

CASE No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

PIERRE C. MARC - PETITIONER

VS.

UNITED STATES OF AMERICA - RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO
THE ELEVENTH CIRCUIT COURT OF APPEAL

PETITIONER'S APPENDIX

PIERRE CINE MARC, PRO SE.
FCC, COLEMAN LOW, UNIT B-4
P.O. BOX 1031
COLEMAN, FL 33521

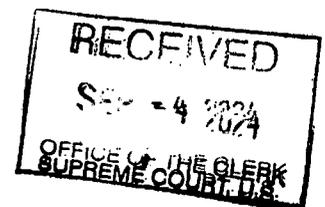


TABLE OF CONTENT

	PAGE(S)
APPENDIX A APPEAL COURT'S ORDER	1-3
APPENDIX B MAGISTRATE'S AUTHENTIC SIGNATURE (DOC. 39)	4
APPENDIX C APPEAL COURT'S REHEARING ORDER	5-6
APPENDIX D MAGISTRATE'S AUTHENTIC SIGNATURE (DOC. 19)	7
APPENDIX E CRIMINAL COMPLAINT FRONT PAGE	8
APPENDIX F CRIMINAL COMPLAINT LAST PAGE	9
APPENDIX G ARREST WARRANT	10
APPENDIX H DISTRICT'S ORDER (DOC. 278)	11
APPENDIX I GOVERNMENT'S RESPONSE TO GRAND JURY TRANSCRIPT REQUEST	12
APPENDIX J DISTRICT'S COURT ORDER (DOC. 294)	13

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13955

Non-Argument Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PIERRE C. MARC,
a.k.a. Pierre Cine Marc,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:21-cr-00071-WFJ-AAS-1

APPENDIX "A"

Before NEWSOM, BRASHER, and ABUDU, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Pierre Marc, proceeding *pro se*, appeals the district court's endorsed order which directed the government to respond to a single claim raised in his motion seeking judicial notice of fraud upon the court, an evidentiary hearing, and relief for constitutional violations. He also appeals the court's endorsed order denying his motion to correct the first endorsed order.

The courts of appeals have jurisdiction over "appeals from all final decisions of the district courts of the United States." 28 U.S.C. § 1291. "In a criminal case, the final judgment means the sentence. The sentence is the judgment." *United States v. Curry*, 760 F.2d 1079, 1079 (11th Cir. 1985); *see also Berman v. United States*, 302 U.S. 211, 212-13 (1937). The orders that Marc seeks to appeal are not final because his case has not proceeded to judgment; he has not been convicted or sentenced. *See Curry*, 760 F.2d at 1079.

Under the collateral order doctrine, we may review interlocutory orders that: (1) conclusively determine the disputed question; (2) resolve an important issue completely separate from and collateral to the merits of the action; and (3) would be effectively unreviewable on appeal from the final judgment. *United States v. Shalhoub*, 855 F.3d 1255, 1260 (11th Cir. 2017) (citing *Flanagan v. United States*, 465 U.S. 259, 263-64 (1984)). The collateral order

23-13955

Opinion of the Court

3

doctrine is narrow, and its “reach is limited to trial court orders affecting rights that will be irretrievably lost in the absence of an immediate appeal.” *Richardson-Merrell, Inc. v. Koller*, 472 U.S. 424, 430-31 (1985). Because Marc may raise, on appeal from a final judgment, arguments about alleged fraudulent conduct, the denial of an evidentiary hearing, and alleged constitutional violations, the orders he challenges are not now reviewable under the collateral order doctrine. *See Shalhoub*, 855 F.3d at 1260; *Koller*, 472 U.S. at 430-31.

All pending motions are DENIED as moot. No petition for rehearing may be filed unless it complies with the timing and other requirements of 11th Cir. R. 40-3 and all other applicable rules.

9

by requesting this continuance, or consenting thereto, the defendant has waived his rights to a speedy trial, as well as language that they have consulted with the Assistant U.S. Attorney assigned to the case, and the AUSA consents.

