

**U.S. District Court  
Southern District of New York (Foley Square)  
CRIMINAL DOCKET FOR CASE #: 1:03-cr-00633-LAK-1**

Case title: USA v. Irving  
Magistrate judge case number: 1:03-mj-00889

Date Filed: 05/19/2003  
Date Terminated: 02/19/2004

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Assigned to: Judge Lewis A. Kaplan

**Defendant (1)**

**Stefan Irving**

*TERMINATED: 02/19/2004*

represented by **Andrew Citron**

Andrew Citron  
67 Wall Street  
Suite 2211 (#5759)  
New York, NY 10005  
(212) 804-5759  
Fax: (212) 504-2785  
Email: andrew.citron2@verizon.net  
*LEAD ATTORNEY*  
*Designation: Retained*

**Cheryl Johns Sturm**

Cheryl J. Sturm, Attorney At Law  
387 Ring Road  
Chadds Ford, PA 19317  
(484)-771-2000  
Fax: (484)-771-2008  
Email: sturmcj@aol.com  
*LEAD ATTORNEY*  
*Designation: Retained*

**Pending Counts**

18:2423.F COERCION OR  
ENTICEMENT OF MINOR FEMALE  
(TRAVELING WITH INTENT TO  
HAVE SEX WITH MINOR)  
(1sss-2sss)

18:2252A.F ACTIVITIES RE  
MATERIAL  
CONSTITUTING/CONTAINING  
CHILD PORNO  
(3ss)

18:2241C.F SEX WITH PERSON  
LESS THAN 12 YEARS OLD

**Disposition**

Imprisonment for a total of 262 Months  
on each count to be served concurrently.  
Supervised Release for a term of 3 Years  
on counts 1,2 and 5 Years on counts 3  
and 4.

All open counts are dismissed on the  
motion of the US

Imprisonment for a total of 262 Months  
on each count to be served concurrently.

(CROSSING STATE LINE WITH  
INTENT TO HAVE SEX WITH CHILD  
UNDER 12)

(3sss)

18:2252A.F ACTIVITIES RE  
MATERIAL  
CONSTITUTING/CONTAINING  
CHILD PORNO (RECEIPT OF CHILD  
PORNOGRAPHY)

(4sss)

18:2252A.F ACTIVITIES RE  
MATERIAL  
CONSTITUTING/CONTAINING  
CHILD PORNO (POSSESSION OF  
CHILD PORNOGRAPHY)

(5sss)

**Highest Offense Level (Opening)**

Felony

**Terminated Counts**

18:2423.F COERCION OR  
ENTICEMENT OF MINOR FEMALE  
(TRAVELING WITH INTENT TO  
HAVE SEX WITH MINOR)

(1)

18:2423.F COERCION OR  
ENTICEMENT OF MINOR FEMALE -  
Title 18, United States Code, Section  
2423(b).

(1s)

18:2423.F COERCION OR  
ENTICEMENT OF MINOR FEMALE

(1ss)

18:2252A.F ACTIVITIES RE  
MATERIAL  
CONSTITUTING/CONTAINING  
CHILD PORNO - Title 18, United  
States Code, Section 2252(a) (2)(B).

(2s)

18:2423.F COERCION OR  
ENTICEMENT OF MINOR FEMALE

(2ss)

18:2252A.F ACTIVITIES RE  
MATERIAL  
CONSTITUTING/CONTAINING

Supervised Release for a term of 3 Years  
on counts 1,2 and 5 Years on counts 3  
and 4.

Imprisonment for a total of 262 Months  
on each count to be served concurrently.  
Supervised Release for a term of 3 Years  
on counts 1,2 and 5 Years on counts 3  
and 4.

Imprisonment for a total of 262 Months  
on each count to be served concurrently.  
Supervised Release for a term of 3 Years  
on counts 1,2 and 5 Years on counts 3  
and 4.

**Disposition**

All open counts are dismissed on the  
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motion of the US

CHILD PORNO - Title 18, United States Code, Section 2252(a)(5)(B) (3s)

18:2252A.F ACTIVITIES RE MATERIAL CONSTITUTING/CONTAINING CHILD PORNO (4ss)

All open counts are dismissed on the motion of the US

**Highest Offense Level (Terminated)**

Felony

**Complaints**

None

**Disposition**

**Plaintiff**

USA

represented by **Michael Yale Scudder , Jr**  
U.S. Attorney's Office, SDNY (St Andrew's)  
One St. Andrew's Plaza  
New York, NY 10007  
Fax: ( 212) 637-2937  
Email: USANYS.ECF@USDOJ.GOV  
*LEAD ATTORNEY*

**Stephen A. Miller**  
Cozen O'Connor  
1900 Market Street  
Philadelphia, PA 19103  
215-665-4736  
Fax: 215-665-2013  
Email: samiller@cozen.com  
*LEAD ATTORNEY*  
*PRO HAC VICE*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
05/02/2003	1	COMPLAINT as to Stefan Irving in violation of 18 U.S.C. 2423(b) - Traveling with intent to engage in sexual act with a minor. ( signed by Magistrate Judge Ronald L. Ellis ) [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/02/2003	2	ARREST WARRANT issued as to Stefan Irving. [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/06/2003		ARREST of Stefan Irving [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)

