

U.S. District Court
United States District Court for the Southern District of New York (White Plains)
CRIMINAL DOCKET FOR CASE #: 7:07-cr-01027-SCR-1

Case title: USA v. Bernard B. Kerik

Date Filed: 11/08/2007

Date Filed	#	Docket Text
11/08/2007	<u>1</u>	SEALED INDICTMENT as to Sealed Defendant 1 (1) count(s) 1, 2, 3, 4, 5-7, 8, 9-14, 15-16. (cg) (Entered: 11/13/2007)
11/09/2007	<u>2</u>	Order to Unseal Indictment as to Sealed Defendant 1.. (Signed by Judge George A. Yanthis on 11/9/2007)(cg) (Entered: 11/13/2007)
11/09/2007		INDICTMENT UNSEALED as to Sealed Defendant 1. (cg) (Entered: 11/13/2007)
11/09/2007		Case Designated ECF as to Bernard B. Kerik. (cg) (Entered: 11/13/2007)
11/09/2007		Arrest of Bernard B. Kerik. (cg) (Entered: 11/13/2007)
11/09/2007	<u>3</u>	NOTICE OF ATTORNEY APPEARANCE: Kenneth M. Breen appearing for Bernard B. Kerik. (cg) (Entered: 11/13/2007)
11/09/2007		Minute Entry for proceedings held before Judge George A. Yanthis :Initial Appearance as to Bernard B. Kerik held on 11/9/2007. Defendant present with attorney Kenneth Breen, AUSA Perry Carbone & Elliott Jacobson, Court Reporter Sue Ghorayeb. (cg) (Entered: 11/13/2007)
11/09/2007		Minute Entry for proceedings held before Judge George A. Yanthis :Arraignment as to Bernard B. Kerik (1) Count 1,2,3,4,5-7,8,9-14,15-16 held on 11/9/2007. Defendant present with attorney Kenneth Breen, AUSA's Perry Carbone and Elliott Jacobson, Court Reporter Sue Ghorayeb. Defendant enters a not guilty plea. Case assigned to Judge Robinson. Bail is set as follows: 500,000.00 PRB secured by the defendant's primary residence. Paperwork to be completed by 11/14/2007. Surrender all firearms to the FBI including ammunition and permits within 24 hours. No contact with any government witnesses, government to provide a list. Exception: Business related contact with any current employees. Surrender Passport, Routine Pretrial supervision. Travel extended to include N.J. (cg) (Entered: 11/13/2007)
11/09/2007		Minute Entry for proceedings held before Judge George A. Yanthis : Plea entered by Bernard B. Kerik (1) Count 1,2,3,5-7,8,9-14,15-16 Not Guilty. (Court Reporter Sue Ghorayeb) (cg) (Entered: 11/13/2007)
11/09/2007	<u>4</u>	Appearance Bond Entered as to Bernard B. Kerik in amount of \$ 500,000.00 PRB, Defendant all necessary paperwork by 11/14/2007. Defendant shall Surrender all firearms in his possession or constructive possession., including handguns, rifles, shotguns ammunition, permits and licenses to the FBI within 24 hours, The defendant shall have no direct or indirect contact with any government witnesses, Government shall provide a list, exception: Business related contact with current employees, Defendant shall surrender all travel documents and passports. Travel is restricted to SDNY, EDNY & NJ. Defendant reserves his right to seek modification of his condition at a later date. Routine pretrial supervision. (cg) (Entered: 11/13/2007)

