

**Commonwealth of Massachusetts
WORCESTER SUPERIOR COURT
Case Summary
Criminal Docket**

Commonwealth v LaGuer, Benjamin

Details for Docket: WOCR1983-03391

Case Information

Docket Number:	WOCR1983-03391	Caption:	Commonwealth v LaGuer, Benjamin
Entry Date:	08/04/1983	Case Status:	Crim 1 -CtRm 18
Status Date:	11/13/2012	Session:	Disposed: Entered in Appeals Court
Lead Case:	NA	Deadline Status:	
Trial Deadline:		Jury Trial:	NO

Parties Involved

2 Parties Involved in Docket: WOCR1983-03391

Party Involved:		Role:	Defendant
Last Name:	LaGuer	First Name:	Benjamin
Address:	500 Colony Rd.	Address:	P.O. Box 466
City:	Gardner	State:	MA
Zip Code:	01440	Zip Ext:	
Telephone:			

Party Involved:		Role:	Plaintiff
Last Name:	Commonwealth	First Name:	
Address:		Address:	
City:		State:	
Zip Code:		Zip Ext:	
Telephone:			

Attorneys Involved

10 Attorneys Involved for Docket: WOCR1983-03391

**Attorney
Involved:**

Last Name: Hautanen
Address: Worcester Trial Court
City: Worcester
Zip Code: 01608
Telephone: 774-317-2113
Fascimile: 508-831-9899

Firm Name: WORC02
First Name: Sandra L
Address: 225 Main Street
State: MA
Zip Ext:
Tel Ext:
Representing:

**Attorney
Involved:**

Last Name: Reilly III
Address: Worcester Trial Court
City: Worcester
Zip Code: 01608
Telephone: 508-755-8601
Fascimile: 508-831-9899

Firm Name: WORC02
First Name: Joseph J
Address: 225 Main Street
State: MA
Zip Ext:
Tel Ext:
Representing:

**Attorney
Involved:**

Last Name: Rehnquist
Address: 53 State Street
City: Boston
Zip Code: 02109
Telephone: 617-570-1000
Fascimile: 617-523-1231

Firm Name: GOOD01
First Name: James C
Address: Exchange Place
State: MA
Zip Ext:
Tel Ext:
Representing: LaGuer, Benjamin (Defendant)

**Attorney
Involved:**

Last Name: Luz
Address: 53 State Street
City: Boston
Zip Code: 02109
Telephone: 617-570-1000
Fascimile: 617-523-1231

Firm Name: GOOD01
First Name: Kathleen
Address: Exchange Place
State: MA
Zip Ext:
Tel Ext:
Representing: LaGuer, Benjamin (Defendant)

**Attorney
Involved:**

Last Name: Siegel
Address: 154 Stuart Street
City: Boston
Zip Code: 02116

Firm Name: NEW07
First Name: David M
Address:
State: MA
Zip Ext:

Telephone: 617-422-7270**Fascimile:** 617-422-7453**Tel Ext:****Representing:** LaGuer, Benjamin (Defendant)**Attorney
Involved:****Last Name:** Kasten**Address:** One Washington Mall 11th Fl**City:** Boston**Zip Code:** 02108**Telephone:** 617-723-6900**Fascimile:** 617-723-6905**Firm Name:** YURK01**First Name:** Steven W**Address:****State:** MA**Zip Ext:** 2603**Tel Ext:****Representing:** LaGuer, Benjamin (Defendant)**Attorney
Involved:****Last Name:** Goldberg**Address:** 28 State Street**City:** Boston**Zip Code:** 02109**Telephone:** 617-535-4000**Fascimile:** 617-535-3800**Firm Name:** MCDE02**First Name:** Judith A**Address:****State:** MA**Zip Ext:** 1775**Tel Ext:****Representing:** LaGuer, Benjamin (Defendant)**Attorney
Involved:****Last Name:** Fisher**Address:** 28 State Street**City:** Boston**Zip Code:** 02109**Telephone:** 617-535-4000**Fascimile:** 617-535-3800**Firm Name:** MCDE02**First Name:** Tamara**Address:****State:** MA**Zip Ext:****Tel Ext:****Representing:** LaGuer, Benjamin (Defendant)**Attorney
Involved:****Last Name:** Kim**Address:** 53 State Street**City:** Boston**Zip Code:** 02109**Telephone:** 617-570-1000**Fascimile:** 617-523-1231**Firm Name:** GOOD01**First Name:** Miriam**Address:** Exchange Place**State:** MA**Zip Ext:****Tel Ext:****Representing:** LaGuer, Benjamin (Defendant)**Attorney
Involved:****Last Name:** Terk**Firm Name:****First Name:** Robert E

Address: 5 Almount Terrace
City: Fitchburg
Zip Code: 01420
Telephone: 978-808-7154
Fascimile: 978-345-9022

Address:
State: MA
Zip Ext:
Tel Ext:
Representing: LaGuer, Benjamin (Defendant)

