

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

July 22, 2025

Lyle W. Cayce
Clerk

No. 25-40207

IN RE MARLON RANDO LEE,

Petitioner.

Petition for Writ of Mandamus to the
United States District Court
for the Eastern District of Texas
USDC Nos. 4:24-CV-53, 4:20-CR-295-1

UNPUBLISHED ORDER

Before SOUTHWICK, DUNCAN, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

Marlon Rando Lee, federal prisoner # 39387-048, has filed in this court a pro se petition for a writ of mandamus. Lee is currently serving a 216-month term of imprisonment, which was imposed in March 2023 following his guilty-plea conviction of conspiring to use, carry, or possess firearms during, in relation to, and in furtherance of a crime of violence. Lee's direct appeal of his criminal conviction was dismissed as frivolous after his counsel filed a brief and moved to withdraw pursuant to *Anders v. California*, 386 U.S. 738 (1967). See *United States v. Lee*, No. 23-40380, 2023 WL 8595470, at *1 (5th Cir. Dec. 12, 2023) (unpublished).

In his mandamus petition, Lee asserts that the district court violated Federal Rule of Criminal Procedure 11 in that the factual basis for his guilty

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plea was not sufficiently developed and was devoid of evidence. He complains of acts of misconduct in his criminal case, including a violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and subornation of perjury by an Assistant United States Attorney. Lee contends that the Government has disregarded a court order and has violated the Federal Rules of Civil Procedure in proceedings involving his 28 U.S.C. § 2255 motion, which is currently pending in the district court. He requests that we direct the district court to grant his § 2255 motion.

Lee has also filed a memorandum in support of his mandamus petition. In that filing, he contends that he faces a drastic, extraordinary situation related to a painful medical condition involving bone and joint deterioration that requires long-term or specialized care, which is not being provided by the Bureau of Prisons (BOP). He complains that the BOP staff has changed his medication without input from a rheumatologist. Additionally, Lee asserts that the district court has not addressed his motion under 18 U.S.C. § 3582(c)(1)(A), which he filed in November 2024, but he does not ask that we order the district court to rule on his compassionate release motion. Rather, Lee requests that he be discharged from custody.

“Mandamus is an extraordinary remedy that should be granted only in the clearest and most compelling cases.” *In re Willy*, 831 F.2d 545, 549 (5th Cir. 1987). A party seeking mandamus relief must show both that he has no other adequate means to obtain the requested relief and that he has a “clear and indisputable” right to the writ. *Id.* (internal quotation marks and citation omitted).

“Where an interest can be vindicated through direct appeal after a final judgment, this court will ordinarily not grant a writ of mandamus.” *Campanioni v. Barr*, 962 F.2d 461, 464 (5th Cir. 1992). As noted, Lee pursued a direct appeal from his criminal judgment, and he is currently seeking relief

via a § 2255 motion. Thus, he has an available means of raising challenges to his conviction. *See Jeffers v. Chandler*, 253 F.3d 827, 830 (2001) (“Section 2255 provides the primary means of collaterally attacking a federal conviction and sentence”). Mandamus relief is therefore not appropriate. *See Campanioni*, 962 F.2d at 464.

Finally, to the extent that Lee seeks habeas relief from this court in the first instance, we will not grant it. Although 28 U.S.C. § 2241(a) provides that “[w]rits of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions,” other changes to the habeas corpus laws wrought by the Antiterrorism and Effective Death Penalty Act cast doubt on whether circuit judges still possess the authority to entertain an original habeas corpus petition under § 2241. *See Felker v. Turpin*, 518 U.S. 651, 660-61 & n.3 (1996). Under our precedent, any such authority rests in the hands of individual circuit judges, not the court of appeals itself. *See Zimmerman v. Spears*, 565 F.2d 310, 316 (5th Cir. 1977). Each member of this panel declines to exercise original jurisdiction remaining in individual circuit judges. *See id.*

In view of the foregoing, the petition for a writ of mandamus is DENIED.



