudice.

We have considered the remainder of Brennerman's arguments and find them to be without merit. Accordingly, the judgment of the district court hereby is AFFIRMED.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk



United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

ROBERT A. KATZMANN
CHIEF JUDGE

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

Date: June 09, 2020
Docket #: 18-1033, 18-1618
Short Title: United States of America v. The Blacksands Pacific Group,

DC Docket #: 1:17-cr-155-2
DC Court: SDNY (NEW YORK CITY)DC Docket #: 1:17-cr-155-2
DC Court: SDNY (NEW YORK CITY)
DC Judge: Kaplan

BILL OF COSTS INSTRUCTIONS

The requirements for filing a bill of costs are set forth in FRAP 39. A form for filing a bill of costs is on the Court's website.

The bill of costs must:
* be filed within 14 days after the entry of judgment;
* be verified;
* be served on all adversaries;
* not include charges for postage, delivery, service, overtime and the filers edits;
* identify the number of copies which comprise the printer's unit;
* include the printer's bills, which must state the minimum charge per printer's unit for a page, a cover, foot lines by the line, and an index and table of cases by the page;
* state only the number of necessary copies inserted in enclosed form;
* state actual costs at rates not higher than those generally charged for printing services in New York, New York; excessive charges are subject to reduction;
* be filed via CM/ECF or if counsel is exempted with the original and two copies.

United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

ROBERT A. KATZMANN
CHIEF JUDGE

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CLERK OF COURT

DC Docket #: 1:17-cr-155-2
DC Court: SDNY (NEW YORK CITY)DC Docket #: 1:17-cr-155-2
DC Court: SDNY (NEW YORK CITY)
DC Judge: Kaplan

VERIFIED ITEMIZED BILL OF COSTS

Counsel for

_____

respectfully submits, pursuant to FRAP 39 (c) the within bill of costs and requests the Clerk to prepare an itemized statement of costs taxed against the

_____

and in favor of

_____

for insertion in the mandate.

Docketing Fee _____

Costs of printing appendix (necessary copies _____) _____

Costs of printing brief (necessary copies _____ ____) _____

Costs of printing reply brief (necessary copies _____) _____

(VERIFICATION HERE)

_____
Signature