

# United States Court of Appeals

Eleventh Circuit

56 Forsyth Street, N.W.

Atlanta, Georgia 30303

Thomas K. Kahn  
Clerk

In Reply, Give Number  
Of Case and Names of Parties

June 10, 2004

VIA FACSIMILE

TO ALL COUNSEL OF RECORD

Re: Nos. 01-14872 & 01-15080 - United States v. Jay Scott Ballinger

Dear Counsel:

For the purposes of the upcoming en banc rehearing in the above-referenced case, the court desires for counsel to focus their briefs on the following issues:

1. **Does 18 U.S.C. § 247 cover only offenses that have a substantial effect on interstate commerce, or does it also cover offenses that are committed or facilitated through the channels or instrumentalities of interstate commerce, or interstate travel?**
2. **Was the evidence sufficient to establish that Ballinger's acts were in or affected commerce?**
3. **In determining whether Ballinger's church arsons substantially affected interstate commerce, is it appropriate to aggregate the impact of all such offenses, or to consider only those committed by the defendant?**

Appellant's opening brief shall be filed in the Clerk's Office in Atlanta by 5:00 p.m., Wednesday, July 14, 2004. Appellee's opening brief shall be filed in the Clerk's Office in Atlanta by 5:00 p.m., Friday, August 13, 2004. Any reply brief by the Appellants must be filed in the Clerk's Office in Atlanta by 5:00 p.m., Monday, August 30, 2004. NO EXTENSIONS WILL BE GRANTED. An original and 18 copies of the en banc briefs should be filed (appellant's in blue covers, appellees' in red covers and any reply in gray covers). The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing (facsimile, e-mail, etc.). NO TIME FOR MAILING SHALL BE ALLOWED. All parties are also required to upload the brief in electronic format to the court's Web site as described in 11th Cir. R. 31-5.

**All counsel** are requested to file 16 copies of their opening panel briefs, record excerpts and supplemental authorities prior to 5:00, Wednesday, July 14, 2004.

The case will be argued before the Court sitting en banc during the week of October 25, 2004, in Atlanta, Georgia. Counsel will be allotted twenty minutes per side for oral argument. Counsel will receive a calendar notifying of the specific date and time of oral arguments at a later date.

Thank you for your attention to this matter.

Sincerely,

THOMAS K. KAHN, Clerk

By:

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Matt Davidson  
Calendar Clerk/Court Sessions Supervisor  
404.335.6131