A True Copy

Certified order issued Jul 22, 2025

Lyfe W. Cayce

Clerk, U.S. Court of Appeals, Fifth Circuit

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

MARLON RANDO LEE,
#39387-048

VS.

UNITED STATES OF AMERICA

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§

CIVIL NO. 4:24-CV-53
CRIMINAL NO. 4:20-CR-295(1)

ORDER

Pro se Movant Marlon Rando Lee filed a motion for appointment of counsel. Dkt. 10. Rule 8(c) of the *Rules Governing Section 2255 Proceedings in the United States District Courts* provides that the presiding judge must appoint counsel for a movant if an evidentiary hearing is required and the movant qualifies for appointment of counsel under 18 U.S.C. § 3006A. The Fifth Circuit has noted that the decision to appoint counsel is committed to the sound discretion of the district court and appointment is not required unless an evidentiary hearing is necessary. *United States v. Nichols*, 30 F.3d 35, 36 (5th Cir. 1994).

It does not appear that an evidentiary hearing is necessary at this stage. Lee has adequately presented his claims to the court.

It is **ORDERED** that Lee's motion for appointment of counsel, Dkt. 10, is **DENIED**, subject to reconsideration if circumstances change.

To the extent Lee complains that he has not received a copy of the government's response to the show-cause order, it is further **ORDERED** that the Clerk of Court mail him a copy of the Response, Dkt. #5.

To the extent Lee seeks expedited review of his motion to vacate, set aside, or correct his sentence, he does not present any facts supporting that request. As a result, it is further **ORDERED**

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that Lee's Motion for Relief, Dkt. 3, and Motion for Immediate Release, Dkt. 7, liberally construed as motions for expedited review, are **DENIED**. This case is under active consideration by the court. The court admonishes Lee that filing unnecessary documents only delays the court's review of the merits of his case.

So **ORDERED** and **SIGNED** this 30th day of April, 2025.



Bill Davis
United States Magistrate Judge

4/18/25

AFFIDAVIT IN SUPPORT OF
MARLON LEE

I, Shenice Brown, owner of Shecosmo in Plano, Texas submit this written affidavit in support of my friend Marlon Lee. I attended his sentencing hearing and provided crucial input to the Court that would have potentially cleared him of any wrongdoing in this case. Mr. Lee and I have been friends for years but he was mischaracterized as someone who allegedly robbed employees of mine. I'd like to first start by saying that I do not have any employees. I rent property to independent businesses. My business affairs were briefed extensively in a letter that I emailed Mr. Lee's attorney prior to his sentencing. It is significant to note that, I am not a victim and I was not robbed by Mr. Lee. As friends, Mr. Lee and myself have had disagreements over the years but I know that he would never rob or take anything from me. Damaging testimony was made against Mr. Lee during sentencing after I explained that a friend of his was one of the businesses I rented out a commercial property to. I also explained that I was not present at my place of business/commercial property as well as the Court alleged. Convicting Mr. Lee to 20 years in prison for a crime he never committed after I provided factual evidence and testimony was unjust. I never told anyone that my commercial property renters were my employees. I also made it clear to the sentencing judge that convicting Mr. Lee wrongfully is not right. If there is anything I can do at this time to

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get Marlon Lee home to his family and kids please don't hesitate to contact me please. I can be reached at:

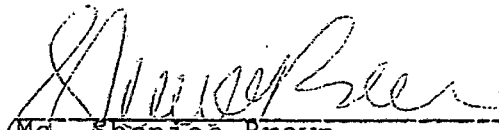
Shenice Brown, Owner
Shecosmo
221 West Parker, Suite 270
Plan, Tx

Phone #~~(972) 212-6512~~


469-734-8059

I thank you in advance as I look forward to assisting the Court in releasing Mr. Marlon lee to his family.

Submitted on this 1st day of August, 2023.