05/06/2003	3	ARREST WARRANT Returned Executed as to Stefan Irving on 5/6/03. [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/06/2003	4	NOTICE of Appearance for Stefan Irving by Attorney Andrew Citron. [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/06/2003		First Appearance as to Stefan Irving held. Deft appears with atty Andrew Citron. AUSA Michael Scudder present for the gov't. By 10:00 a.m. (5/7) def't's atty is to serve & file a memo re the authority of the court to consider detention in this case. Detention Hearing set for 2:30 5/7/03 for Stefan Irving ; (before Magistrate Judge Michael H. Dolinger). [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/07/2003		Detention hearing as to Stefan Irving held before Magistrate Judge Michael H. Dolinger. Deft appears with atty Andrew Citron. AUSA Michael Scudder present for the gov't. Detention. Preliminary hearing set for 5/20/03. [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/07/2003		Preliminary Examination as to Stefan Irving set for 5/20/03 for Stefan Irving. [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/07/2003	5	ORDER OF DETENTION as to Stefan Irving ( Signed by Magistrate Judge Michael H. Dolinger ) [ 1:03-m -889 ] (gq) (Entered: 05/08/2003)
05/19/2003	6	INDICTMENT as to Stefan Irving (1) count(s) 1 (Preliminary Examination cancelled.) (jm) (Entered: 05/23/2003)
05/20/2003	7	ORDER as to Stefan Irving, This order embodies decisions at a conference held on 5/16/03, as follows: For the reasons set forth in open court the Court found that there is no set of circumstances that would guaranteed the safety of the community. Accordingly, def't's bail appeal is denied without prejudice to renewal and def't is remanded pending further order of the Court. ( Signed by Chief Judge Michael B. Mukasey, PART I. ); (gq) (Entered: 05/29/2003)
05/22/2003		PRETRIAL CONFERENCE as to Stefan Irving held before Judge Lewis A. Kaplan. Dft Stefan Irving pres w/atty Andrew Citron. AUSA Michael Scudder pres. Court rptr Patricia Nilsen pres. Dft arraigned and entered a plea of NOT GUILTY. Discovery set to be due by 6/2/03. Any defense motions are due by 6/12/03. Any Gov't opposition is due by 6/19/03. Oral argument is set for 6/26/03 at 10:00. Trial is scheduled for 9/22/03 at 9:30 a.m. It is expected to be a 5, 6 day trial. Time is excluded from 5/22/03 to 6/26/03 from speedy trial calculations in the interests of justice. (ja) (Entered: 05/30/2003)
05/22/2003		Arraignment as to Stefan Irving held Stefan Irving (1) count(s) 1 before Judge Lewis A. Kaplan. Dft entered a plea of NOT GUILTY. (ja) (Entered: 05/30/2003)
05/22/2003		PLEA entered by Stefan Irving . Court accepts plea. Not Guilty: Stefan Irving (1) count(s) 1 (ja) (Entered: 05/30/2003)
05/22/2003		ORAL ORDER as to Stefan Irving , set scheduling order deadlines: Motion Filing to 6/12/03 for Stefan Irving ; Response to motion deadline 6/19/03 for

		USA ; Jury Trial for 9/22/03 for Stefan Irving ; , and set oral argument 10:00 6/26/03 for Stefan Irving ( Entered by Judge Lewis A. Kaplan ) (ja) (Entered: 05/30/2003)
06/12/2003	8	Filed Memo-Endorsement on letter: by Stefan Irving , from Andrew Citron, Dated June 11, 2003, addressed to: Judge Kaplan Re: Reschedule Motion deadline, reset scheduling order deadlines: Motion Filing to 6/16/03 for Stefan Irving ; Judge's Decision: Granted. SO ORDERED , ( Signed by Judge Lewis A. Kaplan ); (jw) (Entered: 06/16/2003)
06/16/2003	10	(S1) SUPERSEDING INDICTMENT as to Stefan Irving (1) count(s) 1s, 2s, 3s (ja) (Entered: 06/20/2003)
06/16/2003		Arraignment as to Stefan Irving held Stefan Irving (1) count(s) 1s, 2s, 3s before Judge Lewis A. Kaplan. Arraignment on superceder and bail application heard. Defendant present with atty Andrew Ctiron. AUSA Michael Scudder & Steve Miller present. Court Reporter Tom Murray present. Defendant Irving was arraigned on (S1) superceder and entered a plea of not guilty. The motion schedule was modified as follows: Defendant's motions by 6/30/03; Government's responses by 7/14/03; Oral argument by 7/28/03 at 2:30pm. The defendant's renewed bail application is denied. The defendant remains denied. (jw) (Entered: 06/20/2003)
06/16/2003		PLEA entered by Stefan Irving . Court accepts plea. Not Guilty: Stefan Irving (1) count(s) 1s, 2s, 3s (jw) (Entered: 06/20/2003)
06/16/2003		ORAL ORDER as to Stefan Irving , reset scheduling order deadlines: Reply to response to motion deadline 6/30/03 for Stefan Irving ; Response to motion deadline 7/14/03 for USA ; ( Entered by Judge Lewis A. Kaplan ) (jw) (Entered: 06/20/2003)
06/16/2003		ORAL ARGUMENT as to Stefan Irving set for 2:30 7/28/03 for Stefan Irving (jw) (Entered: 06/20/2003)
06/17/2003	20	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of 6/17/03, before Judge Lewis A. Kaplan . (tr) (Entered: 08/18/2003)
06/18/2003	9	ORDER as to Stefan Irving, That Mr. Irving be psychiatrically examined by Dr. N.G. Berrill or any other psychiatrist designated by the NY Center for Neuropsychology & Forensic Behavioral Science, at the Metropolitan Correctional Center, 150 Park Row, NY, NY 10007; and it is further ORDERED that Dr. Berrill or his designated psychiatrist shall be permitted to meet with Mr. Irving for as many sessions as is required to complete this evaluation ( Signed by Judge Lewis A. Kaplan ); (jw) (Entered: 06/19/2003)
07/03/2003	11	PRETRIAL MOTION by Stefan Irving to suppress any and all evidence gathered pursuant to search warrant dated 5/8/03, and any and all fruits of that search , to suppress any and all evidence obtained through any photographic identifications of Mr. Irving by children, as well as excluding those identifications as probable cause , to suppress Mr. Irving's statements to, and any and all evidence seized by, the U.S. Customs Service on or about 5/27/98,