Calendar Events

13 Calendar Events for Docket: WOCR1983-03391

No.	Event Date:	Event Time:	Calendar Event:	SES:	Event Status:
1	03/13/2000	09:00	Hearing: Post-Sentence	1	Event held as scheduled
2	03/20/2000	15:30	Conference: Status Review	1	Event held as scheduled
3	03/29/2000	09:00	Hearing: Post-Sentence	1	Event not held--scheduled for another date
4	04/20/2000	09:00	Hearing: Post-Sentence	1	
5	07/19/2000	09:00	Hearing: Post-Sentence	1	Event held as scheduled
6	04/03/2001	09:00	Hearing: Post-Sentence	1	Event held--(ACTIVE) under advisement
7	08/10/2001	09:00	Conference: Status Review	1	Event held as scheduled
8	09/27/2001	09:00	Conference: Status Review	1	Event not held--scheduled for another date
9	10/11/2001	09:00	Hearing: Post-Sentence	1	Event canceled not re-scheduled
10	10/23/2001	09:00	Hearing: Post-Sentence	1	Event held as scheduled
11	01/09/2002	15:00	Hearing: Motion	1	Event held as scheduled
12	06/24/2011	09:00	Status: Review by Clerk	1	Event held as scheduled
13	09/09/2011	14:00	Hearing: Motion	2	Event held as scheduled

Full Docket Entries

478 Docket Entries for Docket: WOCR1983-03391

Entry Date:	Paper No:	Docket Entry:
08/04/1983	1	Indictment returned
08/11/1983		Plea of not guilty
01/30/1984		RE offense 1: Guilty verdict
02/17/1984		Sentence imposed: 12-15 years MCI Walpole to be served concurrent
02/17/1984		with 83-103394 (Mulkern,J.)
02/17/1984		Sentence credit given as per 279:33A: 216 days
10/21/1993		Status at conversion of computer.

10/21/1993 Appeals Court #93-P-623

10/21/1993 Amicus brief to be filed on or before 9/27/93. Commonwealth's brief due on or before 10/20/93. Dated in Appeals Court 9/24/93.

10/21/1993

06/03/1994 73 Rescript rec'd from Appeals Court. Order denying motion for a new trial affirmed. Dated in Appeals Court 3/31/94.

06/03/1994 73

07/25/1994 74 Deft files Petition for Revision of sentence. (Referred to Travers,J)

09/15/1994 75 Commonwealth files Opposition to Defendant's Motion to Revise & Revoke w/Certificate of Service (to Judge Travers).

09/15/1994 75

09/19/1994 Motion #74 DENIED (see motion for Judge's endorsement); (Herbert F. Travers, Justice)

09/19/1994

09/21/1994 76 Deft files A Response To The Commonwealth's Brief In Opposition To The Defendant's Motion For Revision or Revocation of Sentence.

09/21/1994 76

10/07/1996 77 Deft files Letter requesting reconsideration of defendant's motion to revoke & revise w/affidavit.

10/07/1996 77

11/12/1996 78 Deft files Motion for access to items for testing

11/27/1996 Motion (P#78) Denied without hearing (Herbert F Travers,Justice)

05/22/1997 79 Deft files Petition for a New Trial under Rule 30(A)(B) with Memorandum of Law, Affidavit and attachments

05/22/1997 79

09/17/1997 Motion Re: P#79 Refuse to act upon the motion (Travers,J.) See motion for further endorsement. Copy to DA & Defendant

09/17/1997

09/24/1997 80 Deft files Motion for this Court to Reconsider its "Refusal to Act Upon the Motion" for New Trial w/Affidavit in Support

09/24/1997 80

09/24/1997 81 Deft files Motion for Findings of Facts and Conclusions of Law

10/22/1997 82 Deft files Motion for Assignment of Counsel

10/22/1997 83 Notice of appeal (Denial of motion P#79) (Filed in Appeals Court on 10/22/1997)

10/22/1997 83

10/23/1997 Motion (P#80) Denied without hearing; See motion for judge's endorsement (Travers,J.) Copy to DA & Defendant

10/23/1997

10/28/1997 84 Notice of appeal (Denial of motion P#80)

10/30/1997 Re: P#82 I will not act upon the motion, but the defendant should feel free to apply to the Office of Public Counsel Services pro se (Travers,J.) Copy to DA & Defendant

10/30/1997

10/30/1997

01/09/1998 Record Assembled. Notices mailed to John J. Conte, District Attorney and to Benjamin LaGuer, Pro se. Notice under Appellate Rule 9(d) mailed to Appeals Court, 2 certified copies of docket entries, the Denied Motion (P#80), Clerk's Statement of Case and the Notice of Appeal

01/09/1998

01/09/1998

01/09/1998 Record Assembled. Notices mailed to John J. Conte, District Attorney and to Benjamin LaGuer, Prose. Notices under Appellate Rule 9(d) mailed to Appeals Court, 2 certified copies of docket entries, the Denied Motion (P#79), the Clerk's Statement of Case & the Notice of Appeal.

01/09/1998

01/09/1998

01/09/1998

02/04/1998

Case entered in Appeals Court 1/14/98, 98-P-63

04/07/1999 85 Rescript rec'd from Appeals Court, Order denying motion for new trial

04/07/1999 85 affirmed w/Memorandum and Order Pursuant to Rule 1:28 (Ashley Ahearn,

04/07/1999 85 Clerk) Copy to DA, Probation & Defendant

01/13/2000 86 Deft files Motion for an Order Authorizing DNA Testing of Physical

01/13/2000 86 Evidence in the Possession of the Worcester County Clerk's Office

01/13/2000 86 with Memorandum of Law in Support

01/13/2000 87 Affidavit of of Judith A. Goldberg

01/21/2000 88 Commonwealth files Motion for an Immediate Order to Preserve

01/21/2000 88 Evidence, and for an Evidentiary Hearing

01/21/2000 89 Affidavit of Assistant District Attorney Joseph J. Reilly

02/02/2000 90 Appearance of Deft's Atty: David M. Siegel, Judith A. Goldberg &

02/02/2000 90 Tamara Fisher

03/08/2000 Habeas corpus for Deft at Norfolk MCI

03/13/2000 Exhibits & file stored in locked file cabinet (3 drawers) in Cory's

03/13/2000 office. Big box of exhibits in locked closet in attic.

