

UNITED STATES DISTRICT COURT

Eastern District of North Carolina

UNITED STATES OF AMERICA) **JUDGMENT IN A CRIMINAL CASE**
 v.)
 MARKUS ODON MCCORMICK)
) Case Number: 5:23-CR-276-1FL
)
) USM Number: 54757-056
)
) Pro Se / James M. Ayers, II (Standby Counsel)
) Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) _____

pleaded nolo contendere to count(s) _____ which was accepted by the court.

was found guilty on count(s) 3 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 922(g)(1),	Felon in Possession of a Firearm	12/10/2020	3
18 U.S.C. § 924(a)(2)			

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

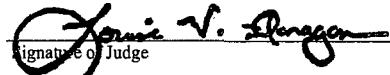
The defendant has been found not guilty on count(s) 1 and 2

Count(s) 4 is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

9/30/2024

Date of Imposition of Judgment



LOUISE W. FLANAGAN, UNITED STATES DISTRICT JUDGE
Name and Title of Judge

9/30/2024

Date

DEFENDANT: MARKUS ODON MCCORMICK
CASE NUMBER: 5:23-CR-276-1FL

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

120 months as to Count 3. The term of imprisonment imposed by this judgment shall run consecutively to the defendant's imprisonment under any previous state or federal sentence.

The court makes the following recommendations to the Bureau of Prisons:
It is respectfully requested that defendant receive the following while incarcerated: intensive substance abuse treatment; a mental health assessment and mental health treatment; vocational training and educational opportunities. The court recommends that defendant serve his term in FCI Butner, North Carolina.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____
 as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on _____
 as notified by the United States Marshal.
 as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MARKUS ODON MCCORMICK
CASE NUMBER: 5:23-CR-276-1FL

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

3 years

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. (check if applicable)
4. You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. (check if applicable)
5. You must cooperate in the collection of DNA as directed by the probation officer. (check if applicable)
6. You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. (check if applicable)
7. You must participate in an approved program for domestic violence. (check if applicable)

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: MARKUS ODON MCCORMICK
CASE NUMBER: 5:23-CR-276-1FL

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature

Date

DEFENDANT: MARKUS ODON MCCORMICK
CASE NUMBER: 5:23-CR-276-1FL

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall participate as directed in a program approved by the probation office for the treatment of addiction or dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.

The defendant shall participate in a program of mental health treatment, as directed by the probation office.

The defendant shall participate in a vocational training program as may be directed by the probation office.

The defendant shall submit to a search, at any time, with or without a warrant, and by any law enforcement or probation officer, of the defendant's person and any property, house, residence, vehicle, papers, computer, other electronic communication or data storage devices or media, and effects upon reasonable suspicion concerning a violation of a condition of supervised release or unlawful conduct by the defendant, or by any probation officer in the lawful discharge of the officer's supervision functions.

DEFENDANT: MARKUS ODON MCCORMICK
CASE NUMBER: 5:23-CR-276-1FL**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TOTALS	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
	\$ 100.00	\$	\$ 750.00	\$	\$

The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
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TOTALS	\$ <u>0.00</u>	\$ <u>0.00</u>
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Restitution amount ordered pursuant to plea agreement \$ _____

The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

The court determined that the defendant does not have the ability to pay interest and it is ordered that:

the interest requirement is waived for the fine restitution.

the interest requirement for the fine restitution is modified as follows:

* Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.

** Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

*** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

JA820

Appendix A

DEFENDANT: MARKUS ODON MCCORMICK
CASE NUMBER: 5:23-CR-276-1FL**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

A Lump sum payment of \$ _____ due immediately, balance due
 not later than _____, or
 in accordance with C, D, E, or F below; or

B Payment to begin immediately (may be combined with C, D, or F below); or

C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or

D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or

E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F Special instructions regarding the payment of criminal monetary penalties:
 Payment of the special assessment and fine shall be due in full immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Case Number Defendant and Co-Defendant Names (including defendant number)	Total Amount	Joint and Several Amount	Corresponding Payee, if appropriate
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Applicable Civil Credit

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s): _____

The defendant shall forfeit the defendant's interest in the following property to the United States:
 The defendant shall forfeit to the United States the defendant's interest in the property specified in the Preliminary Order of Forfeiture entered on September 30, 2024.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

FILED: October 22, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUITNo. 24-4522
(5:23-cr-00276-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MARKUS ODON MCCORMICK

Defendant - Appellant

O R D E R

Appellant has filed a pro se motion for leave to proceed on appeal pro se.