Ms. Shenice Brown
Marlon Lee's Friend

STATE OF TX
COUNTY OF COLLIN
Sworn to (or affirmed) and subscribed before me
this 1st day of Aug, 2023
by Shenice Brown
Shenice Brown
Notary Public Signature Sue L. Nix
My Commission Expires 08-21-2024 Notary Name

 SUE L. NIX
Notary Public, State of Texas
Commission Expires 08-21-2024
Notary ID: 11230009

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M S Brown

← Emailed my lawyer with true facts witch was ignored

(no subject) Add label



SheCosmo Salon
to Michele Allen McCoy

From: SheCosmo Salon - shecosmo@shecosmo.com
Sent: 12/18/2023

To: Michele Allen-McCoy@baylor.edu

Date: 12/18/2023, 9:02 PM

View as plain text

Final copy of shecosmo letter



See also mail.pdf



STATE OF TEXAS
COUNTY OF COLLIN

Sue L. Mix
Notary Public & Signatory
My Commission Expires 02-21-2024

Sue L. Mix
Notary Public & Signatory
My Commission Expires 02-21-2024

Sue L. Mix
Notary Public & Signatory
My Commission Expires 02-21-2024

SUE L. MIX
Notary Public, State of Texas
Comm. Expires 02-21-2024
Notary ID 132369934

Plano Police Department Supplemental Report

Incident Number: 2020-00030422

CORRECT
REPORT

On February 14, 2020, at approximately 2055 hours, I (Officer A. Cole 1865) was dispatched as a backup unit to assist an officer who was in pursuit of a possible suspect vehicle from a robbery that had just occurred at She Cosmo Hair Lounge (221 W Parker Rd Ste 570). Officer B. Beckelman 1918 advised he was behind a white Nissan Maxima bearing TX LP KCY8357 occupied by 2 individuals, which matched the description of the vehicle that fled the scene from the robbery. When he tried to initiate a traffic stop the vehicle took off into the Fountains at Steeplechase apartment complex while Ofc Beckelman followed. I was dispatched at that time to help in the pursuit. Ofc Beckelman then advised that one of the males had bailed out of the car into the apartment complex and he was in foot pursuit of the subject described as wearing blue jeans and a black hoodie. I arrived in the complex and located Ofc Beckelman who had advised that he had the subject on the ground behind building 13. As I ran around the building, I saw Ofc Beckelman on top of the suspect attempting to get his arms from him and stated that a gun had already been recovered from the suspect. I assisted in getting the suspects left arm out from underneath him and getting the suspect into handcuffs. At this point, I asked the suspect if he had any other weapons on him and he advised that he had a gun in his front left pocket. Ofc M. Robinson 1930 and I retrieved the small black Taurus pistol from the front left pocket and secured the weapon. I then searched the subject's pockets for any other weapons. During the search, I located a white powdery substance in the subject's front right pocket in a clear, plastic sandwich bag that based on my training and experience was identified as cocaine. I also found a TX driver's license [REDACTED] bearing the name Quadeldric Ross [REDACTED] along with \$62 in cash in the front left pocket where the gun was located. It was later determined that the driver's license found in the suspect's possession was the victims identification.

→ The subject was sat up and FD was called to the scene due to the subject getting pepper sprayed. At this time, the subject identified himself as Carlos Griffin [REDACTED]. A few feet from where Griffin was apprehended, I found a black beanie laying on the ground that he identified as his as well as an iPhone that was missing the back part of its case. Around the corner on the east side of building 13, a black backing to an iPhone was recovered laying in the middle of the sidewalk that matched the missing part of Griffin's case.

→ I waited at the location for CSI to arrive and photograph the scene. CSI19 arrived and collected the cell phone case, the gun that was recovered from his pocket, as well as another gun that Griffin had possession of prior to my arrival. Ofc Sneed watched over that black and silver Taurus pistol until CSI could photograph it. After it was photographed, I unloaded the weapon for CSI to collect.