11/09/2007	<u>5</u>	ORDER Setting Conditions of Release as to Bernard B. Kerik (1) 500,000.00 PRB..... (cg) (Entered: 11/13/2007)
11/09/2007	<u>6</u>	ADVICE OF PENALTIES AND SANCTIONS as to Bernard B. Kerik. (cg) (Entered: 11/13/2007)
11/09/2007		Case as to Bernard B. Kerik ASSIGNED to Judge Stephen C. Robinson. Judge Unassigned no longer assigned to the case.. (cg) (Entered: 11/13/2007)
11/09/2007		Minute Entry for proceedings held before Judge Stephen C. Robinson :Pretrial Conference as to Bernard B. Kerik held on 11/9/2007. Defendant present with attorney Kenneth M. Breen, AUSA's Perry Carbone and Elliott Jacobson, Agents SA James J. O'Conner-FBI SA Steven Ashcrofy-IRS, SA Christopher McGlynn-IRS, Court Reporter Sue Ghorayeb, Courtroom Deputy Brandon Skolnik. IPTC Held: Next PTC set for 1/16/2008 at 12pm. Time is excluded to 1/16/2008. Defendant Bail continued. (See Transcript. (cg) (Entered: 11/16/2007)
11/21/2007	<u>7</u>	ENDORSED LETTER as to Bernard B. Kerik addressed to Magistrate Judge George A. Yanthis from Kenneth Breen dated 11/20/07 re: Request that the bond be modified to permit the filing of a mortgage in favor of the government in lieu of a confession of judgment, and that the deadline for the filing of such mortgage be extended to 11/27/07. Endorsement: Application Granted. So Ordered. (Signed by Magistrate Judge George A. Yanthis on 11/21/07) Copies Faxed By Chambers.(fk) (Entered: 11/27/2007)
11/29/2007	<u>8</u>	MOTION to Disqualify Counsel. Document filed by USA as to Bernard B. Kerik. (Carbone, Perry) (Entered: 11/29/2007)
11/30/2007	<u>9</u>	MOTION for Protective Order. Document filed by USA as to Bernard B. Kerik. (Carbone, Perry) (Entered: 11/30/2007)
12/05/2007	<u>10</u>	MOTION for Discovery. Document filed by Bernard B. Kerik. (Breen, Kenneth) (Entered: 12/05/2007)
12/06/2007		Minute Entry for proceedings held before Judge Stephen C. Robinson:Pretrial Conference as to Bernard B. Kerik held on 12/6/2007. Defendant present with attorney Kenneth and Thomas Fallati, AUSA Perry Carbone, Elliott Jacobson, Agents SA James J. O'Conner-FBI, Court Reporter Albi Gorn, Courtroom Deputy Brandon Skolnik. PTC Held: Court Orders that Defendant's motion for Gov. to produce addition discovery is denied. Defendant is granted one day extension to response to cursio motion by 12/7/2007, Gov. to reply by 12/12/2007. Oral Arg. set for 12/17/2007 at 4:00pm. Court ordered second part of conference at side abr transcript sealed. Time is already excluded to 1/16/2008. Defendant bail continued. (cg) (Entered: 12/17/2007)
12/07/2007	<u>11</u>	MEMORANDUM in Opposition by Bernard B. Kerik re <u>8</u> MOTION to Disqualify Counsel.. (Breen, Kenneth) (Entered: 12/07/2007)
12/07/2007	<u>12</u>	DECLARATION of Kenneth M. Breen in Opposition as to Bernard B. Kerik re: <u>8</u> MOTION to Disqualify Counsel.. (Breen, Kenneth) (Entered: 12/07/2007)
12/10/2007	<u>13</u>	ENDORSED LETTER as to Bernard B. Kerik addressed to Judge Stephen C. Robinson from Kenneth M. Breen dated 12/10/2007 re: Request Court's permission to file an oversize memorandum of lw in opposition to the government's motion for disqualification of counsel...Endorsement: Plaintiff its 34 page brief. The Government may file an oversized reply brief. The government may exceed the size limits by 15 pages. So Ordered... (Signed by Judge Stephen C. Robinson on 12/10/2007) The Clerk's Office Has Mailed Copies.(cg) (Entered: 12/11/2007)