		and any and all fruits of those statements and searches , to sever the trial on Count 1 from the trial on Counts 2 and 3, on the grounds that evidence relevant to Count 1 is unduly prejudicial as to Counts 2 and 3 an vice versa , Ruling in limine that the gov't may not introduce evidence of Mr. Irving's correspondence or photographs regarding minors, at any time other than those times charged in the superseding indictment , to compel the Gov't to produce discovery and evidence exculpating Mr. Irving , and to dismiss the superseding indictment on the grounds that statutes allegedly violated are unconstitutional. Return Date not specified. (ja) (Entered: 07/07/2003)
07/03/2003	15	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of May 22, 2003, before Judge Lewis A. Kaplan . (dt) (Entered: 07/15/2003)
07/03/2003	17	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of 5/16/03, before Chief Judge Michael B. Mukasey . (ac) (Entered: 07/25/2003)
07/07/2003	12	ORDER as to Stefan Irving, set pretrial conference for 7/28/03 for Stefan Irving , and to Continue in Interests of Justice time is excluded from 7/1/03 to 7/28/03 ( Signed by Judge Harold Baer Jr., Part I ); (ph) (Entered: 07/08/2003)
07/09/2003	13	Filed Memo-Endorsement on letter: by Stefan Irving, from Attorney Andrew Citron, Dated 7/7/03, addressed to: Judge Kaplan Re: seeking permission to file the enclosed corrected copy of defendant's pretrial motions, in place of application presently pending before Your Honor, to enlarge defendant's time to file said motions until last Wednesday, July 2 Judge memo-endorsed: Granted. So ordered. ( Signed by Judge Lewis A. Kaplan ); [Microfilmed on 7/10/03 at 9:00 a.m.] (ph) (Entered: 07/10/2003)
07/09/2003	14	Filed Memo-Endorsement on letter: by USA as to Stefan Irving, from Michael Y. Scudder, Jr., AUSA, Dated 7/7/03, addressed to: Judge Kaplan, Re: a request, Last Thursday, July 3, 2003, the Gov't rec'd dft's pretrial motions. Those motions originally were due on 6/30/03; however, the Gov't understands that defense counsel rec'd an extension to permit a delayed filing. Accordingly, the Gov't respectfully requests a reciprocal extension , to July 17, 2003 - to file its Response. Granted. SO ORDERED. ( Signed by Judge Lewis A. Kaplan ); (ja) (Entered: 07/10/2003)
07/23/2003		ORAL ARGUMENT as to Stefan Irving held before Judge Lewis A. Kaplan. Defendant Irving present with atty Andrew Citron. AUSA Michael Scudder present. Court reporter Michael McDaniel present. Oral argument heard. A suppression hearing is scheduled for 9/5/03 at 2:00pm. (jw) (Entered: 07/24/2003)
07/23/2003		Suppression hearing as to Stefan Irving set at 2:00 9/5/03 for Stefan Irving (jw) (Entered: 07/24/2003)
07/23/2003	16	MEMORANDUM by Stefan Irving in support of [11-1] motion to suppress any and all evidence gathered pursuant to search warrant dated 5/8/03, and any and all fruits of that search, [11-2] motion to suppress any and all evidence obtained through any photographic identifications of Mr. Irving by children, as well as excluding those identifications as probable cause, [11-3] motion to

		suppress Mr. Irving's statements to, and any and all evidence seized by, the U.S. Customs Service on or about 5/27/98, and any and all fruits of those statements and searches, [11-4] motion to sever the trial on Count 1 from the trial on Counts 2 and 3, on the grounds that evidence relevant to Count 1 is unduly prejudicial as to Counts 2 and 3 an vice versa, [11-5] motion Ruling in limine that the gov't may not introduce evidence of Mr. Irving's correspondence or photographs regarding minors, at any time other than those times charged in the superseding indictment, [11-6] motion to compel the Gov't to produce discovery and evidence exculpating Mr. Irving, [11-7] motion to dismiss the superseding indictment on the grounds that statutes allegedly violated are unconstitutional. (ph) (Entered: 07/25/2003)
07/24/2003	18	MOTION by Stefan Irving for discovery of Brady material Return Date not specified. (jw) (Entered: 07/29/2003)
07/24/2003	19	ORDER as to Stefan Irving denying [18-1] motion for discovery of Brady material in the view of the government's stated awareness of and intention to discharge its obligations as to Stefan Irving (1), denying [11-2] motion to suppress any and all evidence obtained through any photographic identifications of Mr. Irving by children, as well as excluding those identifications as probable cause as to Stefan Irving (1), denying [11-4] motion to sever the trial on Count 1 from the trial on Counts 2 and 3, on the grounds that evidence relevant to Count 1 is unduly prejudicial as to Counts 2 and 3 an vice versa as to Stefan Irving (1), denying [11-5] motion Ruling in limine that the gov't may not introduce evidence of Mr. Irving's correspondence or photographs regarding minors, at any time other than those times charged in the superseding indictment as to Stefan Irving (1), denying [11-7] motion dismiss the superseding indictment on the grounds that statutes allegedly violated are unconstitutional. as to Stefan Irving (1). An evidentiary hearing on so much of the motion as seeks to suppress evidence obtained at an airport on May 27, 1998 will be held on September 5, 2003 at 2pm. The Court reserves decision on the motion to suppress evidence seized pursuant to the search warrant. ( Signed by Judge Lewis A. Kaplan ); (jw) (Entered: 07/29/2003)
08/20/2003	21	Filed Memo-Endorsement on letter: by Stefan Irving , from Andrew Citron, Dated August 18, 2003, addressed to: Judge Kaplan Re: Reschedule Filing date, Request that the time the defendant Stefan Irving to file a supplemental pretrial motion, be enlarged from tomorrow, August 19, 2003, until Friday, August 22, 2003 Judge's Decision: Application granted. SO ORDERED , ( Signed by Judge Lewis A. Kaplan ); (jw) (Entered: 08/21/2003)
08/22/2003	22	SUPPLEMENTAL MEMORANDUM OF LAW by Stefan Irving in support of defendant's pretrial motions. (ph) (Entered: 08/25/2003)
09/04/2003	23	ORDER as to Stefan Irving denying [11-1] motion to suppress any and all evidence gathered pursuant to search warrant dated 5/8/03, and any and all fruits of that search as to Stefan Irving (1), terminating [11-3] motion to suppress Mr. Irving's statements to, and any and all evidence seized by, the U.S. Customs Service on or about 5/27/98, and any and all fruits of those statements and searches as to Stefan Irving (1). ( Signed by Judge Lewis A.