→ I brought Griffin's property along with the cocaine, beanie, cash, and cell phone to the report room at the Plano City Jail. I weighed the cocaine totaling 3.5 grams and field tested it with a cocaine wipe which yielded a positive result. I packaged the cocaine, the black beanie, and \$62 in cash and submitted it into evidence. Detective R. Busby 1419 took custody of Griffin's phone after it was placed in a Faraday evidence bag. Ofc A. Skinner 1788 is submitting the corresponding evidence sheet for all property.

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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED

APR 19 2022

UNITED STATES OF AMERICA

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v.

MARLON RANDO LEE (1)

No. 4:20CR295
Judge Jordan

Clerk, U.S. District Court
Eastern District of Texas

FACTUAL BASIS

IT IS HEREBY STIPULATED by Marlon Rando Lee ("Lee"), defendant herein, that the following facts are true and correct, and that he understands and agrees, with the express consent of his counsel, Michelle Allen-McCoy, that this factual basis may be used by the Court to determine whether his plea is voluntary and knowing and by the probation officer and Court to determine an appropriate sentence for the offense to which he is pleading guilty:

1. On or about February 14, 2020, in the Eastern District of Texas and elsewhere, Marlon Rando Lee and Carlos Jemmal Griffin committed a robbery of a business that was engaged in interstate commerce, specifically the SheCosmo Hair Salon located at 221 West Parker Road, Plano, Texas.
2. Before entering the establishment, both Lee and Griffin conspired and agreed to carry firearms. Upon entering the business, they took money, a cell phone, and wallet from an employee against his will by actual and threatened force, violence, and fear of immediate injury to the employee.
3. I, Marlon Rando Lee, knowingly stole property from an employee at SheCosmo Hair Salon, a business that was engaged in interstate commerce,

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all the
paper work

ARREST SUMMARY

Defendant: [REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

While I was still on scene, [REDACTED], arrived. [REDACTED] stated that [REDACTED] saw "Cheese" outside the business earlier in the evening, but could not remember what he was wearing. [REDACTED] said that "Cheese" comes into the salon on a regular basis, but does not know his real name or any of his contact information. [REDACTED] confirmed that "Cheese" is short with a noticeable hunchback. [REDACTED] said that [REDACTED] had seen another subject (described as a black male, thin build, wearing a black jacket and jeans) earlier who was asking about their security system and what time they close. While [REDACTED] was in the salon, [REDACTED] received a call from [REDACTED], and told [REDACTED] that [REDACTED] had nothing to do with what happened. However, [REDACTED] told [REDACTED] that [REDACTED] also stated that [REDACTED] told her Ross owed "Cheese" money. At one point during this conversation, [REDACTED] put "Cheese" on the phone to speak with [REDACTED]. When [REDACTED] called another time, I answered the phone and identified myself as a police officer. [REDACTED] would not give [REDACTED] name, but claimed [REDACTED] wanted to clear [REDACTED] friend's name. When I told him that [REDACTED] should talk to PD to do so, [REDACTED] said [REDACTED] just wanted to put "a friend" in contact with [REDACTED], then the phone disconnected. [REDACTED]

interviewed
simultaneously

CSI was requested and processed both scenes. On-call Detective Busby was contacted regarding the robbery. Detective Busby came out to the scene and further interviewed Ross, [REDACTED]. After Griffin was transported to the Plano City Jail, Detective Busby interviewed Griffin at the jail.

The cash, cocaine and Ross's ID located in Griffin's pockets were logged into Plano PD evidence. Griffin's phone and a ski mask found in his possession at the time of his arrest were also logged into Plano PD evidence. Body camera footage and patrol vehicle footage from the officers on both scenes were logged into Plano PD evidence.

I contacted CIC regarding information about "Cheese." CIC showed various individuals that go by the nickname "Cheese," but none of the ones found matched the description given by witnesses. None of the witnesses or victim could give any additional information regarding this subject, and the salon has no cameras.

Sgt. Guerra advised that Dallas PD was notified regarding the stolen plate on the Maxima.