12/13/2007	<u>14</u>	REPLY MEMORANDUM OF LAW in Support by USA as to Bernard B. Kerik re: <u>8</u> MOTION to Disqualify Counsel.. (Carbone, Perry) (Entered: 12/13/2007)
12/17/2007		Minute Entry for proceedings held before Judge Stephen C. Robinson:Oral Argument as to Bernard B. Kerik held on 12/17/2007. Deft pres with atty Kenneth Breen and Thomas Fallati. AUSA Carbone and Jacobson pres. Court grants deft's counsel Wareham, motion for Pro Hac Vice. Court orders first part of conference transcript sealed. Oral Argument then held on Gov. motion to recuse. Decision reserved. Time is already excluded to 1/16/08. Deft bail con't.(Court Reporter Christina Arends-Dieck) (fk) (Entered: 12/21/2007)
12/28/2007	<u>17</u>	MOTION for James D. Wareham to Appear Pro Hac Vice. Document filed by Bernard B. Kerik. Dated 12/17/07. (bw) (Entered: 01/10/2008)
01/07/2008		CASHIERS OFFICE REMARK as to Bernard B. Kerik on Oral Argument,, in the amount of \$25.00, paid on 12/28/2007, Receipt Number 637005. (jd) (Entered: 01/07/2008)
01/16/2008	<u>20</u>	ENDORSED LETTER as to Bernard B. Kerik addressed to Dear Judge Robinson from Kenneth M. Breen dated 01/15/2008 re:.....request an adjournment of the status conference currently scheduled for tomorrow to February 6 at 10:00am..... (Signed by Judge Stephen C. Robinson on 01/15/2008)(jma) (Entered: 01/25/2008)
01/18/2008	<u>18</u>	ENDORSED LETTER as to Bernard B. Kerik addressed to Judge Stephen C. Robinson from Kenneth M. Green dated 1/15/2008 re: Request an adjournment of the Status conference currently scheduled for tomorrow until February 6 at 10:00 a.m...Endorsement: Time is excluded from January 17, 2008 to February 6, 2008 from the speedy trial calculation for the reason set forth above and in the interests of justice. So Ordered.. (Signed by Judge Stephen C. Robinson on 1/17/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 01/23/2008)
01/23/2008		Attorney update in case as to Bernard B. Kerik. Attorney Kenneth M. Breen terminated. (cg) (Entered: 01/24/2008)
01/23/2008	<u>19</u>	MEMORANDUM DECISION AND ORDER as to Bernard B. Kerik....Mr. Breen is hereby disqualified as counsel to the Defendant, Mr. Kerik. Mr. Kerik has until 30 days from the date of this order to obtain conflict free counsel. IT IS SO ORDERED.. (Signed by Judge Stephen C. Robinson on 1/23/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 01/24/2008)
02/01/2008	<u>21</u>	ORDER as to Bernard B. Kerik...IT IS HEREBY ORDERED that the time between January 23 and February 22, 2008 is hereby excluded under the Speedy Trial Act, 18 USC 3161 (h)(8)(A), in the interests of justice.. (Signed by Judge Stephen C. Robinson on 1/31/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 02/04/2008)
02/14/2008	<u>22</u>	ENDORSED LETTER as to Bernard B. Kerik addressed to Judge Stephen C. Robinson from Kenneth M. Breen dated 2/13/2008 re: Request with consent of the Government, an adjournment of the status conference currently scheduled for tomorrow to february 21 at 12:00 p.m....Endorsment: Time from January 23 to February 22 is excluded from the Speedy Trial Calculations in order to allow the defendant time to hire new counsel. So Ordered.. (Signed by Judge Stephen C. Robinson on 2/13/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 02/19/2008)

02/21/2008		Minute Entry for proceedings held before Judge Stephen C. Robinson: Pretrial Conference as to Bernard B. Kerik held on 2/21/2008. Defendant present with attorney Kenneth M. Breen, AUSA Perry Carbone, Elliott Jacobson, Agent S.A. Thomas D'Amico, Paralegal Susan Giordano, Court Reporter Sue Ghorayeb. PTC held: Next PTC set for 3/21/2008 at 12pm. Time is excluded to 3/21/2008. Defendant bail continued. (See transcript). (cg) (Entered: 02/27/2008)
02/27/2008		Minute Entry for proceedings held before Judge Stephen C. Robinson: Pretrial Conference as to Bernard B. Kerik held on 2/27/2008. Defendant present with attorney Kenneth M. Breen, AUSA Elliott Jacobson, Agent S.A. Thomas D'Amico, Paralegal Susan Giordano, Court Reporter Albi Gorn, Courtroom Deputy Brandon Skolnik. PTC held: Court orders that Mr. Breen be removed as attorney of record from the courts docket. Defendant will have new counsel present at the next PTC. Next PTC set for 3/21/2008 at 12pm. Time is excluded to 3/21/2008. Defendant Bail continued. (See transcript). (cg) (Entered: 02/29/2008)
02/28/2008	<u>24</u>	ORDER as to Bernard B. Kerik...Based on this conference, it is the determination of this Court that the Government's letter in any and all formats and versions, is to remain under seal. IT IS SO ORDERED.. (Signed by Judge Stephen C. Robinson on 2/28/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 02/29/2008)
03/18/2008	26	TRANSCRIPT of Proceedings as to Bernard B. Kerik held on 2/27/2007 before Judge Stephen C. Robinson. (jp) (Entered: 03/18/2008)
03/18/2008	<u>27</u>	NOTICE OF AND CONSENT TO SUBSTITUTION OF COUNSEL AND ORDER as to Bernard B. Kerik. PLEASE TAKE NOTICE that Barry H. Berke, Esq and Eric A. Tirschwell, Esq., of the law firm of Kramer Levin Naftalis & Frankel LLP, 1177 Avenue of the Americas, New NY 10036, will be substituted for Kenneth M. Breen, Esq., of the law firm of Paul, Hastings, Janofsky & Walker LLP, East 55th Street, NY 10022-3205, as counsel of record for Bernard B. Kerik in the above-captioned action. So ORDERED:. (Signed by Judge Stephen C. Robinson on 3/18/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 03/20/2008)
03/18/2008		Attorney update in case as to Bernard B. Kerik. Attorney Barry H Berke for Bernard B. Kerik, Eric Anders Tirschwell for Bernard B. Kerik added.. (cg) (Entered: 03/20/2008)
03/19/2008		Minute Entry for proceedings held before Judge Stephen C. Robinson: Pretrial Conference as to Bernard B. Kerik held on 3/19/2008. Defendant present with attorney Barry Berke and Eric Tirschwell, AUSA Elliott Jacobson and Perry Carbone, Agent S.A. Thomas D'Amico, Paralegal Susan Giordano, Court Reporter Sue Ghorayeb, Courtroom Brandon Skolnik. PTC Held: Next PTC set for 5/22/2008 at 4:30pm. Time is excluded to 5/22/2008. Defendant Bail continued. (See Transcript). (cg) (Entered: 03/24/2008)
03/20/2008	<u>28</u>	PROTECTIVE ORDER ON CONSENT as to Bernard B. Kerik... So Ordered. (Signed by Judge Stephen C. Robinson on 3/19/08)(fk) (Entered: 03/21/2008)
03/31/2008	29	TRANSCRIPT of Proceedings as to Bernard B. Kerik held on December 17, 2007 before Judge Stephen C. Robinson. Court Reporter: Christina M. Arends-Dieck. (br) (Entered: 03/31/2008)
05/22/2008	<u>31</u>	ENDORSED LETTER as to Bernard B. Kerik addressed to Judge Stephen C. Robinson from Barry Berke dated 5/21/2008 re: Request a one month adjournment of the status conference...the Government consents to our request to adjourn the conference to June 24, 2008 at 4:30 p.m. and to an exclusion of speedy trial time until that