03/13/2000 90 Commonwealth files First Proposed Procedural Order w/Memorandum on

03/13/2000 90 First Proposed Procedural Order

03/15/2000 91 Commonwealth files Motion for Access to Documentary Evidence

03/15/2000 91 w/attachments

03/16/2000 92 Proposed Order re: DNA Testing of Physical Evidence

03/16/2000 Copy of Proposed Order P#92 Faxed to Attorney Judith Goldberg,

03/16/2000 Attorney Tamara Fisher, Attorney David Siegel and a hand delivered

03/16/2000 copy given to A.D.A. Joseph Reilly

03/22/2000 Motion (P#91) allowed (Hillman,J.) Copy to DA, Atty Siegel, Atty

03/22/2000 Goldberg & Atty Fisher

03/23/2000 Habeas corpus for Deft at Norfolk MCI

03/27/2000 93 Commonwealth files Response to First Proposed Order and Request for

03/27/2000 93 Inventory and Authentication w/attachments

03/27/2000 94 Commonwealth files Proposed Procedural Order for Inventory and

03/27/2000 94 Authentication

03/27/2000 95 Affidavit of Laboratory Supervisor Gwen B. Pino w/attachments

03/29/2000 96 Deft files Response to Commonwealth's Response to the Court's

03/29/2000 96 Proposed Order w/attachments

03/29/2000 97 Deft files Motion to Amend the Court's Proposed Order Concerning

03/29/2000 97 Method of Transportation

04/06/2000 97 Commonwealth files Motion to Comply with Parole Board's Request for

04/06/2000 97 Evidence

04/12/2000 Court Reporter David W. Mcauliffe is hereby notified to prepare one

04/12/2000 copy of the transcript of the evidence of 4/27/89.

04/19/2000 98 Commonwealth files Supplemental Memorandum Supporting Its Request for

04/19/2000 98 Inventory and Authentication w/attachments (Copy mailed to Judge

04/19/2000

	98	Hillman in Lowell Superior Court by A.D.A. Reilly)
04/20/2000		Habeas corpus for Deft at MCI Norfolk to be held at Lowell Superior
04/20/2000		Court at 3:00pm
04/20/2000	99	Affidavit of Laboratory Supervisor Gwen B. Pino Regarding Blood Typing
04/20/2000	100	Affidavit of Laboratory Supervisor Gwen B. Pino
04/20/2000		Motion (P#98) Allowed (Hillman,J.) Copy to DA & Attorneys Siegel,
04/20/2000		Goldberg & Fisher
04/24/2000	101	Procedural Order for Inventory and Authentication - See P#101
04/24/2000	101	(Hillman,J.) Copy to DA & Attorneys Siegel, Goldberg & Fisher
05/08/2000	101	Exhibits - (2 boxes of evidence) exhibits - Given to Tpr Stephen
05/08/2000	101	Kelly on 5/8/00 and returned on 5/11/00
05/15/2000	101	Commonwealth files Proposed Procedural Order for Examination and
05/15/2000	101	Assessment of Evidence
05/15/2000	101	DNA Affidavit of Gwen B. Pino
05/15/2000	101	The Curriculum Vitae of Carl Matthew Selavka, Director of the State
05/15/2000	101	Police Crime Laboratory
05/15/2000	101	Certified copy of an "Order" issued by Grabau,J. on 4/21/00, and a
05/15/2000	101	"Stipulation for Release and Testing of Evidence" in the case of
05/15/2000	101	Commonwealth v. Kenneth Waters, Middlesex Superior Court Docket No.
05/15/2000	101	82-4115 w/attachment.
05/22/2000	102	Order Re: Parties submitting a proposed joint order by June 1,2000
05/22/2000	102	(Hillman,J,) See order for complete endorsement (Copies mailed to
05/22/2000	102	DA,Atty Siegel,Atty Goldberg & Atty Fisher)
06/01/2000	103	Affidavit of Assistant District Attorney Sandra L. Hautanen
06/01/2000	103	w/attachments
06/02/2000	104	Deft files Motion to Resolve Impasse as to the Choice of Laboratory
06/02/2000	104	to Conduct the Initial Phase of DNA Testing (Disk of Defendant's
06/02/2000	104	Proposed Orders Attached)
06/08/2000	105	Affidavit of Carl M. Selavka
07/17/2000		Habeas corpus for Deft at Norfolk MCI
07/19/2000	106	Commonwealth files Proposed Procedural Order for Visual Assessment
07/19/2000	106	and Preliminary Quantitative Analysis of Evidence w/ Memorandum in
07/19/2000	106	Support
07/24/2000	107	Order for Visual Assessment and Quantitative Analysis of Evidence -
07/24/2000	107	No analysis, division, or testing of the Items of evidence, other
07/24/2000	107	than as described in this order, shall be done without further order
07/24/2000	107	of the Court (Hillman,J.) Copy to ADA Reilly, Atty Siegel, Atty
07/24/2000	107	Goldberg & Atty Fisher
07/31/2000	107	The exhibits (2 sealed cardboard boxes) given to Trooper Stephen
07/31/2000	107	Kelly per Order on Visual Assessment and Quantitative Analysis of
07/31/2000	107	Evidence P #107
08/03/2000	108	Affidavit of Assistant District Attorney Sandra L. Hautanen w/
08/03/2000		