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AUTOMATED FIELD REPORTING

Supplemental Report

Report Date: 02/14/2020

Incident Number: 2020-00030422

**Plano Police Department
909 14th Street PO Box 860358
Plano, TX 75086-0358**

SUMMARY

Incident Dates:

Date Prepared: 02/14/2020

ACTIVITY ATTRIBUTES

Supplemental Report Type:

Additional Officer Report

Supplemental To:

Incident/Arrest Report

VIOLATIONS

INVOLVED PERSONNEL

Approving Officer: Guerra, Joey

Badge: 1723

Reporting Officer: Cole, Alexandra

Badge: 1865

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Tampering
with Evidence

Property Taken/Damaged/Evidence

Incident Number: 2020-00030422

Suspect Name: [REDACTED]

Race: [REDACTED]

Sex: [REDACTED]

Charges(s): [REDACTED]

Property Type	Property Description	Stolen Value	Recovered Value	Damaged Value	Disposition of Evidence
Evidence	DVR-Body Camera - Skinner 1788 - 02/14/20 @ 2052hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17218 - 02/14/20 @ 2052hrs		\$0.00		Evidence
	Id Card - Paper TX [REDACTED], issued to Quadeldric Ross		\$0.00		Evidence
	Cellular Telephone - silver Apple iPhone 6 in black case [REDACTED]		\$200.00		Evidence
	Mask - black ski mask		\$1.00		Evidence
	DVR-Body Camera - A. Cole #1865 - 02/14/20 @ 2120hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #19219 - 02/14/20 @ 2120hrs		\$0.00		Evidence
	DVR-Body Camera - K Cobb #1828 - 02/14/20 @ 2054hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17243 - 02/14/20 @ 2054hrs		\$0.00		Evidence
	DVR-Body Camera - T Perry #1824 - 02/14/20 @ 2055hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #18216 - 02/14/20 @ 2055hrs		\$0.00		Evidence
	DVR-Body Camera - D Sneed #1943 - 02/14/20 @ 2053hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17241 - 02/14/20 @ 2053hrs		\$0.00		Evidence
	DVR-Body Camera - J Guerra #1723 - 02/14/20 @ 2048hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17226 - 02/13/20 @ 2048hrs		\$0.00		Evidence
	DVR-Body Camera - M Odom #1927 - 02/14/20 @ 2058hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #18211 - 02/14/20 @ 2058hrs		\$0.00		Evidence
	DVR-Body Camera - R. Burns #1676 - 02/14/20 @ 2113hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17221 - 02/14/20 @ 2113hrs		\$0.00		Evidence
	DVR-Body Camera - E Seed #1681 - 02/14/20 @ 2120hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17240 - 02/14/20 @ 2120hrs		\$0.00		Evidence
	DVR-Body Camera - M Robinson #1930 - 02/14/20 @ 2120hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17222 - 02/14/20 @ 2120hrs		\$0.00		Evidence
	DVR-Body Camera - E Oldham #1333 - 02/14/20 @ 2121hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #19204 - 02/14/20 @ 2121hrs		\$0.00		Evidence
	DVR-Body Camera - B Ross #1828 - 02/14/20 @ 2209hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #18205 - 02/14/20 @ 2209hrs		\$0.00		Evidence
	DVR-Body Camera - B Beatty #1866 - 02/14/20 @ 2301hrs		\$0.00		Evidence
	DVR-Vehicle - Patrol Vehicle #17214 - 02/14/20 @ 2301hrs		\$0.00		Evidence
	DVR-Body Camera - G Edgar #1897 - 02/14/20 @ 2343hrs		\$0.00		Evidence
Recovered	Cash - \$62.00 in various bills		\$62.00		Recovered

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ARREST SUMMARY**Defendant:** [REDACTED]
[REDACTED]

On February 14, 2020 at 2052hrs, I (Officer A. Skinner #1788) responded to 221 W Parker Rd (SheCosmo Hair Salon) in Plano, Collin County, Texas in reference to a robbery that just occurred. Call notes advised that two suspects (one described as a black male wearing a gray hoodie, and the other described as a black male with long hair) had displayed guns to the reporting party, stolen \$400 in cash from him, and fled in a white Nissan Maxima. Additional call notes advised the robbery occurred right before the reporting party called.