		Kaplan ); [Microfilmed on 9/4/03 at 12:00 p.m.] (ph) (Entered: 09/04/2003)
09/04/2003	24	MEMORANDUM by Stefan Irving in support of [11-1] motion to suppress any and all evidence gathered pursuant to search warrant dated 5/8/03, and any and all fruits of that search, [11-2] motion to suppress any and all evidence obtained through any photographic identifications of Mr. Irving by children, as well as excluding those identifications as probable cause, [11-3] motion to suppress Mr. Irving's statements to, and any and all evidence seized by, the U.S. Customs Service on or about 5/27/98, and any and all fruits of those statements and searches, [11-4] motion to sever the trial on Count 1 from the trial on Counts 2 and 3, on the grounds that evidence relevant to Count 1 is unduly prejudicial as to Counts 2 and 3 an vice versa, [11-5] motion Ruling in limine that the gov't may not introduce evidence of Mr. Irving's correspondence or photographs regarding minors, at any time other than those times charged in the superseding indictment, [11-6] motion to compel the Gov't to produce discovery and evidence exculpating Mr. Irving, [11-7] motion to dismiss the superseding indictment on the grounds that statutes allegedly violated are unconstitutional. (ph) (Entered: 09/05/2003)
09/04/2003		Suppression hearing as to Stefan Irving held before Judge Lewis A. Kaplan. Dft Irving pres w/atty Andrew Citon. AUSA Michael Scudder and AUSA Lauren Goldberg pres. Case agent Bob Fitzsimmons pres. Court rptpr Pam Utter pres. Hearing and argument held. The Court reserved decision. (ja) (Entered: 09/08/2003)
09/04/2003		Suppression hearing as to Stefan Irving held before Judge Lewis A. Kaplan. Defendant Irving present with atty Andrew Citron. AUSA Michael Scudder and AUSA Lauren Goldberg present. Case agent Bob Fitzsimmons present. Court reporter Pam Utter present. Hearing and argument held. The Court reserved decision. (jw) (Entered: 10/07/2003)
09/08/2003	25	(S2) SUPERSEDING INDICTMENT as to Stefan Irving (1) count(s) 1ss, 2ss, 3ss, 4ss Microfilmed on 9/5/03 at 3:00pm. (jw) (Entered: 09/08/2003)
09/08/2003	26	(S3) SUPERSEDING INDICTMENT as to Stefan Irving (1) count(s) 1sss-2sss, 3sss, 4sss, 5sss . [Microfilmed on 9/11/03 at 12:00 p.m.] (ph) Modified on 09/11/2003 (Entered: 09/11/2003)
09/09/2003		Arraignment as to Stefan Irving held Stefan Irving (1) count(s) 1ss, 2ss, 3ss, 4ss before Judge Lewis A. Kaplan. Defendant Irving present with atty Andrew Citron. AUSA Michael Scudder and AUSA Lauren Goldberg present. Case agent Bob Fitzsimmons present. Court reporter Michael McDaniels present. Defendant arraigned on the 3rd Superseding Indictment and entered a plea of not guilty. Trial remains scheduled for 9/22/03 at 9:30am. Defendant has until 9/10/03 for filing a suppression motion concerning the defendant's work computer files. Speedy trial time remains exlcuded due to the pending motion. The Court reserved decision. (jw) (Entered: 09/09/2003)
09/09/2003		PLEA entered by Stefan Irving . Court accepts plea. Not Guilty: Stefan Irving (1) count(s) 1ss, 2ss, 3ss, 4ss (jw) (Entered: 09/09/2003)



09/09/2003		Status conference as to Stefan Irving held before Judge Lewis A. Kaplan . Time is excluded from 9/9/03 to 9/22/03. (jw) (Entered: 09/09/2003)
09/10/2003	27	MEMORANDUM by USA as to Stefan Irving in opposition to [11-2] motion to suppress any and all evidence obtained through any photographic identifications of Mr. Irving by children, as well as excluding those identifications as probable cause. (ph) (Entered: 09/12/2003)
09/10/2003	28	SUPPLEMENTAL MEMORANDUM by Stefan Irving in support of [11-1] motion to suppress any and all evidence gathered pursuant to search warrant dated 5/8/03, and any and all fruits of that [11-2] motion to suppress any and all evidence obtained through any photographic identifications of Mr. Irving by children, as well as excluding those identifications as probable cause, [11-3] motion to suppress Mr. Irving's statements to, and any and all evidence seized by, the U.S. Customs Service on or about 5/27/98, and any and all fruits of those statements and searches, [11-4] motion to sever trial on Count 1 from the trial on Counts 2 and 3, on the grounds that evidence relevant to Count 1 is unduly prejudicial as to Counts 2 and 3 an vice versa, [11-5] motion Ruling in limine that the gov't may not introduce evidence of Mr. Irving's correspondence or photographs regarding minors, at any time other than those times charged in the superseding indictment, [11-6] motion to compel the Gov't to produce discovery and evidence exculpating Mr. Irving, [11-7] motion to dismiss the superseding indictment on the grounds that statutes allegedly violated are unconstitutional. (ph) (Entered: 09/12/2003)
09/10/2003	29	AFFIDAVIT by Stefan Irving as to Stefan Irving, Re: in support of my pretrial motions to suppress materials taken from my personal computer files at Kirdland & Ellis ("Kirkland"), my employer until shortly after I was arrested. (ja) (Entered: 09/15/2003)
09/15/2003	30	Proposed Examination of Jurors by USA as to Stefan Irving (ac) (Entered: 09/16/2003)
09/16/2003	31	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of 7/23/03, before Judge Lewis A. Kaplan . (df) (Entered: 09/16/2003)
09/16/2003	32	Request to Charge by USA. (ph) (Entered: 09/19/2003)
09/16/2003	33	MEMORANDUM OPINION # 89056 as to Stefan Irving, the defendant's motion to suppress the statements made and the evidence seized on 5/27/98 is denied in all respects. ( Signed by Judge Lewis A. Kaplan ); [Microfilmed on 9/17/03 at 9:00 a.m.] (ph) (Entered: 09/19/2003)
09/16/2003	34	Filed Memo-Endorsement on letter: as to Stefan Irving , from Ari Ungar, Atty, Dated 9/12/03, addressed to: Judge Kaplan, Re: a request, with the consent of the government, we are asking to have until 9/15/03 to file a corrected copy of the brief that we filed on 9/10/03, in support of our motion to suppress the files from Mr. Irving's workplace, and a reply to the government's brief filed earlier this week in opposition to our motion to suppress identifications of Mr. Irving by child witnesses. Granted. SO ORDERED. ( Signed by Judge Lewis A. Kaplan ); (ja) (Entered: 09/19/2003)

