

APPENDIX A
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 24-1719

United States of America

Plaintiff - Appellee

v.

Sandra Lee Bart

Defendant - Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:15-cr-00190-DSD-3)

REVISED JUDGMENT

Before GRUENDER, ERICKSON, and GRASZ, Circuit Judges.

This appeal comes before the court on appellant's application for a certificate of appealability. The court has carefully reviewed the original file of the district court. The motion to proceed on appeal in forma pauperis is granted. The application for certificate of appealability is denied, and the district court's order granting the government's motion for preliminary order of forfeiture for substitute property is summarily affirmed under 8th Cir. R. 47A(a).

The appeal is dismissed.

July 17, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

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UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 15-190(3) (DSD/LIB)

United States of America,

Plaintiff,

v.

ORDER

Sandra Lee Bart,

Defendant.

This matter is before the court upon defendant Sandra Lee Bart's pro se motion to vacate and set aside her judgment and sentence under Federal Rule of Civil Procedure 60(d)(3) and the government's motion for preliminary order of forfeiture for substitute property. Based upon a review of the file, record, and proceedings herein, and for the following reasons, the court denies Bart's motion and grants the government's motion.

BACKGROUND

On August 8, 2016, a jury convicted Bart of conspiracy to commit visa fraud, in violation of 18 U.S.C. § 371; conspiracy to commit fraud in foreign labor contracting, in violation of 18 U.S.C. § 1349; and conspiracy to commit wire or mail fraud, in violation of 18 U.S.C. § 1349. The court sentenced her to 60 months' imprisonment for each count to be served concurrently and to be followed by two years' supervised release. Bart appealed.

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her conviction and the Eighth Circuit Court of Appeals affirmed. See United States v. Bart, 888 F.3d 374 (8th Cir. 2018). Bart thereafter filed a petition for certiorari with the United States Supreme Court, which was denied on October 1, 2018. Bart v. United States, 139 S. Ct. 266 (2018). The Supreme Court denied her subsequent request for rehearing on November 19, 2018. 139 S. Ct. 588 (2018). Bart timely filed a motion under 28 U.S.C. § 225, which the court denied. ECF No. 379. Bart was released from imprisonment on June 3, 2021. Post-release she brought an unsuccessful motion to set aside a U.S. Treasury offset and the instant motion for relief from judgment. See ECF No. 404. In the discussion, the court will refer only to the facts necessary to rule on the pending motions. The broader factual background can be found in the court's previous orders.

DISCUSSION

I. Bart's Motion

Rule 60(d)(3) authorizes the court to set aside a judgment for "a fraud on the court." "Fraud on the court, though not easily defined, can be characterized as a scheme to interfere with the judicial machinery performing the task of impartial adjudication, as by preventing the opposing party from fairly presenting his case or defense." Landscape Props., Inc. v. Vogel, 46 F.3d 1416,

1422 (8th Cir. 1995) (citation and quotation omitted). A finding of fraud on the court "is justified only by the most egregious misconduct directed to the court itself, such as bribery of a judge or jury or fabrication of evidence by counsel...." United States v. Smiley, 553 F.3d 1137, 1145 (8th Cir. 2009). Nothing even approaching this standard occurred here.

Bart's motion is premised on the theory that her trial counsel committed a fraud on the court, and deprived here of a fair trial, by redacting certain government evidence before showing it to Bart. The court has reviewed the documents at issue and it appears that most, if not all, of the redactions include names and other identifying and sensitive information. See ECF 407-1. As the government notes, this information was subject to a protective order and permitted to be redacted by defense counsel before showing it to Bart. See ECF No. 17. Bart did not challenge the protective order or seek judicial exception to its requirements. Under these circumstances, the court cannot conclude that there was fraud on the court or that Bart was somehow prevented from fully and fairly defending herself at trial. The motion must be denied.

II. The Government's Motion

The government moves for the forfeiture of a substitute asset under 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c).

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The court entered a forfeiture money judgment against Bart in January 2017. ECF No. 224. The government has been unable to collect the full amount due under that order. As such, the court may order the forfeiture of substitute assets in satisfaction of the money judgment – in this instance \$1,323.02. United States v. Smith, 656 F.3d 821, 827 (8th Cir. 2011). Bart objects to the government's motion but provides no persuasive arguments in support of her position. The court therefore grants the motion.