Upon arrival, I contacted the reporting party, [REDACTED] Ross [REDACTED] Ross, who is a barber that works at this location, stated that he was cutting a customer's hair when the first suspect walked into the store. He was described as a black male with a goatee, approximately 5' 9" with a thin build and wearing a black jacket, jeans and a skull cap. Ross stated this subject asked Ross if he could get his hair cut, then asked where the restroom was. After returning from the restroom, Ross was about to start cutting this suspect's hair when another suspect walked in. This second suspect, known to Ross only as "Cheese," was described as a black male, approximately 5' 4" and wearing a gray hoodie and jeans. Ross stated that "Cheese" frequents the salon on a regular basis. He also said that "Cheese" has a noticeable "hunchback" due to back problems. Ross stated that when "Cheese" walked in, he pointed a gun at Ross and demanded money from him. At this point, the first suspect that walked in also displayed a handgun and pointed it at Ross. Ross described this handgun as black and silver in color. At this point, Ross stated that the suspects took \$325 cash out of his pants pocket, his Samsung Galaxy phone [REDACTED] and his wallet that had \$75 cash inside. After the suspects took these items, Ross stated they ran out of the business, both got into a white Nissan Maxima and fled the scene. Ross added that he thought his wallet might still be in the parking lot. [REDACTED]

When I walked out to the parking lot, I observed a brown wallet with several credit cards lying around it on the ground in a handicap parking space. This was directly in front of the salon. Ross stated these items belonged to him and were some of the items stolen by the suspects in the robbery.

While I was speaking to Ross, Officer B. Beckelman (#1918) advised that he was behind a white Nissan Maxima bearing TX registration KCY8357 and occupied by two subjects in the area of Alma Rd and Legacy Dr. This area is approximately 2 miles north of where the robbery occurred, and about 2 minutes after I arrived on scene. Moments later, Officer Beckelman advised the vehicle was trying to evade him, then advised a subject was running on foot at 7301 Alma Rd. A short time later, Officer Beckelman advised that the suspect who fled on foot was in custody, but the driver of the vehicle fled the scene. Dispatch advised that the tag on the Maxima was reported stolen from a Chevy Tahoe out of Dallas.

[REDACTED], was also on scene when I arrived. [REDACTED] stated that [REDACTED] was in the back of the salon when [REDACTED] heard a male asking about getting a haircut. [REDACTED] said [REDACTED] thought this was strange because it was so late, and thought it was strange that he asked where the restroom was. This caused [REDACTED] to step out of the room [REDACTED] was in and look down the hallway. When [REDACTED] did, [REDACTED] stated [REDACTED] saw a black male, approximately 5' 10", with a thin build and wearing a black jacket, jeans and a skull cap walking down the hallway, away from where Ross was cutting hair. [REDACTED] said this subject appeared to be adjusting something in his waistband, and appeared startled when he saw [REDACTED] said that after this subject saw [REDACTED], he stopped reaching around his waistband, walked straight to the bathroom and said hi without looking at [REDACTED]. [REDACTED] said [REDACTED] thought this was strange, but did not see the subject exit the bathroom and did not see what occurred between him and Ross. [REDACTED] said that [REDACTED] did not hear anything, but was informed by Ross a short time later that the robbery occurred. [REDACTED]