09/16/2003	35	LETTER filed by USA as to Stefan Irving From AUSA Michael Scudder, Dated 9/12/03, Addressed to: Judge Kaplan Re: US v Stefan Irving. The Govt submits this letter in support of its motion in limine to admit at trial the following evidence: 1. Facts and circumstances regarding the history and nature of Defts relationship with Robert Decker, the former manager of Castillo Vista del Mar. 2. In or about 1996 or 1997, the Deft provided electronic images of child pornography to Robert Decker. 3. The Deft traveled to Mexico and Honduras on occasions other than those charged in the indictment and, during those trips, engaged in or attempted to engage in sexual relations with children. 4. Throughout the 1990's, and on dates in close proximity to the offenses charged in the indictment, the Deft corresponded with others regarding the availability of sexual opportunities with children in Mexico. (ac) (Entered: 09/22/2003)
09/17/2003		ORAL ARGUMENT as to Stefan Irving held before Judge Lewis A. Kaplan. Deft Irving present w/atty Andrew Citron; AUSA Michael Scudder and AUSA Lauren Goldberg present; Case Agent Bob Fitzsimmons present. Court Reporter Amy Rivera present. The motion for dismissal of Count 3 of the Superseding Indictment is denied. The govt is directed to file an affidavit or declaration in reference to deft's motion for suppression of evidence from certain computer files. A Wade Hearing is to be held on 9/22/03 at 2 p.m. Deft continues in custody. (bw) (Entered: 09/23/2003)
09/17/2003		ORAL ORDER as to Stefan Irving . SET status conference (Wade Hearing) for 2:00 p.m. 9/22/03 for Stefan Irving . ( Entered by Judge Lewis A. Kaplan ) (bw) (Entered: 09/23/2003)
09/22/2003		Wade Hearing/Status conference as to Stefan Irving held before Judge Lewis A. Kaplan. Defendant Irving present with attorney Andrew Citron. AUSA Mike Scudder and Lauren Goldberg present. Court Reporter Joanne Mancari present. The Court denied the defendant's motions to suppress and ruled that the 2003 and the 1999 photo array's were admissible. Trial adjourned until 9/23/03. (ph) (Entered: 10/02/2003)
09/23/2003		Voir dire begun as to Stefan Irving (1) count(s) 1sss-2sss, 3sss, 4sss, 5sss Terminated motions: terminating [11-6] motion to compel the Gov't to produce discovery and evidence exculpating Mr. Irving as to Stefan Irving (1) (ph) (Entered: 10/02/2003)
09/23/2003		Jury selection as to Stefan Irving held. (ph) (Entered: 10/02/2003)
09/23/2003		Jury impaneled as to Stefan Irving. (ph) (Entered: 10/02/2003)
09/23/2003		Jury trial as to Stefan Irving held. Trial begun, jury selected and sworn. (ph) (Entered: 10/02/2003)
09/24/2003	36	ORDER as to Stefan Irving. Deft, with leave, has supplemented his prior pretrial motions by seeking (1) suppression of all evidence obtained from computer files at his employer, Kirkland & Ellis ("K&E"), other than any files "legitimately" opened and inspected by K&E prior to providing them to the govt, and (2) dismissal for insufficiency of count 3 of the superseding

		indictment. Insofar as the motion seeks dismissal of count 3, it is denied for the reasons stated in open court on 9/17/03. Insofar as the motion seeks suppression of evidence obtained from the K&E computer system, the govt is directed promptly to file an affidavits or declarations setting forth the circumstances in which it obtained the evidence in question including, but not limited to, whether and to what extent the material was found by K&E as a result of its own initiative and then provided to the govt, whether and to what extent K&E found the material at the request of the govt, and whether and to what extent the material was found by the govt in consequence of a search consented to by K&E. ( Signed on 9/22/03 by Judge Lewis A. Kaplan ). [ microfilm 9/24/03 3pm ] (bw) Modified on 09/25/2003 (Entered: 09/25/2003)
09/24/2003	37	LETTER filed by Stefan Irving From Attorney Andrew Citron, Dated 9/22/03, Addressed to: Judge Kaplan Re: submits this reply to the government's motion to admit evidence of other offenses of child molestation pursuant to Federal Rules of Evidence 414(b). (ph) (Entered: 09/26/2003)
09/24/2003		Jury trial as to Stefan Irving held. (ph) (Entered: 10/02/2003)
09/25/2003	38	LETTER filed by USA as to Stefan Irving From AUSA Michael Y. Scudder, Jr., Dated 9/22/03, Addressed to: Judge Kaplan Re: submits this letter in response to the defendant's motion dated 9/10/03, to suppress electronic evidence provided to the government by the defendant's former employer. (ph) (Entered: 10/01/2003)
09/25/2003		Jury trial as to Stefan Irving held. Government rested. Defendant rested. Defendant's motion to dismiss the indictment was denied. (ph) (Entered: 10/02/2003)
09/26/2003		Jury trial as to Stefan Irving held. Charge conference held. Defendant Irving waived his appearance. (ph) (Entered: 10/02/2003)
09/29/2003	39	LETTER filed by Stefan Irving From Attorney Andrew Citron, Dated 9/29/03, Addressed to: Judge Kaplan Re: submits this letter in support of Mr. Irving's application to reopen the defense case so that he can present evidence concerning the bias, motive and credibility of two of the government witnesses. (ph) (Entered: 10/02/2003)
09/29/2003		Jury trial as to Stefan Irving held. Closing arguments made. The jury was charged. Deliberations begun and concluded. A verdict of guilty as charged was returned. (ph) (Entered: 10/02/2003)
09/29/2003		JURY VERDICT as to Stefan Irving Guilty: Stefan Irving (1) count(s) 1sss-2sss, 3sss, 4sss, 5sss (ph) (Entered: 10/02/2003)
10/09/2003	40	Filed Memo-Endorsement on letter: as to Stefan Irving, from Andrew Citron, Atty for the dft, Dated 10/7/03, addressed to: Judge Kaplan, Re: a request, for dft Stephan Irving to file post trial motions pursuant to Rules 33 and 34 of the Federal Rules of Criminal Procedure be enlarged from tomorrow until Wednesday, October 22, 2003. Granted. SO ORDERED. ( Signed by Judge Lewis A. Kaplan ); (ja) (Entered: 10/10/2003)