		date...ENDORSEMENT: Application Granted... (Signed by Judge Stephen C. Robinson on 5/22/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 05/23/2008)
07/09/2008		Minute Entry for proceedings held before Judge Stephen C. Robinson:Pretrial Conference as to Bernard B. Kerik held on 7/9/2008. Defendant present with attorney Barry Berke and Melissa Prober, AUSA Elliott Jacobson and Perry Carbone, Court Reporter Sue Ghorayeb, Courtroom Deputy Brandon Skolnik. Conference held: Court order that this conference and transcript be sealed. Defendant Bail continued. (cg) (Entered: 07/14/2008)
07/09/2008		Minute Entry for proceedings held before Judge Stephen C. Robinson:Pretrial Conference as to Bernard B. Kerik held on 7/9/2008. Defendant present with attorney Barry Berke and Melissa Prober, AUSA Elliott Jacobson and Perry Carbone, Court Reporter Sue Ghorayeb, Courtroom Deputy Brandon Skolnik. PTC Held: Defendant motions due 9/22/2008, response due 12/5/2008, reply due 1/9/09. Oral Argument set for 1/29/2009 at 4:30 p.m. Time is excluded to 1/219/2009/ Defendant bail continued. (cg) (Entered: 07/14/2008)
08/18/2008	<u>33</u>	ORDER as to Bernard B. Kerik. On January 30, 2008, this Court received a letter from a news outlet requesting that "documents, transcripts and/or submissions" in connection with this case be unsealed. The letter specifically referred to a sealed conference held on December 8, 2007 to discuss a letter submitted by the Government, placed under seal and produced to the defense in redacted form. At that time a verbal request was made for unsealing the conference transcript. That request was denied. Rule 6 of the Federal Rules of Criminal Procedure protects the secrecy of grand jury proceedings. In this case, the requested materials all relate to matters occurring before a grand jury. Their unsealing and dissemination could compromise the integrity of the grand jury proceedings by affecting witnesses, interfering with fact-finding and or damaging the reputation of subjects who have not yet been and may never be formally charged. Accordingly, the requested materials are to remain under seal. IT IS SO ORDERED.. (Signed by Judge Stephen C. Robinson on 2/21/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 08/19/2008)
08/19/2008	<u>34</u>	ORDER as to Bernard B. Kerik....The Times also requests that it have the opportunity to be heard prior to any future closing. Should this Court be presented with an application to close a non-grand jury related proceeding. The Times and other interested third parties shall have ample opportunity to be heard on the issue.. (Signed by Judge Stephen C. Robinson on 8/19/2008) The Clerk's Office Has Mailed Copie.(cg) (Entered: 08/20/2008)
09/22/2008	<u>35</u>	NOTICE OF ATTORNEY APPEARANCE Michael Scott Bosworth appearing for USA. (Bosworth, Michael) (Entered: 09/22/2008)
09/22/2008	<u>36</u>	MOTION to Dismiss of Counts 1-3 and 5 as Time Barred, (2) Dismissal of Counts 1-3 For Failing to Allege the Crime of Honest Services Fraud and Unconstitutional Vagueness, (3) Dismissal of Certain False Statements Charges on Vagueness Grounds, (4) Dismissal for Multiplicity with Respect to Counts 9 and 11 and 10, 12, 13, (5) Severance for Violations of Fed. R. Crim. P. 8 and Pursuant to Rule 14, (6) Discovery, and (7) a Bill of Particulars. Document filed by Bernard B. Kerik. Return Date set for 1/29/2009 at 04:30 PM. (Berke, Barry) (Entered: 09/22/2008)
09/22/2008	<u>37</u>	DECLARATION of Robin Wilcox in Support as to Bernard B. Kerik re: <u>36</u> MOTION to Dismiss of Counts 1-3 and 5 as Time Barred, (2) Dismissal of Counts 1-3 For Failing to Allege the