Sgt. Burns (#1676) arrived on scene and assisted in standing by with the property in the parking lot and obtaining [REDACTED]. I was informed that when Officer Beckelman attempted to stop the Maxima, the driver sped up in attempt to evade him at 7301 Alma Rd (Fountains at Steeplechase Apartments), then briefly stopped. When the Maxima stopped, a thin black male wearing a black jacket and jeans, later identified as Carlos Griffin (b/m 11/30/91) exited the passenger side of the vehicle. After exiting the vehicle, Griffin ran from Officer Beckelman on foot. At the same time, the driver of the Maxima fled the scene. Officer Beckelman pursued Griffin on foot through the complex, then took him down to the ground near building 13. [REDACTED]

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Property Type	Property Description	Stolen Value	Recovered Value	Damaged Value	Disposition of Evidence
Stolen	Cellular Telephone - Samsung Galaxy Phone [REDACTED]	\$200.00			
	Cash - \$400 in various bills	\$400.00			
Seized Evidence	Cocaine - white powder-like substance in plastic baggie believed to be cocaine, weighing 3.5g, including baggie		\$0.00		Lab Analysis Req

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

v.

MARLON RANDO LEE (1)

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CASE NUMBER 4:20-CR-00295-SDJ

ORDER

On October 21, 2020, the President signed into law the Due Process Protections Act, Pub. L. No. 116-182, 134 Stat. 894 (Oct. 21, 2020), which amends Federal Rule of Criminal Procedure 5 (Initial Appearance). Counsel should immediately read the amendment to Rule 5(f)(1) of the Federal Rules of Criminal Procedure, which became effective upon enactment, and is entitled "Reminder of Prosecutorial Obligation".

By this written Order – issued to the prosecution and defense counsel – the Court confirms the disclosure obligation of the prosecutor under *Brady v. Maryland*, 373 U.S. 83 (1963), and its progeny, and the possible consequences of violating such Order under applicable law.

This written Order is entered pursuant to Rule 5(f)(1) of the Federal Rules of Criminal Procedure and is in addition to any oral order entered by the Court on the first scheduled court date when both the prosecutor and defense counsel were present.

So ORDERED and SIGNED this 3rd day of November, 2020.



KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE

II. OTHER DEFENSES, OBJECTIONS AND REQUESTS

Pursuant to FED. R. CRIM. P. 12(c), the Court requires that any defense, objection or request capable of determination without trial of the general issue¹ be raised by written motion in the form required by FED. R. CRIM. P. 47. Any such motion shall be filed within twenty (20) days from date of this order, and the Government shall respond within seven (7) days after being served, unless the Court by separate order (e.g., an "Order Setting Final Pre-Trial and Trial" or similar order) establishes an explicit deadline for filing and responding to a particular type of motion. When specific deadlines established by separate Court order conflict with general deadlines stated above, the separate order shall prevail and govern the parties.

III. COMPLIANCE

Failure to provide discovery and observe deadlines established in this order may result in the imposition of sanctions. Failure to raise defenses or objections, or to make requests in accordance with Sections I and II, shall constitute waiver thereof, but the Court for cause shown may grant relief from the waiver.

So ORDERED and SIGNED this 3rd of November, 2020..



KIMBERLY C. PRIEST JOHNSON
UNITED STATES MAGISTRATE JUDGE

¹ These matters include all matters listed in RULES 12 (b), 12.1, 12.2, 12.3, 14, 15 and 16, FED. R. CRIM. P., and include, without limitation, (1) defects in institution of prosecution; (2) defects in indictment or information; (3) suppression of evidence; (4) alibi; (5) insanity or mental condition; (6) defense based on public authority; (7) discovery; (8) depositions; (9) selective or vindictive prosecution; (10) outrageous governmental misconduct; (11) misjoinder; (12) pre-indictment delay; (13) speedy trial; (14) prejudicial publicity; (15) lack of personal jurisdiction; (16) Posse Comitatus Act, 18 U.S.C. 1385; (17) recantation as a defense to perjury; (18) limitations; (19) double jeopardy; (20) multiple sentencing; and (21) immunity. If the Federal Rules of Criminal Procedure, a federal statute, or other Order of the Court establishes an earlier deadline than established in this Order, the earlier deadline shall govern the parties.