

No. 25-\_\_\_\_\_

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IN THE  
**Supreme Court of the United States**

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DION MARSH,  
*Petitioner,*

v.

UNITED STATES OF AMERICA,  
*Respondent.*

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On Petition for a Writ of Certiorari to the  
United States Court of Appeals for the Third Circuit

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**PETITIONER'S APPENDIX**

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November 10, 2025

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**APPENDIX A**

**NOT PRECEDENTIAL**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 24-2452

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UNITED STATES OF AMERICA

v.

DION MARSH,  
Appellant

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On Appeal from the United States District Court  
for the District of New Jersey  
(D.C. No. 3:24-cr-00071-001)  
District Judge: Hon. Zahid N. Quraishi  
Submitted Under Third Circuit L.A.R. 34.1(a)  
on July 11, 2025

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Before: RESTREPO, BIBAS, and CHUNG, *Circuit Judges*  
(Filed: August 13, 2025)

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OPINION\*

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BIBAS, *Circuit Judge*.

Over seven hours, Dion Marsh ran over four Orthodox Jewish men with his car, stabbed one of them, and beat a fifth. His motivation is no mystery. In his words, “it had to be done”

\* This disposition is not an opinion of the full Court and, under I.O.P. 5.7, is not binding precedent.

because “the Hasidic Jews” “are the real devils” who “had this coming.” D. Ct. Dkt. D.I. 1 at 8. We will affirm his sentence.

Marsh started with carjacking. He approached a car with an Orthodox Jewish driver who was stopped in traffic. He opened the door, beat the driver repeatedly, and drove off in the car. Inside was a set of traditional Orthodox Jewish clothes. Marsh parked the stolen car at home and donned the stolen clothing. Then he got into his grandmother’s car and headed back out. Around four hours later, he ran over an Orthodox Jewish man. Then he did the same to another Orthodox Jew. This time, Marsh turned the car around and tried to run him over again after seeing that his victim was still alive.

Next, Marsh went home and switched cars. He got into the stolen car and ran over a third Orthodox Jew. He then got out of the car, kicked the man in the ribs, and stabbed him in the neck. As the man lay bleeding, he screamed out: “[W]hat have I done to deserve this?” App. 89. In response, Marsh only laughed. He then struck one last time, veering off the road to run over a fourth Orthodox Jew.

Marsh left his victims “handicap[ped],” “living in pain,” and “forever changed.” App. 88, 92. They now live knowing that they were “attacked because [they] w[ere] born a Jew.” App. 89. One “almost lost ... belief that a man can persevere in this country because he is not bound by his beliefs.” App. 90.

Marsh was arrested and charged under the Hate Crimes Prevention Act along with carjacking. He pleaded guilty. The applicable sentence depended on the underlying offense for the hate crimes. If Marsh’s actions were premeditated, then that would be first-degree attempted murder. The appropriate Guidelines sentence would then be 324 to 405 months.

That is what the presentencing report (PSR) suggested. The parties disagreed. The government and Marsh instead stipulated to a sentence of 168 to 210 months, which did not factor in premeditation.

But parties do not set the sentence—the judge does. At sentencing, the District Court overruled the parties’ objections and adopted the PSR’s recommendation. Then, considering the statutory sentencing factors, it found that an upward variance was justified and sentenced Marsh to 480 months in prison. *See* 18 U.S.C. § 3553(a). Marsh appealed his sentence on four different grounds, but each fails.

*First*, the District Court did not clearly err by finding Marsh’s actions premeditated and did not abuse its discretion by applying the sentencing guideline for first-degree attempted murder. *United States v. Raia*, 993 F.3d 185, 191 (3d Cir. 2021); *United States v. Blackmon*, 557 F.3d 113, 118 (3d Cir. 2009); U.S.S.G. § 2A2.1. Marsh argues that his four attempted murders were not premeditated, so the Guideline should not have applied. *See United States v. Brooks*, 67 F.4th 1244, 1248–50 (10th Cir. 2023). But his actions suggest otherwise. Marsh’s attacks took place over a seven-hour stretch, during which he stole a car, donned a disguise, got a weapon, and even switched cars along the way. The District Court walked through that process and concluded that it was “considered and contemplated,” satisfying the “[c]onscious consideration and planning” required for premeditation. App. 67 (first quotation); *Premeditation*, *Black’s Law Dictionary* (12th ed. 2024) (second quotation); *see also United States v. Hodge*, 870 F.3d 184, 206 (3d Cir. 2017). So there was no clear error in finding his acts premeditated and no abuse of discretion in applying the guideline based on that factual finding.

*Second*, the District Court did not err by considering Marsh’s lack of remorse. Marsh argues that the District Court plainly erred by remarking on Marsh’s silence because that forced him to allocute. *See United States v. Lopez*, 650 F.3d 952, 959 (3d Cir. 2011). That, Marsh says, violated his Fifth Amendment privilege against self-incrimination. But the Supreme Court has “express[ed] no view” on whether inferences about remorse from silence are permissible at sentencing. *Mitchell v. United States*, 526 U.S. 314, 330 (1999); *White v. Woodall*, 572 U.S. 415, 421 (2014) (“*Mitchell* itself leaves open the possibility that some inferences might permissibly be drawn from a defendant’s penalty-phase silence.”). And the Third Circuit has not addressed this question either. So the District Court did not err “under current law.” *United States v. Olano*, 507 U.S. 725, 734 (1993).