		<i>Crime of Honest Services Fraud and Unconstitutional Vagueness, (3) Dismissal of Certain False Statements Charges on Vagueness Grounds, (4) D MOTION to Dismiss of Counts 1–3 and 5 as Time Barred, (2) Dismissal of Counts 1–3 For Failing to Allege the Crime of Honest Services Fraud and Unconstitutional Vagueness, (3) Dismissal of Certain False Statements Charges on Vagueness Grounds, (4) D MOTION to Dismiss of Counts 1–3 and 5 as Time Barred, (2) Dismissal of Counts 1–3 For Failing to Allege the Crime of Honest Services Fraud and Unconstitutional Vagueness, (3) Dismissal of Certain False Statements Charges on Vagueness Grounds, (4) D. (Attachments: # <u>1</u> Exhibit A–C, # <u>2</u> Exhibit D–F, # <u>3</u> Exhibit G, # <u>4</u> Exhibit H–I)(Berke, Barry) (Entered: 09/23/2008)</i>
09/22/2008	<u>39</u>	ENDORSED LETTER as to Bernard B. Kerik addressed to Judge Stephen C. Robinson from Barry H. Berke dated 9/15/2008 re: Request the Court's approval to file a single omnibus motion and a single memorandum of law no longer than 85 pages...ENDORSEMENT: The defendant MUST file a single omnibus motion with a memorandum of law no longer than 60 pages. So Ordered... (Signed by Judge Stephen C. Robinson on 9/19/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 09/23/2008)
09/22/2008	<u>40</u>	ORDER as to Bernard B. Kerik. It is hereby ordered that the submission dated September 15, 2008, from the Government in the above mentioned case be placed under seal. So Ordered.. (Signed by Judge Stephen C. Robinson on 9/22/2008) The Clerk's Office Has Mailed Copies.(cg) (Entered: 09/23/2008)
09/23/2008	<u>38</u>	MEMORANDUM in Support by Bernard B. Kerik re <u>36</u> MOTION to Dismiss of Counts 1–3 and 5 as Time Barred, (2) Dismissal of Counts 1–3 For Failing to Allege the Crime of Honest Services Fraud and Unconstitutional Vagueness, (3) Dismissal of Certain False Statements Charges on Vagueness Grounds, (4) D MOTION to Dismiss of Counts 1–3 and 5 as Time Barred, (2) Dismissal of Counts 1–3 For Failing to Allege the Crime of Honest Services Fraud and Unconstitutional Vagueness, (3) Dismissal of Certain False Statements Charges on Vagueness Grounds, (4) D MOTION to Dismiss of Counts 1–3 and 5 as Time Barred, (2) Dismissal of Counts 1–3 For Failing to Allege the Crime of Honest Services Fraud and Unconstitutional Vagueness, (3) Dismissal of Certain False Statements Charges on Vagueness Grounds, (4) D. (Berke, Barry) (Entered: 09/23/2008)
12/02/2008	<u>42</u>	(S1) SUPERSEDING INDICTMENT FILED as to Bernard B. Kerik (1) count(s) 1s, 2s, 3s, 4s, 5s–9s, 10s, 11s–14s, 15s. (fk) (Entered: 12/04/2008)