10/22/2003	41	MOTION by Stefan Irving (1) for new trial to permit introduction of evidence that government agents attempted to fabricate identifications of the defendant , and (2) to dismiss counts 1 and 3 of the superseding indictment , and (3) to dismiss counts 2 and 3 of the superseding indictment , and (4) to dismiss count 3 of the superseding indictment , and (5) to dismiss counts 1 through 3 of the superseding indictment. Return Date **/**/ at 0:00. (ph) (Entered: 10/24/2003)
11/05/2003	42	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of 9/4/03, before Judge Lewis A. Kaplan . (df) (Entered: 11/05/2003)
11/05/2003	43	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of 9/22/03, before Judge Lewis A. Kaplan . (df) (Entered: 11/05/2003)
11/13/2003	44	NOTICE of Appearance for Stefan Irving by Attorney Cheryl J. Sturm (jw) (Entered: 11/14/2003)
11/17/2003	46	MEMORANDUM by USA as to Stefan Irving in opposition to [41-1] motion (1) for new trial to permit introduction of evidence that government agents attempted to fabricate identifications of the defendant, [41-2] motion (2) to dismiss counts 1 and 3 of the superseding indictment, [41-3] motion (3) to dismiss counts 2 and 3 of the superseding indictment, [41-4] motion (4) to dismiss count 3 of the superseding indictment, [41-5] motion (5) to dismiss counts 1 through 3 of the superseding indictment. (ja) (Entered: 11/18/2003)
11/18/2003	45	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of September 9, 2003, before Judge Lewis A. Kaplan . (dt) (Entered: 11/18/2003)
11/19/2003	47	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of September 23,24,25,26,29, 2003, before Judge Lewis A. Kaplan . (dt) (Entered: 11/19/2003)
11/19/2003	48	TRANSCRIPT of record of proceedings as to Stefan Irving for dates of September 17, 2003, before Judge Lewis A. Kaplan . (dt) (Entered: 11/19/2003)
11/25/2003	49	MEMO ENDORSEMENT on letter addressed to Judge Kaplan from Attorney Andrew Citron, dated 11/19/03, filed by deft Stefan Irving. Mr. Citron requests that deft Irving have until 11/28/03 to file his reply to the govt's opposition to his post trial motions; JUDGE GRANTED. (Signed by Judge Lewis A. Kaplan on 11/24/03). [ microfilm 11/26/03 9am ](bw) (Entered: 11/30/2003)
12/01/2003	50	MOTION to Continue Sentencing hearing to 2/9/04 or a date thereafter convenient to the Court and counsel for the parties. Document filed by Stefan Irving. (ph, ) (Entered: 12/01/2003)
12/02/2003	52	LETTER RESPONSE in Support by Stefan Irving re 41 (1) for new trial to permit introduction of evidence that government agents attempted to fabricate identifications of the defendant, and (2) to dismiss counts 1 and 3 of the superseding indictment, and (3) to dismiss counts 2 and 3 of the superseding indictment, and (4) to dismiss count 3 of the superseding indictment, and (5) to dismiss counts 1 through 3 of the superseding indictment. (ph, ) (Entered: 12/02/2003)

		12/04/2003)
12/03/2003	51	ENDORSED LETTER as to Stefan Irving addressed to Judge Kaplan from Attorney Andrew Citron dated 11/28/03 re: requesting an enlargement of time until 12/1/03 for the defendant to file a reply in support of his post trial motions. Judge memo-endorsed: SO ORDERED. (Signed by Judge Lewis A. Kaplan on 12/1/03)(ph, ) (Entered: 12/04/2003)
12/03/2003		MEMO ENDORSEMENT as to Stefan Irving on re: 50 MOTION to Continue Sentencing hearing to 2/9/04 or a date thereafter convenient to the Court and counsel for the parties. Judge memo-endorsed: Granted. Continued to 1/13/04 at 4:30 p.m. SO ORDERED. (Refer to document #50).(Signed by Judge Lewis A. Kaplan on 12/3/03)(ph, ) (Entered: 12/05/2003)
12/04/2003		Set/Reset Hearings as to Stefan Irving: Sentencing set for 1/13/2004 04:30 PM before Judge Lewis A. Kaplan.(ph, ) (Entered: 12/05/2003)
12/22/2003	55	NOTICE of of Non-Waiver as to Stefan Irving. Certificate of Service attached. (ph, ) (Entered: 01/06/2004)
12/23/2003	53	ENDORSED LETTER as to Stefan Irving addressed to Judge Kaplan from Cheryl J. Sturm dated December 12, 2003 re: Reschedule Sentencing., as to Stefan Irving; Sentencing set for 2/9/2004 04:30 PM before Judge Lewis A. Kaplan. Judge's Memo-endorsed.. Granted. Sentencig set for 2/9/04 at 4:30pm. SO ORDERED. (Signed by Judge Lewis A. Kaplan on 12/22/03)(jw, ) (Entered: 12/29/2003)
12/30/2003	54	OBJECTION TO PRESENTENCE INVESTIGATION REPORT by Stefan Irving. (ph, ) (Entered: 01/05/2004)
01/16/2004	56	Letter by USA as to Stefan Irving addressed to Judge Kaplan from Michael Y. Scudder, Jr. dated January 13, 2004 re: The Government respectfully submits this letter in connection with the sentencing of Stefan Irving. In these extraordinary circumstances, an upward departure is warranted. (jw, ) (Entered: 01/21/2004)
01/30/2004	57	MOTION for downward departure and Memorandum opposing government's motion for upward departure. Document filed by Stefan Irving. (ph, ) (Entered: 02/03/2004)
02/03/2004		MEMO ENDORSEMENT as to Stefan Irving on re: 41 for new trial to permit introduction of evidence that government agents attempted to fabricate identifications of the defendant, and (2) to dismiss counts 1 and 3 of the superseding indictment, and (3) to dismiss counts 2 and 3 of the superseding indictment, and (4) to dismiss count 3 of the superseding indictment, and (5) to dismiss counts 1 through 3 of the superseding indictment. Judge memo-endorsed: Motions denied substantially for the reasons set forth in the trial transcript of pages 418-23, the transcript of proceedings on 9/17/03 at 22-23, the order of July 23,2003, and in the government's memorandum dated 11/17/03. (Signed by Judge Lewis A. Kaplan on 2/2/2004)(ph, ) (Entered: 02/06/2004)