FOR STATUS CONFERENCE on April 8, 2021 at 11:00 a.m. (telephonic)
(NOTE: IF ABOVE NOT FILLED IN, THE TRIAL DATE/TIME, STATUS CONFERENCE DATE/TIME, AND DISTRICT JUDGE WILL BE DETERMINED AT A LATER DATE.)

AFTER THE FIRST DAY OF THE TRIAL TERM, ALL COUNSEL SHALL BE AVAILABLE AND READY FOR THE TRIAL UPON 24 HOURS NOTICE.

ORDERED at Tampa, Florida this 22nd day of March, 2021.

Amanda Arnold Sansone
AMANDA ARNOLD SANSONE
United States Magistrate Judge

APPENDIX 6 "B"
~~EXHIBIT~~

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-13955

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

PIERRE C. MARC,
a.k.a. Pierre Cine Marc,

Defendant-Appellant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:21-cr-00071-WFJ-AAS-1

APPENDIX "C"

2

Order of the Court

23-13955

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR
REHEARING EN BANC

Before NEWSOM, BRASHER, and ABUDU, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 35. The Petition for Panel Rehearing also is DENIED. FRAP 40.

18

until he fell while running away; (6) there is conflicting information about Mr. Marc's residential and employment information; and (7) although Mr. Marc is a permanent resident, he may be subject to removal proceedings if he is convicted of a felony offense.



It is therefore, **ORDERED**:

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

ORDERED in Tampa, Florida, on February 11, 2021.

Amanda Arnold Sansone
AMANDA ARNOLD SANSONE
United States Magistrate Judge

APPENDIX
~~EXHIBIT~~ "D"

A0 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Middle District of Florida

United States of America)

v.)

PIERRE CINE MARC)

and)

DASHAWN AZAVION SMITH)

Case No.

8:21MJ1116AAS

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

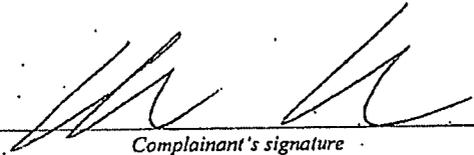
On or about the date(s) of February 4, 2021 in the county of Pinellas in the
Middle District of Florida, the defendant(s) violated:

Code Section	Offense Description
21 U.S.C. §846	Conspiracy to possess with intent to distribute a mixture and substance containing a detectable amount of cocaine and a mixture and substance containing a detectable amount of fentanyl, 40 grams or more
21 U.S.C §841(a)(1) 18 U.S.C. §2	Possession with intent to distribute a mixture and substance containing a detectable amount of cocaine and a mixture and substance containing a detectable amount of fentanyl, 40 grams or more

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.


Complainant's signature

Adam Kerr, DEA Special Agent

Printed name and title

Submitted by email and attested to me as true and accurate by telephone consistent with Federal Rules of Criminal Procedure 4(d) and 4.1.

Date: February 5, 2021


Judge's signature

City and state: Tampa, Florida

Amanda Arnold Sansone, U.S. Magistrate Judge

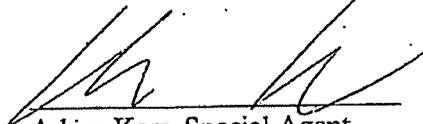
Printed name and title

APPENDIX "E"

colored backpack. Inside the backpack, agents found two knotted clear plastic baggies containing approximately 114.8 grams of a white chalky substance. This white chalky substance later field tested positive for cocaine. Also inside the backpack, agents located a receipt bearing the name "Pierre Marc".

14. Agents searched MARC's Range Rover and found a Glock 9mm handgun tucked in the driver's side door pocket. The 9mm was loaded with a magazine inserted and round chamber. Marijuana was also located in smaller amounts in the front right passenger door and in the front middle console of the vehicle.