CONCLUSION

Accordingly, based on the above, **IT IS HEREBY ORDERED** that:

1. The motion to vacate and set aside judgment and sentence [ECF No. 407] is denied;
2. The motion for preliminary order of forfeiture for substitute property [ECF No. 410] is granted;
3. Defendant is ordered to forfeit to the United States \$1,323.02 of funds captured by Treasury Offset Program between August 2023 and February 7, 2024 (the Property), pursuant to 18 U.S.C. § 981(a)(1)(C), 18 U.S.C. § 982(a)(6), 28 U.S.C. § 2461(c), and 21 U.S.C. § 853(p), as substitute property to be applied to the forfeiture money judgment imposed against defendant;
4. The United States shall, pursuant to 21 U.S.C. § 853(n)(1), as incorporated by 18 U.S.C. § 982(b) and 28 U.S.C.

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§ 2461(c), publish and give notice of this order and its intent to dispose of the Property in such manner as the Attorney General may direct;

5. Following the court's disposition of all petitions filed pursuant to 21 U.S.C. § 853(n)(2) or, if no petitions are filed, following the expiration of the time period specified within which to file such petitions, the United States shall have clear title to the Property; and

6. The court shall retain jurisdiction to enforce this Order, and to amend it as necessary pursuant to Fed. R. Crim. P. 32.2(e).

Dated: March 19, 2024

s/David S. Doty
David S. Doty, Judge
United States District Court

APPENDIX C
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 24-1719

United States of America

Appellee

v.

Sandra Lee Bart

Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:15-cr-00190-DSD-3)

ORDER

The petition for rehearing en banc is denied. The petition for rehearing by the panel is also denied.

September 19, 2024

Order Entered at the Direction of the Court:
Acting Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Maureen W. Gornik

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APPENDIX D
UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 24-1719

United States of America

Appellee

v.

Sandra Lee Bart

Appellant

Appeal from U.S. District Court for the District of Minnesota
(0:15-cr-00190-DSD-3)

MANDATE

In accordance with the judgment of July 17, 2024, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above-styled matter.

September 26, 2024

Acting Clerk, U.S. Court of Appeals, Eighth Circuit

U.S. District Court
U.S. District of Minnesota (DMN)
CRIMINAL DOCKET FOR CASE #: 0:15-cr-00190-DSD-LIB-3

Case title: USA v. Cabrera

Date Filed: 06/17/2015

Date Terminated: 01/26/2017

Assigned to: Senior Judge David S. Doty

Referred to: Magistrate Judge Leo I. Brisbois

Appeals court case numbers: 17-1236 USCA,
17-1641 USCA**Defendant (3)**

Sandra Lee Bart

TERMINATED: 01/26/2017

represented by Sandra Lee Bart

Reg. No. 19602-041

Alderson Fed Prison Camp

PO Box A

Glen Ray RD

Alderson, WV 24910

PRO SE

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 TERMINATED: 02/22/2017
 Designation: *Public Defender or
Community Defender Appointment*

Pending Counts

9a

Disposition

18:1371 CONSPIRACY TO COMM
FALSE SWEARING IN AN
IMMIGRATION MATTER

(1)

Custody of the BOP for a term of 60 months on each count to run concurrent with each count; 2 years Supervised Release on each count to run concurrent with each count; \$300.00 total Special Assessment; \$261,107.62 Restitution, jointly & severally with co-defendants Wilian Socrate Cabrera & John James Svhel.

18:1349 CONSPIRACY TO COMMIT
FRAUD IN FOREIGN LABOR
CONTRACTING

(2)

Custody of the BOP for a term of 60 months on each count to run concurrent with each count; 2 years Supervised Release on each count to run concurrent with each count; \$300.00 total Special Assessment; \$261,107.62 Restitution, jointly & severally with co-defendants Wilian Socrate Cabrera & John James Svhel.

18:1349 CONSPIRACY TO COMMIT
WIRE AND MAIL FRAUD

(3)

Custody of the BOP for a term of 60 months on each count to run concurrent with each count; 2 years Supervised Release on each count to run concurrent with each count; \$300.00 total Special Assessment; \$261,107.62 Restitution, jointly & severally with co-defendants Wilian Socrate Cabrera & John James Svhel.

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Disposition

Complaints

None

Garnishee

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10a.