02/03/2004		ORDER denying 41 Motion for New Trial as to Stefan Irving (1); denying 41 for new trial to permit introduction of evidence that government agents attempted to fabricate identifications of the defendant, and (2) to dismiss counts 1 and 3 of the superseding indictment, and (3) to dismiss counts 2 and 3 of the superseding indictment, and (4) to dismiss count 3 of the superseding indictment, and (5) to dismiss counts 1 through 3 of the superseding indictment. (Refer to document #41, Memo-endorsement denying the above motions). (Signed by Judge Lewis A. Kaplan on 2/2/04) (ph, ) (Entered: 02/06/2004)
02/05/2004	59	Supplemental SENTENCING MEMORANDUM by Stefan Irving. (bw, ) (Entered: 02/10/2004)
02/09/2004		Minute Entry for proceedings held before Judge Lewis A. Kaplan : as to Stefan Irving. Sentencing begun and adjourned. Defendant Irving present w/attys Cheryl Sturm and Andrew Citron. AUSAs Michael Scudder and Lauren Goldberg present. Sentencing adjourned until 2/13/04 at 10:00 a.m. Sentencing set for 2/13/2004 10:00 AM before Judge Lewis A. Kaplan. (Court Reporter Steven Griffing) (ja, ) (Entered: 02/17/2004)
02/11/2004	60	Letter by USA as to Stefan Irving addressed to Judge Kaplan from Michael Y. Scudder, Jr. dated February 3, 2004 re: For these reasons, the Court should reject Irving's requests for a downward departure and instead grant the Government's motion for an upward departure on the basis of Irving's pattern and practice of sexually abusing extraordinarily vulnerable children. A sentence of sufficient duration is necessary to prevent another child, whether in America or on the streets of a foreign nation, from ever being abused by Stefan Irving. (jw, ) (Entered: 02/17/2004)
02/13/2004		Minute Entry for proceedings held before Judge Lewis A. Kaplan :Sentencing held on 2/13/2004 for Stefan Irving (1) Count 1sss-2sss, 3sss, 4sss, 5sss. (jw, ). (Entered: 02/23/2004)
02/18/2004	63	NOTICE OF APPEAL by Stefan Irving from 62 Judgment,,,,,,,,, Filing fee \$ 255.00, receipt number E 500153. Copies of Notice of Appeal mailed to Attorney(s) of Record: US ATTORNEY, SDNY, COURT REPORTERS. (pr, ) (Entered: 02/23/2004)
02/18/2004		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Stefan Irving to US Court of Appeals re: 63 Notice of Appeal - Final Judgment. (pr, ) (Entered: 02/23/2004)
02/19/2004		DISMISSAL OF COUNTS on Government Motion as to Stefan Irving (1) Count 1, 1s, 1ss, 2s, 2ss, 3s, 3ss, 4ss.(jw, ) (Entered: 02/23/2004)
02/19/2004	62	FILED JUDGMENT IN A CRIMINAL CASE as to Stefan Irving (1), Count(s) 1, 1s, 1ss, 2s, 2ss, 3s, 3ss, 4ss, All open counts are dismissed on the motion of the US; Found guilty to Count(s) 1sss-2sss, 3sss, 4sss, 5sss, Imprisonment for a total of 262 Months on each count to be served concurrently. Supervised Release for a term of 3 Years on counts 1,2,5 and 5 Years on counts 3 and 4. The court makes the following recommendations to the Bureau of Prisons:

		That the BOP hold defendant Irving in the NYC area for 30 days from the date of the imposition of judgment so that his counsel may consult with him concerning his appeal. The defendant shall undergo a sex offense specific evaluation and participate in a sex offender and/or mental health treatment program approved by the probation officer. The defendant shall abide by all rules, requirements and conditions of the sex offender treatment program, except submission to polygraph testing. The defendant shall submit his person, residence, place of business, vehicle and any other premises under his control to a search on a basis that a probation officer has reasonable belief that contraband or evidence of a violation of any of the conditions of his release may be found. The search must be conducted at reasonable time and in a reasonable manner. Failure to submit to such a search may be grounds for revocation. He shall inform any other resident that any of the premises subject to this condition may be subject to search pursuant to this judgment. The defendant shall consent to the installation of systems that will enable the probation officer or designee to monitor and filter computer use on a regular or random basis on any computer owned or controlled by him. He shall consent to and cooperate with unannounced examination of any computer equipment owned or controlled by him which may involve retrieval and copying of all data from the computer and any internal or external peripherals and may involve removal of such equipment for the purpose of conducting a more thorough inspection. Special Assessment of \$500.00 which is due in full immediately. The defendant shall pay a Fine of \$200,000.00. (Signed by Judge Lewis A. Kaplan on 2/19/04)(jw, ) (Entered: 02/23/2004)
02/23/2004		Judgment entered in money judgment book as #04,0345 as to Stefan Irving in the amount of \$ 200,500.00, re: 62 Judgment. (ph, ) (Entered: 02/24/2004)
03/19/2004	64	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal as to Stefan Irving re: 63 Notice of Appeal - Final Judgment USCA Case Number 04-0971-cr, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (dt, ) (Entered: 03/19/2004)
04/01/2004	65	TRANSCRIPT of Proceedings as to Stefan Irving held on February 13, 2003 before Judge Lewis A. Kaplan. (jw, ) (Entered: 04/01/2004)
04/02/2004	66	TRANSCRIPT of Proceedings as to Stefan Irving held on 2/13/03 before Judge Lewis A. Kaplan. (dfe, ) (Entered: 04/02/2004)
12/02/2004		Post trial motions of deft. Styefan Irving Doc. 41 with memo endorsement dtd. 2/3/04, attached, requested by and sent to Vincenza Mathias USCA.. (pr, ) (Entered: 12/02/2004)
12/03/2004		Appeal Remark as to Stefan Irving USCA Case Number 04-0971. MEMO ENDORSEMENT ON DOCUMENT # 41 REQUESTED BY AND SENT TO VINCENZA MATHIAS. (pr, ) (Entered: 12/03/2004)
07/17/2006	<a href="#">67</a>	NOTICE OF ATTORNEY APPEARANCE Stephen Aaron Miller appearing for USA. (Miller, Stephen) (Entered: 07/17/2006)