15. Based on the foregoing information, I submit that probable cause exists that Pierre Cine MARC and Dashawn Azavion SMITH committed the following offenses: possession with intent to distribute a controlled substance (cocaine and fentanyl more than 40 grams) in violation of 21 U.S.C. § 841, and conspiracy to possess with the intent to distribute a controlled substance (cocaine and fentanyl more than 40 grams) in violation of 21 U.S.C. § 846.


Adam Kerr, Special Agent
U.S. Drug Enforcement Administration

Submitted by email and attested to me as true and accurate by telephone consistent with Federal Rules of Criminal Procedure 4(d) and 4.1 on this 5th day of February, 2021.


Amanda Arnold Sansone
United States Magistrate Judge

11
~~APPENDIX~~
- 9 -

5
~~APPENDIX~~
(APPENDIX F)

AO 442 (Rev. 11/11) Arrest Warrant

UNITED STATES DISTRICT COURT

for the
Middle District of Florida

United States of America
v.
PIERRE CINE MARC

Case No.

8:21MJ1116AAS

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) Pierre Cine Marc

who is accused of an offense or violation based on the following document filed with the court:

- Indictment
- Superseding Indictment
- Information
- Superseding Information
- Complaint
- Probation Violation Petition
- Supervised Release Violation Petition
- Violation Notice
- Order of the Court

This offense is briefly described as follows:

Conspiracy to possess with intent to distribute a mixture and substance containing a detectable amount of cocaine and a mixture and substance containing a detectable amount of fentanyl, 40 grams or more; and possession with intent to distribute a mixture and substance containing a detectable amount of cocaine and a mixture and substance containing a detectable amount of fentanyl, 40 grams or more

Date: February 5, 2021

Amanda Arnold Sansone
Issuing officer's signature

Amanda Arnold Sansone, U.S. Magistrate Judge
Printed name and title

City and state: Tampa, Florida

Return

This warrant was received on (date) 2-5-21, and the person was arrested on (date) 2-4-21
at (city and state) St. Petersburg, FL.

Date: 2-5-21

[Signature]
Arresting officer's signature

SA Brandon Cain
Printed name and title

APPENDIX "G"
-10-

5 4

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court

Middle District of Florida

Notice of Electronic Filing

The following transaction was entered on 11/6/2023 at 11:20 AM EST and filed on 11/6/2023

Case Name: USA v. Marc et al
Case Number: 8:21-cr-00071-WFJ-AAS
Filer: USA
Document Number: 278(No document attached)

Docket Text:

ENDORSED ORDER directing USA to respond to issue #6 only of the Defendant's Motion re: [277] MOTION for Miscellaneous Relief, specifically For Court to Take Judicial Notice of Fraud as to Pierre C. Marc. Responses are due by close of business on 11/13/2023. Signed by Judge William F. Jung on 11/6/2023. (JCG)

8:21-cr-00071-WFJ-AAS-1 Notice has been electronically mailed to:

Dino M. Michaels dmichaels@escobarlaw.com

Shauna S. Hale shauna.hale@usdoj.gov, CaseView.ECF@usdoj.gov, TPADOCKET.Mailbox@usdoj.gov, usaflm.ecf@usdoj.gov

Suzanne C. Nebesky suzanne.nebesky@usdoj.gov, CaseView.ECF@usdoj.gov, TPADOCKET.Mailbox@usdoj.gov, USAFLM.ARECF@usdoj.gov, julie.moore@usdoj.gov

8:21-cr-00071-WFJ-AAS-1 Notice has been delivered by other means to:

APPENDIX "H"

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:21-cr-71-WFJ-AAS

PIERRE C. MARC

UNITED STATES' RESPONSE TO THE COURT'S MAY 25, 2023, ORDER

In Response to the Court's May 25, 2023, Order (Doc. 207), the government states as follows:

1. The defendant did not testify in the grand jury.
2. No *Brady* material exists from the grand jury presentation.

Respectfully submitted,

ROGER B. HANDBERG
United States Attorney

By: /s/ Shauna S. Hale
Shauna S. Hale
Assistant United States Attorney
Florida Bar No. 0881481
400 N. Tampa Street, Suite 3200
Tampa, Florida 33602-4798
Telephone: (813) 274-6000
Facsimile: (813) 274-6358
E-mail: shauna.hale@usdoj.gov