	108	attached report of Trooper Stephen E. Kelly
08/04/2000	109	Deft files Affidavit of Counsel Regarding Transport of Items
08/04/2000	109	w/attachments
08/22/2000	110	Affidavit of Assistant District Attorney Sandra L. Hautanen
08/22/2000	110	w/attachments
08/22/2000	111	Affidavit of Defense Representative (Penny Koffa) w/attachments
09/22/2000	112	Withdrawal of appearance filed by Atty Judith A. Goldberg
10/04/2000	113	Deft files Motion to Proceed with DNA Testing
10/27/2000		Docket entries mailed to defendant per his written request
11/03/2000	114	Commonwealth files Motion for a Short Extension of Time to File
11/03/2000	114	Proposed Order
11/06/2000	115	Commonwealth files Proposed Procedural Order for Division and Testing
11/06/2000	115	of Evidence (Copy to Judge Hillman, Hampden County)
11/06/2000	116	Commonwealth files Memorandum on the Progress of Testing
11/06/2000	116	w/attachments (Copy to Judge Hillman, Hampden County)
11/06/2000		Computer disc filed by Commonwealth in a sealed envelope and filed in
11/06/2000		case
02/15/2001	117	Finding and Order on Defendant's Motion for DNA Testing - See Order
02/15/2001	117	(Hillman,J.) Copy to ADA Reilly, ADA Hautanen, Atty Siegel & Atty
02/15/2001	117	Fisher
03/08/2001	118	Affidavit of Benjamin Laguer
03/16/2001	119	Deft files Motion to Transfer and Preserve Evidence
03/20/2001	120	Commonwealth files Motion for Clarification and Partial
03/20/2001	120	Reconsideration w/attachment
03/26/2001		Habeas corpus for Deft at Norfolk MCI
04/02/2001	121	Deft files Response to Commonwealth's Motion for Clarification and
04/02/2001	121	Partial Reconsideration w/Exhibits
04/03/2001		Hearing held matter taken under advisement (Judge Hillman)
04/12/2001	122	Affidavit of Dr. Edward Blake, Forensic Science Associates and
04/12/2001	122	related exhibits
04/13/2001	123	Commonwealth files Motion for Time to Review Dr. Blake's Second
04/13/2001	123	Affidavit and Defendant's Most Recent Proposed Order - The
04/13/2001	123	Commonwealth shall have until 4/23/01 to file any responsive
04/13/2001	123	pleadings (Hillman,J.) Copy to ADA Reilly & Attorneys Siegel & Fisher
04/18/2001	124	Affidavit of Edward T. Blake, D. Crim w/attachments
04/25/2001	125	Commonwealth files Response to Dr. Blake's Affidavit and Most Recent
04/25/2001	125	Proposed Order
05/02/2001	126	Further Findings and Order on Defendant's Motion for DNA Testing -
05/02/2001	126	See order for judge's endorsement (Hillman,J.) Copy to DA, Atty
05/02/2001	126	Siegel & Atty Fisher
05/21/2001	127	Affidavit of Edward T. Blake
06/29/2001	128	Affidavit of Defense Representative
07/16/2001		

	128	Affidavit of Assistant District Attorney Sandra L. Hautanen as to
07/16/2001	128	Delivery of Evidence w/attachments
07/18/2001	129	Commonwealth files Joint Stipulation on Transfer of Evidence
08/06/2001	130	Commonwealth files Motion to Compel Defendant to Comply with Court
08/06/2001	130	Orders
08/08/2001		Habeas corpus for Deft at MCI Norfolk for 8/10/01 (Hillman,J)
08/10/2001	131	Deft files Renewed Motion to Transfer and Preserve Evidence - ALLOWED
08/10/2001	131	(Hillman,J)
08/10/2001	132	Deft files Response to commonwealth's Motion to Compel Defendant to
08/10/2001	132	Comply with Court Orders
10/09/2001	133	Motion by Deft: Motion to Proceed with Additional DNA Testing
10/09/2001	133	Consistent with the Recommendations of Forensic Science Associates
10/10/2001	134	Motion by Commonwealth: Motion to Divide Tissue "D" for Further
10/10/2001	134	Testing
10/11/2001		Habeas corpus for Deft at Norfolk MCI
10/22/2001	135	Commonwealth files Proposed Further Findings and Order for DNA Testing
10/22/2001	136	Deft files Reply to Commonwealth's Motion to Divide Tissue "D" for
10/22/2001	136	Further Testing
10/23/2001		Hearing on Motions held, matter taken under advisement (Hillman,J)
10/24/2001	137	ORDER For Additional DNA Testing - See Order for specific decision
10/24/2001	137	(Hillman,J.) Copy to DA, Atty Siegel & Atty Fisher
12/11/2001	138	Motion by Deft: Motion to View Prosecutor's Trial File w/attachments
12/11/2001	139	Motion by Deft: Motion to Assign Costs of Test Observation
12/11/2001	140	Commonwealth files Joint Stipulation on Division of Tissue "D" and
12/11/2001	140	Transfer of Evidence to Implement the Court's Order on October 24,2001
01/02/2002	141	Withdrawal of appearance filed by Attorney Tamara Fisher
01/02/2002	142	Appearance of Deft's Atty: Steven W. Kasten
01/07/2002		Habeas corpus for Deft at Norfolk MCI
01/09/2002	143	Commonwealth files Opposition to Defendant's Motion to Assign Costs
01/09/2002	143	of Test Observation
01/09/2002		Hearing on Deft's Motion to Assign Costs of Test Observation held,
01/09/2002		matter taken under advisement (T.S. Hillman, J.)
01/10/2002		Motion (P#139) Denied (Hillman,J.). Copy to DA & Atty Siegel & Atty
01/10/2002		Kasten
01/31/2002	144	Motion by Deft: Motion to Order Government Entities to Preserve all
01/31/2002	144	Documents Connected with his Case
02/01/2002	145	Proposed Order Directing Government Entities to Preserve All
02/01/2002	145	Documents Connected with this Case
02/01/2002	146	ORDERED: Temporary Order Directing Government to preserve All
02/01/2002	146	Documents Connected with this Case - See Order for judge's
02/01/2002	146	endorsement (Hillman,J.) Copy to DA, Atty Siegel & Atty Kasten
08/26/2002	147	Deft files request for hearing on P# 138 and 144 (sent to Judge
08/26/2002		

