

# Judge to Give Forger Stiffer Sentence Because

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By BENJAMIN WEISER

The man who sold millions of dollars worth of forged papers in the hand of John F. Kennedy will likely receive a stiffer-than-normal prison term because he designed a fraud that was intended to damage the reputations of the late President and other historical figures, a judge said yesterday.

Legal experts said that it is highly unusual for a judge to consider the damage to history in sentencing a defendant, although they acknowledged that the case of Lawrence X. Cusack 3d was an extraordinary one.

Mr. Cusack, a former paralegal, was found guilty last spring on all 13 counts of an indictment accusing him of creating the forged documents, having them authenticated by experts and selling them to investors for about \$7 million.

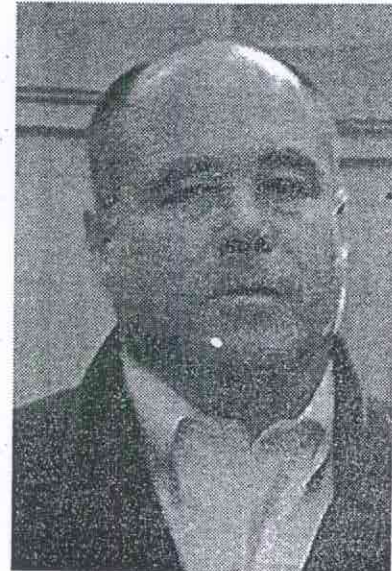
Among the most explosive of the hundreds of bogus documents sold by Mr. Cusack were ones that linked John F. Kennedy to Marilyn Monroe and a Chicago mob figure. The documents also purported to detail an affair between Kennedy and Monroe, and Kennedy's agreement to pay hush money to the actress to remain silent about their relationship.

Mr. Cusack faced a sentence of about six to eight years on his convictions under Federal sentencing guidelines, which trial judges usually follow, but yesterday Judge Denise L. Cote of Federal District Court in Manhattan indicated that she would increase his sentence by roughly two years when she sentences him today, meaning Mr. Cusack could receive a term of up to 10 years in prison.

The judge said that another factor in her decision to increase Mr. Cusack's sentence beyond what she might ordinarily have imposed was evidence that he had looted the estate of his late father, a prominent lawyer who had represented the Archdiocese of New York before his death in 1985.

In court yesterday, Mr. Cusack's lawyers attempted to undermine the Government's contentions, but Judge Cote seemed unmoved. One defense lawyer, Maranda E. Fritz, also noted that a recent report submitted to the judge by a psychiatrist hired by the defense said that Mr. Cusack had acknowledged and expressed remorse for his conduct.

The document has not been made public and there were no further details of its contents, but it does not appear that Mr. Cusack made any



Mary DiBaise Blatch for The New York Times

Lawrence X. Cusack outside Federal District Court yesterday.

real admission that he had forged any documents. Judge Cote, in any case, again seemed unimpressed, responding that the evidence in the trial had "overwhelmingly refuted" his position.

## He Tarnished Reputations

Mr. Cusack, who was imprisoned in July, sat quietly in court yesterday in blue prison clothes as his lawyers and the prosecutors argued about what factors Judge Cote should consider when sentencing him.

One sentencing expert, Daniel J. Freed, a professor at Yale Law School, said the tarnishing of history could be a basis for a greater sentence if the judge finds the crime is so unusual that it does not fit the rigid rules that govern Federal sentencing.

"It sounds like this is not only an unusual crime, but one that involves very public damage to a very important institution — the Presidency," said Prof. Freed, who said he was speaking generally as he was not familiar with the specifics of the case.

Mr. Cusack's lawyers, Ms. Fritz and Robert F. Katzberg, both declined comment after the hearing.

Mr. Cusack might win some leniency today if he were to admit, for the first time, that he had carried out the forgery scheme. In presenting their case, prosecutors offered voluminous evidence showing that Mr. Cusack's claim that the papers were genuine was logically and historically impossible.

On one document, for example, Kennedy had supposedly written the words, "Secretary of Education." But prosecutors pointed out that the Department of Education was not created until 1979.

Another psychiatrist hired by the defense, Frank T. Miller, suggested in a report that was filed publicly that it was unlikely that Mr. Cusack would admit to the forgeries. Dr. Miller described Mr. Cusack as a deeply troubled man who has largely given up on life and abandoned himself to hopelessness. He said that Mr. Cusack had told him that he does not fear prison, and that Mr. Cusack had said, "My life has been a prison. My past life has been a prison. I guess I didn't see the difference it would make."

Dr. Miller said that Mr. Cusack also was unable to appreciate the consequences of his behavior, and was "willing to suffer maximum punishment even when the punishment can be reduced by appropriate contrition.

"For example, he could not admit his guilt in this case, even though by doing so he could have significantly reduced his punishment," the psychiatrist wrote.