Garnishee

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Email All Attorneys

Email All Attorneys and Additional Recipients

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Date Filed	#	Docket Text
11/18/2015	<u>37</u>	SUPERSEDING INDICTMENT assigned to Judge David S. Doty referred to Magistrate Judge Leo I. Brisbois by USA Manda M. Sertich as to Wilian Socrate Cabrera (1) count(s) 1s, 2s and 3s, John James Svhel (2) count(s) 1-19, Sandra Lee Bart (3) count(s) 1-3, Svhel Vegetable Farm, Inc. (4) count(s) 4-19. Forfeiture allegations as to this indictment. (kt) QC'd on 11/30/2015 (JAM). (Entered: 11/19/2015)
11/18/2015	<u>38</u>	Defendant Information Sheet as to John James Svhel, Sandra Lee Bart, Svhel Vegetable Farm, Inc. Original Signature Page as to All Defendants. (Attachments: # <u>1</u> Original Signature Page) (kt) QC'd on 11/30/2015 (JAM). (Entered: 11/19/2015)
11/19/2015	<u>40</u>	Summons Issued in case as to Sandra Lee Bart. Initial Appearance set for 12/8/2015 02:00 PM in Courtroom 3 (DUL) before Magistrate Judge Leo I. Brisbois. (kt) (Entered: 11/19/2015)
12/03/2015	<u>46</u>	Summons Returned Executed on 12/2/2015 as to Sandra Lee Bart. (MKG) (Entered: 12/07/2015)
12/07/2015	<u>45</u>	ORDER FOR APPOINTMENT OF COUNSEL as to Sandra Lee Bart. Signed by Magistrate Judge Leo I. Brisbois on 12/7/15. (LEG) (Entered: 12/07/2015)
12/08/2015	<u>50</u>	Minute Entry for proceedings held before Magistrate Judge Leo I. Brisbois: Initial Appearance as to Sandra Lee Bart held on 12/8/2015, Bond set as to Sandra Lee Bart (3) \$25,000 rpr. (LEG) (Entered: 12/09/2015)
12/08/2015	<u>53</u>	ORDER Setting Conditions of Release as to Sandra Lee Bart. Signed by Magistrate Judge Leo I. Brisbois on 12/8/15. (LEG) qc'd on 6/23/2016 (KNK). (Entered: 12/09/2015)
12/08/2015	<u>54</u>	Appearance Bond Entered as to Sandra Lee Bart in amount of \$25,000 rpr. Signed by Magistrate Judge Leo I. Brisbois on 12/8/15. (LEG) qc'd on 6/23/2016 (KNK). (Entered: 12/09/2015)
12/08/2015	<u>55</u>	Minute Entry for proceedings held before Magistrate Judge Leo I. Brisbois: Arraignment as to Sandra Lee Bart (3) Count 1,2,3 held on 12/8/2015. Not Guilty Plea Entered. No dates were given at the time of the Arraignment. Written Order to be issued. (LEG) (Entered: 12/09/2015)
12/09/2015	<u>58</u>	ARRAIGNMENT ORDER as to Wilian Socrate Cabrera, John James Svhel, Sandra Lee Bart, Svhel Vegetable Farm, Inc. Disclosure due by 12/15/2015. Motions due by 12/29/2015. Motion Hearing set for 1/19/2016 01:30 PM in Courtroom 3 (DUL) before Magistrate Judge Leo I. Brisbois. Voir Dire/Jury Instructions deadline due by 3/21/2016. Jury Trial set for 3/28/2016 09:00 AM in Courtroom 14W (MPLS) before Senior Judge David S. Doty. Signed by Magistrate Judge Leo I. Brisbois on 12/9/15. (LEG) (Entered: 12/09/2015)
12/15/2015	<u>59</u>	MOTION for Discovery by USA as to Sandra Lee Bart. (Sertich, Manda) (Entered: 12/15/2015)
01/05/2016	<u>72</u>	ORDER as to as to Wilian Socrate Cabrera, John James Svhel, Sandra Lee Bart, Svhel Vegetable Farm, Inc. Granting 63 Motion for Continuance. Motions due by 2/8/2016. Motion Hearing set for 2/18/2016 at 10:00 AM in Courtroom 3 (DUL) before Magistrate Judge Leo I. Brisbois. Voir Dire/Jury Instructions deadline due by 5/2/2016. Jury Trial set for