APPENDIX I

sworn complaint which outlined the narcotics and gun seizure. The time frame concerning his arrest, the warrant, and his charges is not unconstitutional but is typical of these "buy-bust" cases. This was a routine case in that regard. 2) Magistrate Judge Sansone's signatures were not forged on court documents. The Court has investigated this and is very familiar with this judge's signature. Her signatures are not fraud upon anyone. 3) This Court has subject matter jurisdiction to adjudicate an indictment charging federal crimes in the Middle District of Florida. 4) The charging instrument was not a "false indictment" and the Court's records show a proper grand jury was empaneled and with a quorum voted to properly return this indictment. Nothing is amiss in the grand jury procedure. 5) Seeking a superseding indictment is within the purview of the United States' prosecutor and here a new prosecutor came on to the case and was within her authority to seek to clarify the indictment, which slightly expanded one Count, removed stray handwriting found on the prior indictment, and removed a defendant no longer a party to the case. Movant does not show vindictiveness of a constitutional nature and none is apparent in this record. 6) There is no illegal wiretap in this indictment and no "wiretap" calls will be used at trial. Mr. Marc was recorded on consensual calls via an informant, which calls were monitored by law enforcement. Consensual calls with one party consenting and aware in such an instance are not aural intercepts within the wiretap statute. Trial will begin this coming Monday at 9:00 am. Signed by Judge William F. Jung on 11/21/2023. (Jung, William) (Entered: 11/21/2023)

1/2023	<u>286</u>	Court's Proposed Jury Instructions. (CCB) (Entered: 11/21/2023)
1/2023	<u>287</u>	Court's PROPOSED verdict form. (CCB) (Entered: 11/21/2023)
1/2023	<u>288</u>	MOTION for Miscellaneous Relief, specifically Certificate of Good Standing for Judge William F. Jung by Pierre C. Marc. (AA) (Entered: 11/22/2023)
1/2023	<u>289</u>	MOTION for Miscellaneous Relief, specifically For Exemplification of doc.279 re <u>279</u> Notice (Other) by Pierre C. Marc. (AA) (Entered: 11/22/2023)
4/2023	<u>290</u>	EMERGENCY MOTION for Miscellaneous Relief, specifically to Expedite Judgment on pending motion re <u>281</u> EMERGENCY MOTION to Correct 278 Order directing response to motion, filed by USA by Pierre C. Marc. (LNR) (Entered: 11/24/2023)
4/2023	<u>291</u>	EXHIBIT LIST by USA as to Pierre C. Marc (Hale, Shauna) (Entered: 11/24/2023)
4/2023	<u>292</u>	WITNESS LIST by USA as to Pierre C. Marc (Hale, Shauna) (Entered: 11/24/2023)
4/2023	<u>293</u>	WITNESS LIST by USA as to Pierre C. Marc. (Hale, Shauna) Modified text on 11/27/2023 (GL). (Entered: 11/24/2023)
6/2023	294	ENDORSED ORDER denying <u>281</u> Motion to Correct as to Pierre C. Marc (1). The motion is without basis in fact or law and is repetitive of matters already ruled upon. Signed by Judge William F. Jung on 11/26/2023. (Jung, William) (Entered: 11/26/2023)
6/2023	295	ORDER denying <u>288</u> Motion as to Pierre C. Marc (1). Signed by Judge William F. Jung on 11/26/2023. (Jung, William) (Entered: 11/26/2023)
6/2023	296	ORDER denying <u>289</u> Motion as to Pierre C. Marc (1). Signed by Judge William F. Jung on 11/26/2023. (Jung, William) (Entered: 11/26/2023)
6/2023	297	ENDORSED ORDER denying <u>290</u> Motion as to Pierre C. Marc (1). Signed by Judge William F. Jung on 11/26/2023. (Jung, William) (Entered: 11/26/2023)

APPENDIX "J"