	147	Hillman)
09/05/2002	147	General correspondence regarding permission to view and photocopy
09/05/2002	147	paper on cases 83-103391,92,93 and 94
09/20/2002		Motion (P#138) denied (Hillman, Justice). Copies mailed to DA,
09/20/2002		Attorney Siegel and Attorney Kasten
09/20/2002		Motion (P#144) allowed (Hillman, Justice). Copies mailed to DA,
09/20/2002		Attorney Siegel and Attorney Kasten
09/30/2002	148	ORDER Vacating Impoundment ON 83-103391,92,93 and 94 (See Order This
09/30/2002	148	order DOES NOT include any trial exhibits which are to remain
09/30/2002	148	impounded) (Hillman,J) (See Case # 83-103391 P#148) (copies mailed to
09/30/2002	148	all parties)
09/30/2002		Re: P147.5 General correspondence OK by agreement of counsel (See
09/30/2002		Order P# 148 of unimpoundment entered this day) (Hillman,J)
10/02/2002	149	ORDERED: Amended Order Vacating Impoundment on dockets
10/02/2002	149	83-103391,92,93 and 94: The Court having notified counsel and
10/02/2002	149	receiving no objection the following order is entered, Any previous
10/02/2002	149	impoundment orders are vacated. This order DOES NOT include any
10/02/2002	149	exhibits or physical evidence which are to remain impounded. By the
10/02/2002	149	Court Timothy S. Hillman, Associate Justice (copies sent to all
10/02/2002	149	parties) (See Case # 83-103391 P#149)
11/06/2002		CASE LOCATED CLOSED SECTION BOTTOM SHELF (CASE ONLY- EXHIBITS STILL
11/06/2002		IMPOUNDED)
07/29/2003	150	Appearance of Deft's Atty: James C Rehnquist and Appearance of Deft's
07/29/2003	150	Atty: Kathleen Luz
07/29/2003	151	General correspondence regarding the paralegal from the defendant
07/29/2003	151	attorney's office respectfully request full access to all pleadings
07/29/2003	151	(See Letter)
02/11/2004	152	Deft files motion for new trial or, alternatively, for dismissal of
02/11/2004	152	the indictments with memorandum and affidavit in support of
02/19/2004	153	ORDERED: Commonwealth has ninety days from the date of this order to
02/19/2004	153	respond to the defendant's Motion for a New Trial. (John S. McCann,
02/19/2004	153	Justice (RAJ))
05/19/2004	154	Commonwealth files opposition to defendant's eight motion for new
05/19/2004	154	trial (to Judge McCann)
06/04/2004		Motion for new trial referred to Justice Timothy S. Hillman by RAJ
06/04/2004		John S. McCann
06/10/2004	155	Deft files motion for leave to file a reply brief
06/10/2004	156	Deft files reply brief in support of defendant's motion for new trial
06/10/2004	156	or, alternatevely, for dismissal of the indictments
06/16/2004	157	ORDERED: Defendant's motion for leave to file a reply brief is
06/16/2004	157	Allowed. The Commonwealth shall have thirty days to file a sur-reply.
06/16/2004	157	This matter is now transferred to Honorable Timothy S. Hillman who is
06/16/2004		