The court denies the motion without prejudice to filing of a motion for leave to file a pro se supplemental brief accompanied by the proposed brief.

For the Court--By Direction

/s/ Nwamaka Anowi, Clerk

Appendix B

FILED: November 14, 2024

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUITNo. 24-4522
(5:23-cr-00276-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MARKUS ODON MCCORMICK

Defendant - Appellant

O R D E R

The court defers action on the motion for leave to file a pro se supplemental brief, with proposed pro se supplemental brief, pending consideration of the appeal on the merits.

For the Court--By Direction

/s/ Nwamaka Anowi, Clerk

Appendix C

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 24-4522

UNITED STATES OF AMERICA

v.

MARKUS ODON MCCORMICK

Motion to Remand

Defendant argues the district court erred in its *Brady v. Maryland* determination regarding the government not turning over the video recorded interview of a non-testifying eyewitness before trial. Brief at 18–25; *see generally* 373 U.S. 83 (1963). Though the government—consistent with the district court’s finding below—does not admit that Defendant has met *Brady*’s requirements, it moves to remand for a new trial because it is working to ensure that its practices cast no doubt on discovery compliance and exceed the minimum requirements of *Brady*. J.A. 697–699. Remand would also obviate the need for the Court to address Defendant’s second argument, as he would have the opportunity to call the witness again at a new trial. Brief at 26–30.

Though this is the relief Defendant sought in his brief, he opposes remand for a new trial. Brief at 30 (asking “that the Court vacate his conviction on Count Three and remand his case for a new trial”).

WHEREFORE the government respectfully requests that the court vacate the conviction and remand for a new trial on Count Three. It further

Appendix D

requests that all briefing obligations be suspended until such time as this motion is ruled upon.

Respectfully submitted this 10th day of April, 2025.

DANIEL P. BUBAR
Acting United States Attorney

By: /s/ Lucy Partain Brown
LUCY PARTAIN BROWN
Assistant United States Attorney
150 Fayetteville Street, Suite 2100
Raleigh, North Carolina 27601
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FILED: April 10, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUITNo. 24-4522
(5:23-cr-00276-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MARKUS ODON MCCORMICK

Defendant - Appellant

O R D E R

The court grants the motion to suspend briefing pending resolution of the motion to remand.

For the Court--By Direction

/s/ Nwamaka Anowi, Clerk

Appendix E

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4522
(5:23-cr-00276-FL-1)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

MARKUS ODON MCCORMICK

Defendant - Appellant

RESPONSE TO GOVERNMENT'S MOTION TO REMAND

Defendant-Appellant Markus Odon McCormick, by and through counsel and pursuant to the Court's Order of April 10, 2025 (DE 44) hereby responds to the government's Motion for Remand (DE 42).

Mr. McCormick respectfully opposes the government's Motion. As requested in his November 14, 2024 *pro se* Defendant/Appellant's Brief, Mr. McCormick asks the Court to vacate his conviction, and to remand for a new trial only in the alternative.

Appendix F

Respectfully submitted this the 15th day of April, 2025.

/s/ Kearns Davis

Kearns Davis

N.C. State Bar No. 22014

Cameron Virginia Ervin

N.C. State Bar No. 58856

Brooks, Pierce, McLendon,

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Attorney for the Defendant-Appellant

FILED: June 12, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-4522
(5:23-cr-00276-FL-1)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARKUS ODON MCCORMICK,

Defendant - Appellant.

O R D E R

Markus Odon McCormick has filed a motion for reconsideration of the order denying his motion to proceed on appeal pro se. The dismissal was without prejudice to the filing of a motion for leave to file a pro se supplemental brief. Upon review of the record on appeal, we deny McCormick's motion for reconsideration. McCormick's pro se brief, and the motion to file that brief, remain pending before this court.

For the Court

/s/ Nwamaka Anowi, Clerk

Appendix G