12/08/2006	68	MANDATE of USCA (certified copy) as to Stefan Irving re: 63 Notice of Appeal - Final Judgment. USCA Case Number 04-0971-cr. On consideration whereof, it is hereby Ordered, Adjudged, and Decreed that the convictions on all counts are AFFIRMED but remanded for the district court to consider whether resentencing is warranted pursuant to Crosby in accordance with the revised opinion of this court. Roseann B. MacKechnie, Clerk USCA. Issued As Mandate: 12/8/06. (bw, ) (Entered: 12/12/2006)
12/08/2006		Transmission of USCA Mandate/Order to the District Judge (Kaplan, J.) on 12/12/06 re: 68 USCA Mandate - Final Judgment Appeal. (bw, ) (Entered: 12/12/2006)
01/24/2007	69	ENDORSED LETTER as to Stefan Irving addressed to Judge Kaplan from Cheryl J. Sturm dated 1/16/07 re: I propose to the Court that both the deft and the government submit briefs addressing the appropriateness of resentencing under Crosby on or before March 16, 2007..JUDGE MEMO-ENDORSMENT...Granted. SO ORDERED. (Signed by Judge Lewis A. Kaplan on 1/22/07)(jw) (Entered: 01/26/2007)
02/01/2007		Payment of Fine from Stefan Irving in the amount of \$275.00. Date Received: 2/1/07. (mn) (Entered: 02/01/2007)
02/01/2007		Payment of restitution from Stefan Irving in the amount of \$53,366.91. Date Received: 2/1/07. (mn) (Entered: 02/01/2007)
02/01/2007		Payment of restitution from Stefan Irving in the amount of \$153,573.16. Date Received: 2/1/07. (mn) (Entered: 02/01/2007)
03/13/2007	73	SATISFACTION OF JUDGMENT as to Stefan Irving re 62 Judgment in the amount of \$200,500.00. Judgment satisfied on 3/13/2007. (jar) (Entered: 03/19/2007)
03/15/2007	<a href="#">70</a>	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - SENTENCING MEMORANDUM by USA as to Stefan Irving. (Miller, Stephen) Modified on 3/20/2007 (lb). (Entered: 03/15/2007)
03/15/2007	<a href="#">71</a>	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - MEMORANDUM OF LAW in Support by Stefan Irving <i>Memorandum of Law Supporting the Application for Resentencing</i> . (Sturm, Cheryl) Modified on 3/20/2007 (lb). (Entered: 03/15/2007)
03/15/2007	<a href="#">72</a>	FILING ERROR - ELECTRONIC FILING IN NON-ECF CASE - MEMORANDUM OF LAW in Support by Stefan Irving re: <a href="#">71</a> Memorandum of Law in Support filed by Stefan Irving <i>Corrected Certificate of Service</i> . (Sturm, Cheryl) Modified on 3/20/2007 (lb). (Entered: 03/15/2007)
03/20/2007		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF CASE ERROR. Note to Attorney Stephen Aaron Miller as to Stefan Irving: to MANUALLY RE-FILE Document SENTENCING MEMORANDUM, Document No. 70. This case is not ECF. (lb) (Entered: 03/20/2007)
03/20/2007		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - NON-ECF CASE



		ERROR. Note to Attorney Cheryl J. Sturm as to Stefan Irving: to MANUALLY RE-FILE Document MEMORANDUM OF LAW, Document No. 71. This case is not ECF. (lb) (Entered: 03/20/2007)
03/20/2007	74	ORDER as to Stefan Irving. This matter is before the Court on remand from the Court of Appeals under United States v. Crosby. The question before the Court is whether " the original sentence would have been nontrivially different under the post-Booker/Fanfan regime. The Court has had the benefit of memoranda by the deft and the government. Accordingly, the Court declines to resentence the deft. SO ORDERED. (Signed by Judge Lewis A. Kaplan on 3/19/07)(jw) (Entered: 03/21/2007)
03/27/2007	75	NOTICE OF APPEAL by Stefan Irving from 74 Order. Filing fee \$ 455.00, receipt number E 610121. Copies of notice of appeal mailed to attorney(s) of record: A.U.S.A. (nd) (Entered: 03/27/2007)
03/27/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet as to Stefan Irving to US Court of Appeals re: 75 Notice of Appeal - Final Judgment. (nd) (Entered: 03/27/2007)
04/17/2007		USCA SCHEDULING ORDER as to Stefan Irving related to 75 Notice of Appeal - Final Judgment filed by Stefan Irving, USCA Case Number 07-1312. Defendant Brief due by 6/4/2007. Government Brief due by 7/4/2007. Appeal Record due by 5/2/2007. (nd) (Entered: 04/17/2007)
06/01/2007	<a href="#">76</a>	Appeal Record Sent to USCA (Index). Notice that the Original index to the record on Appeal as to Stefan Irving re: 75 Notice of Appeal - Final Judgment USCA Case Number 07-1312-cr, 3 Copies of the index, Certified Clerk Certificate and Certified Docket Sheet were transmitted to the U.S. Court of Appeals. (tp) Additional attachment(s) added on 6/6/2007 (D., Nezam). (Entered: 06/01/2007)
04/30/2009	<a href="#">77</a>	MANDATE of USCA (certified copy) as to Stefan Irving re: 75 Notice of Appeal - Final Judgment, USCA Case Number 07-1312-cr. Ordered, Adjudged and Decreed that the judgment of the District Court is AFFIRMED in accordance with the opinion of this court. Catherine O'Hagan Wolfe, Clerk USCA. Issued As Mandate: 4/27/2009. (nd) (Entered: 04/30/2009)
04/30/2009		Transmission of USCA Mandate/Order to the District Judge re: <a href="#">77</a> USCA Mandate - Final Judgment Appeal,. (nd) (Entered: 04/30/2009)
06/09/2009		Appeal Record Returned. Indexed record on Appeal Files as to Stefan Irving USCA Case Number 07-1312, returned from the U.S. Court of Appeals. (nd) (Entered: 06/09/2009)

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