	157	assigned to address the issue of a Motion for New Trial. ((McCann,
06/16/2004	157	Justice) copy to Justice Hillman
08/19/2004	158	Withdrawal of appearance filed by Miriam Kim (to Judge Hillman)
09/07/2004		Motion (P#158) allowed (Timothy Hillman, Justice). Copies mailed
09/07/2004		September 07, 2004
09/22/2004	159	MEMORANDUM & ORDER: Of decision on defendant's motion for a New Trial
09/22/2004	159	is Denied September 22, 2004, (Hillman,J)
10/04/2004	160	Motion by Deft: To reconsider the denial of defendant's motion for
10/04/2004	160	New Trial or, alternatively, for dismissal of the indictments and
10/04/2004	160	leave to file a supporting memorandum within 60 days with affidavit
10/04/2004	160	of James Rehnquist (copy to DA & Judge Hillman in Greenfield)
10/06/2004		Motion (P#160) allowed defendant given until December 10 ,2004 to
10/06/2004		file memorandum in support of motion for reconsideration. Thereafter,
10/06/2004		the Commonwealth may have until January 28, 2005 for it's reply if
10/06/2004		any. (Fecteau, Justice). Copies mailed October 07, 2004
10/08/2004	161	NOTICE of APPEAL FILED by Benjamin LaGuer
11/02/2004	162	Exhibits returned to Worcester Superior Court Clerk's Office from
11/02/2004	162	Trooper Wayne Gerhardt from the State Police Detective Unit assigned
11/02/2004	162	to the Office of the District Attorney for the Middle District (Chain
11/02/2004	162	of Custody Documentation) 2 sealed boxes are stored in locked closet
11/02/2004	162	upstairs
12/10/2004	163	Deft files memorandum of law in support of defendant's motion to
12/10/2004	163	reconsider the denial of defendants motion for new trial or,
12/10/2004	163	alternatively , for dismissal of the indictments with affidavit of
12/10/2004	163	James Rehnquist (copy to Judge Hillman)
01/05/2005		Motion (P#160) denied (Timothy Hillman, Justice). Copies mailed
01/19/2005	164	NOTICE of APPEAL FILED by Benjamin LaGuer
02/01/2005		Notice of assembly of record; mailed to Appeals Court per Rule 9(d)
02/09/2005	165	Case entered into Appeals Court on 2/7/05 No. 2005-P-0155 (Appeals
02/09/2005	165	Court)
06/26/2006	166	ORDERED: Notice of docket entry - Pursuant to Mass.R.A.P. 10(a)(3),
06/26/2006	166	you are hereby notified that, on June 22, 2006, the above -
06/26/2006	166	referenced case was entered on the docket of this court. (Supreme
06/26/2006	166	Judicial Court)
10/05/2006		CASE LOCATED CLOSED SECTION BOTTOM SHELF (CASE ONLY- EXHIBITS STILL
10/05/2006		IMPOUNDED)
01/11/2007		All exhibits, physical evidence and copies of trial transcripts
01/11/2007		transported by Clerk/Magistrate Dennis McManus to Susan Mellen, Clerk
01/11/2007		of the Supreme Judicial Court this day. See Acknowledgement of
01/11/2007		custody of exhibits form for detailed items.
01/11/2007		Acknowledgment of Chain of Custody of exhibits, physical evidence and
01/11/2007		copies of transcripts returned by Superior Court Clerk/Magistrate
01/11/2007		

01/11/2007 Dennis P. McManus as signed for by Susan Mellen, Clerk of the Supreme Judicial Court (located in impounded drawer)

04/23/2007 167 Rescript received from SJC; judgment AFFIRMED (Motion for New Trial)

04/28/2011 168 Deft files motion for New Trial and Evidentiary Hearing with

04/28/2011 168 Memorandum in Support of and affidavit of Counsel (per Judge McCann, check with Dennis or Corey on Monday to see if copies can be given to the press or anyone) 5/2/11 motion given to Dennis (5 /11/11motion and docket sent to Justice Peter Agnes, RAJ)

04/28/2011 168

04/28/2011 168

05/12/2011 169 ORDERED: The defendant Benjamin Laguer, has filed a motion for new trial pursuant to Mass.R.CrimP.30 and a request for an evidentiary hearing. The Office of the District Attorney is invited to respond on or before June 24, 2011. The matter is also assigned to Justice Richard Tucker for any action he may deem appropriate. (Peter W. Afnes, Jr, Justice, RAJ)

05/12/2011 169

05/12/2011 169

05/12/2011 169

05/12/2011 169

05/12/2011 169

06/01/2011 170 Deft files list of prospective witnesses

06/07/2011 171 Appearance of Deft's Atty: Robert E Terk

06/15/2011 172 Commonwealth files opposition to LaGuer's NINTH Motion for New Trial and Evidentiary Hearing (to Judge Tucker)

06/15/2011 172

06/21/2011 173 Deft files bebuttal to Commonwealth's opposition Laguer's Ninth motion for a trial and evidentiary hearing (To Justice Tucker)

06/21/2011 173

06/22/2011 174 Deft files list of exhibits in support of Defendant's Motion for New Trial

06/22/2011 174

07/05/2011 Five Volumes of exhibits in support of Defendant's Ninth Motion for New Trial (sent to Judge Tucker)

07/05/2011

09/01/2011 175 Deft files request for evidentiary hearing to establish the following testimony and evidence from these listed witnesses (To Justice Tucker)

09/01/2011 175

09/08/2011 176 Commonwealth files Renewed opposition and motion to reconsider allowance of "live testimony"

09/08/2011 176

09/09/2011 177 MOTION by Commonwealth: to Dismiss LaGuer's Ninth Motion for New Trial Due to "Fraud on the Court", filed in Court

09/09/2011 177

09/09/2011 After hearing - Deft's Brief due by 10/21/2011 - Commonwealth Brief due by 11/14/2011 (Tucker, J)

09/09/2011

10/20/2011 178 Deft files memorandum in support of LaGuer's Motion for a New Trial and Evidentiary Hearing (To Judge Tucker)

10/20/2011 178

11/14/2011 179 MOTION by Commonwealth: for enlargement of time to respond to Defendant's supplemental memorandum

11/14/2011 179

11/14/2011 MOTION (P#179) Allowed (Tucker, R. , Justice (RAJ)). Copies mailed 11/14/2011

11/14/2011

11/21/2011 180 Commonwealth files Motion for Final Enlargment of Time to Respond

11/21/2011 MOTION (P#180) Allowed (R. Tucker, Justice). Copies mailed 11/21/2011

11/22/2011 181 MOTION by Deft: for sanctions against the Commonwealth for failure to respond to Defendant's supplemental memo on or before November 21,

11/22/2011 181

11/22/2011

	181	2011 & Affidavit of counsel
11/23/2011	182	MOTION by Commonwealth: To Clarify representation
11/23/2011	183	Commonwealth files Response to supplemental memorandum in support of
11/23/2011	183	LaGuer's ninth motion for New Trial
11/23/2011	183	Commonwealth files response to the supplemental memorandum in support
11/23/2011	183	of LaGuer's ninth motion for new trial
11/23/2011	183	Affidavit of Sandra Hautanen
12/05/2011	184	Deft files brief rebuttal to the Commonwealth's November 23, 2011
12/05/2011	184	response
12/05/2011		MOTION (P#181) DENIED. Commonwealth, upon motion filed, was granted a
12/05/2011		two-day enlargement of time on 11/21/11 which was complied with.
12/05/2011		(Richard T Tucker, J). Copies mailed
12/05/2011		MOTION (P#182) At present, Attorney Robert E Terk is counsel of
12/05/2011		record for the defendant. Therefore, all filings with the court and
12/05/2011		communications with the DA's office by defendant shall be through
12/05/2011		Attorney Terk. If this representation is to change it shall be
12/05/2011		accomplished only after court order upon a properly filed motion.
12/05/2011		Direct communication by defendant with the DA handling this case or
12/05/2011		with the DA office shall cease immediately. (Richard T Tucker, J).
12/05/2011		Copies mailed 12/5/2011
12/16/2011	185	Deft files Brief AMENDED Rebuttal to the Commonwealth's November 23,
12/16/2011	185	2011 Response
01/06/2012	186	Deft files Notice of Compliance with attached 2 page letter from the
01/06/2012	186	Defendant
01/09/2012	187	ORDER OF COURT: Correspondence from defendant dated 24 December 2011
01/09/2012	187	not read and hereby returned to defendant. The Court does not receive
01/09/2012	187	correspondence directly from either party. Said practice by either
01/09/2012	187	party or attorneys shall cease immediately. The notice of compliance
01/09/2012	187	has been received and filed. (Tucker, Justice)
01/11/2012	188	MOTION by Deft: to stay execution of sentence pending final judicial
01/11/2012	188	adjudication
01/12/2012	189	Commonwealth files opposition to "Defense Motion to Stay Execution of
01/12/2012	189	Sentence"
01/18/2012		MOTION (P#188) DENIED without hearing. Although the court denies the
01/18/2012		motion upon its merits, it notes that Rule 31(a) Mass R Crim P.,
01/18/2012		permits a stay of sentence "pending the determination of the appeal"
01/18/2012		only. "The rule does not authorize a judge to stay execution of a
01/18/2012		penal sentence when an appeal is not pending." Commonwealth v.
01/18/2012		McLaughlin, 431 Mass. 506, 518 (2000) (Tucker, Justice). Copies mailed
02/27/2012		MOTION (P#168) denied - see memorandum of decision (Richard T.
02/27/2012		Tucker, Justice). Copies mailed
02/27/2012		MOTION (P#177) allowed see memorandum of decision (Richard T.Tucker,
02/27/2012		

Justice). Copies mailed 2/28/2012

02/27/2012 190 MEMORANDUM OF DECISION ON DEFENDANT'S MOTIION FOR NEW TRIAL AND
02/27/2012 190 EVIDENTIARY HEARING AND THE COMMONWEALTH'S MOTION TO DISMISS IS
02/27/2012 190 DENIED 2/27/2012, (Richard T. Tucker, Justice)

03/19/2012 191 Deft files motion for leave to file reconsideration of denied Motion
03/19/2012 191 for New Trial on March 25, 2012

03/19/2012 192 Deft files motion for discovery and production of tangible evidence

03/19/2012 193 NOTICE of APPEAL FILED by Benjamin LaGuer

03/19/2012 Court Reporter Pender, Claire is hereby notified to prepare one copy
03/19/2012 of the transcript of the hearing of 09/09/2011

03/19/2012 Paper #s 191, 192, 193 sent to Judge Richard Tucker

03/25/2012 Regarding paper #191- The defendant may file a memorandum in support
03/25/2012 of a motion for reconsideration on or before 4/6/12. If the
03/25/2012 Commonwealth desires to oppose the motion for reconsideration and/or
03/25/2012 the newly filed motion for discovery and tangible evidence, such
03/25/2012 response shall be filed by the Commonwealth on or before 4/30/12.
03/25/2012 (Justice Richard T. Tucker),

03/25/2012 Regarding paper#192- The Commonwealth shall have until 4/30/12 to, if
03/25/2012 it desires, file opposition to this motion (Justice Richard T, Tucker)

04/09/2012 194 MOTION by Deft: For reconsideration of Denial of Motion for New Trial
04/09/2012 194 (To Justice Richard Tucker in Lowell Criminal)

04/25/2012 Transcript of testimony received 1 disc Motion for New Trial 9/9/11
04/25/2012 from Transcript of proceedings from Court Reporter Pender, Claire

04/30/2012 195 Commonwealth files opposition to Laguer's post-conviction"Motion for
04/30/2012 195 discovery and production of tangible evidence"

04/30/2012 196 Commonwealth files motion for enlargement of time to respond to
04/30/2012 196 "Defense Motion for Reconsideration"

05/03/2012 MOTION (P#196) allowed (Richard Tucker, Justice) . Copies mailed
05/03/2012 5/7/2012

05/09/2012 197 MOTION by Commonwealth: to file forthwith

05/09/2012 198 Commonwealth files opposition to Laguer's defendse motion for
05/09/2012 198 reconsideration of denial of (NINTH) motion for new trial

05/17/2012 MOTION (P#192) denied Rule14 Mass R. CrimP, governing "pre trial
05/17/2012 discovery is not applicable.Post conviction discovery under rule
05/17/2012 30(c)(4) Mass R criminal P requires a pending motion for a new trial
05/17/2012 supported by affidavit establishing "prima basic case for relief.Here
05/17/2012 there is no such motion supported by affidavit (Justice Richard T.
05/17/2012 Tucker).Copies mailed

05/17/2012 MOTION (P#194) denied (Justice Richard T. Tucker). Copies mailed

06/01/2012 199 Deft files motion to be declared indigent with affidavit in support
06/01/2012 199 of petition for an order of assignment of appellate counsel to
06/01/2012 199 represent Laguer on his denied motion for a new trial evidentiary

06/01/2012

	199	hearing with affidavit of indigency and supplement to affidavit of
06/01/2012	199	indigency
06/20/2012	200	Commonwealth files Motion for Relief from Frivolous Filings with an
06/20/2012	200	attached "Certificate of Service" and affidavit Of Sandra L Hautanen
06/20/2012	200	in support of "Motion for Frivolous Filings" with attached Exhibits
06/20/2012	200	1-11 (Original copy To Judge Tucker in Lowell)
06/22/2012	201	Commonwealth files motion to add "exhibit 12" in support of the
06/22/2012	201	Commonwealth's motion for relief from frivolous filings (Docket No.
06/22/2012	201	200) to Judge Richard T. Tucker in Lowell)
06/29/2012	202	MOTION by Commonwealth: To add "Exhibit 13" in support of the
06/29/2012	202	Commonwealth's motion for frivolous filings(Docket #200)
07/06/2012		RE: Paper # 200: This motion having been served upon counsel of
07/06/2012		record for the defendant by first class mail on on 6/19/12, the
07/06/2012		defendant is granted to 7/31/12 to file an opposition. (Justice
07/06/2012		Richard T. Tucker)
07/06/2012		MOTION (P#201) allowed (Richard T Tucker, Justice). Copies mailed
07/06/2012		7/6/2012
07/06/2012		MOTION (P#202) allowed (Richard T. Tucker, Justice). Copies mailed
07/06/2012		7/6/2012
07/06/2012		MOTION (P#199) allowed (Richard T. Tucker, Justice). Copies mailed
07/06/2012		7/6/2012
07/09/2012	203	MOTION by Deft: To be declared indigent with affidavit in support of
07/09/2012	204	MOTION by Deft: To withdraw appearance with affidavit of counsel
07/09/2012	205	Defendant's MOTION for 30 days to respond to "Commonwealth's Motion
07/09/2012	205	for Relief from Frivolous Filings"
07/10/2012		MOTION (P#203) allowed (Richard T. Tucker, Justice). Copies mailed
07/10/2012		7/10/2012
07/10/2012		MOTION (P#204) allowed - Referral of defendant to CPCS for review and
07/10/2012		representation is ordered (Richard T. Tucker, Justice). Copies mailed
07/10/2012		7/10/2012
07/10/2012		RE: Paper # 205: Since service of this motion was made upon defendant
07/10/2012		on 6/19/12 the defendant shall have until 7/31/12 to file an
07/10/2012		opposition see ruling of 7/6/12 (Richard T. Tucker, Justice)
08/01/2012	206	Deft files opposition to District Attorney's frivolous "Gatekeeper"
08/01/2012	206	request, and renewed motion for evidentiary hearing in support of New
08/01/2012	206	Trial (to Justice Tucker)
08/06/2012	207	MOTION by Commonwealth: to add "exhibit 14" in support of the
08/06/2012	207	Commonwealth's motion for relief from frivolous filings (Docket
08/06/2012	207	200)(to Judge Tucker)
08/07/2012		MOTION (P#207) allowed (Judge Richard Tucker, Justice). Copies mailed
08/07/2012		8/7/2012
09/07/2012		MOTION (P#200) denied - Having reviewed the considerable volume of
09/07/2012		

09/07/2012 submissions of the parties, I order without a hearing, that the
Commonwealth's motion for relief from Frivolous filings is denied.
09/07/2012 (Richard Tucker,Justice)
11/06/2012 208 Notice of assembly of record; mailed to Appeals Court per Rule 9(d)
11/06/2012 Statement of the case on Appeal (Cover Sheet)
11/06/2012 Notice of completion of assembly of record sent to clerk of Appeals
11/06/2012 Court and attorneys for the Commonwealth and defendant.
11/13/2012 209 Notice of Entry of appeal received from the Appeals Court
11/13/2012 209 No.2012-P-1785

Charges

1 Charges for Docket: WOCR1983-03391

No.	Charge Description:	Indictment:	Status:
1	Robbery, unarmed	WODA83-03391	Guilty verdict

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