Nor did the District Court plainly err by inferring a lack of remorse on these facts. Marsh’s eventual allocution was a brisk nine sentences. The District Court, which “hear[d] the evidence” and had “insights not conveyed by the record,” found him “disingenuous.” *Gall v. United States*, 552 U.S. 38, 51 (2007) (first two quotations) (internal quotation marks omitted); App. 93 (third quotation). “[W]e give singular deference to a trial court’s judgments about the credibility of witnesses,” so there is no plain error. *Cooper v. Harris*, 581 U.S. 285, 309 (2017).

*Third*, the District Court neither plainly erred nor abused its discretion when it was not persuaded by Marsh’s evidence about his mental health. We review whether the court “took the pertinent factors into account.” *United States v. Young*, 634 F.3d 233, 243 (3d Cir. 2011) (cleaned up), *abrogated on other grounds by Esteras v. United States*, 145 S. Ct. 2031, 2038 (2025). Here, the District Court noted that there was “no diagnosis of a mental

health issue,” and found that other evidence of a mental-health crisis was “speculative, at best.” App. 76–77, 78. Though Marsh wanted the court to infer that his violent attacks on other inmates, among other things, were evidence of a mental health crisis (that should *reduce* his sentence), the court reasonably weighed those factors differently, reading them as evidence of dangerousness (that should *increase* his sentence). *See* 18 U.S.C. § 3553(a)(2)(C) (trial court *must* consider the need “to protect the public from further crimes of the defendant”). That was well within the District Court’s discretion.

*Finally*, the District Court’s sentence was not substantively unreasonable. We review for abuse of discretion. *United States v. Seibert*, 971 F.3d 396, 399 (3d Cir. 2020). Marsh’s argument recycles his other ones: He says that the first three issues with the sentence, taken together, make it substantively unreasonable. Because we reject those other arguments, we also reject this one.

Relatedly, Marsh objects that the “court was so appalled by the offense that it lost sight of the offender.” *United States v. Olhovsky*, 562 F.3d 530, 549 (3d Cir. 2009). He quotes this line from *Olhovsky* twice, likening this case to that one. But we must read that line in the context of the procedural errors that tainted Olhovsky’s sentence. *United States v. King*, 604 F.3d 125, 146 (3d Cir. 2010). Because there were no procedural errors here, *Olhovsky* is inapt.

We will thus affirm.

**APPENDIX B**

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 24-2452

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UNITED STATES OF AMERICA

v.

DION MARSH,  
Appellant

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(D.N.J. No. 3:24-cr-00071-001)

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SUR PETITION FOR REHEARING

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Present: CHAGARES, *Chief Judge*, and HARDIMAN, KRAUSE,  
RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN,  
MONTGOMERY-REEVES, and CHUNG, *Circuit Judges*

The petition for rehearing filed by Appellant in the above-captioned case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc is **DENIED**.

By the Court,

s/Stephanos Bibas  
Circuit Judge

Dated: September 12, 2025  
PDB/cc: All Counsel of Record



**APPENDIX C****UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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**UNITED STATES OF AMERICA****-vs-****DION MARSH,****Defendant.****CRIMINAL NUMBER:****3:24-cr-00071-ZNQ-1****SENTENCING HEARING**

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Clarkson S. Fisher Building & U.S. Courthouse  
402 East State Street  
Trenton, New Jersey 08608  
July 23, 2024  
12:30 p.m.

**B E F O R E:****THE HONORABLE ZAHID N. QURAIISHI  
UNITED STATES DISTRICT JUDGE****A P P E A R A N C E S:**

OFFICE OF THE UNITED STATES ATTORNEY  
DISTRICT OF NEW JERSEY  
BY: JOSEPH GRIBKO, ASST. UNITED STATES ATTORNEY  
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For the United States

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Proceedings recorded by mechanical stenography; transcript  
produced by computer-aided transcription.

1 of our plea agreement, and that is all I have to say because  
2 any other things I would have to say would be just wasted  
3 time, Your Honor.

4 THE COURT: All right. I appreciate that.

5 Mr. Axel, you've got the road ahead of you.

6 MR. AXEL: Yes, Your Honor. First, if I may, I just  
7 want to express my deep sympathy to the victims in this case  
8 and their family.

9 THE COURT: Mr. Axel, it's not you. Is your client  
10 going to express any remorse? Because I can tell you this, he  
11 has expressed zero remorse during this process.

12 MR. AXEL: Your Honor, I just wanted to express that  
13 this was a horrific crime and that we are not getting up here  
14 to defend the actions, because they were, indeed, deplorable  
15 and they were inexcusable. What I do want is to give the  
16 Court some additional facts that I believe would add broader  
17 context to that day and to -- they may explain more about how  
18 Mr. Marsh became involved in this horrific crime.

19 THE COURT: All right. I will allow you to do that,  
20 but answer my questions for us. You would agree with me that  
21 he hasn't demonstrated any remorse to date, correct? Where is  
22 it?

23 MR. AXEL: He has told me in private.

24 THE COURT: Well, he hasn't told this Court. He  
25 hasn't told anybody else, and he has an opportunity to do that

1 if he wants to demonstrate remorse, and he has refused to do  
2 that. So I want to put that on the record. The defendant has  
3 demonstrated absolutely no remorse for these horrific crimes  
4 where he had an absolute disregard for life and targeted  
5 Orthodox Jews in Lakewood. It is unbelievably fortunate that  
6 none of these victims died on that day. I mean, one of the  
7 more shocking things about this case is how these victims  
8 actually survived this horrific event in their lives. By  
9 survive, with significant injuries, with significant  
10 post-traumatic stress from these events, right? Folks have  
11 moved. Folks have to be scared in their own community about  
12 when they're going to be targeted next. Significant  
13 consequences, and Mr. Marsh could care less. He doesn't care  
14 what his sentence is today. You might care, Mr. Axel. I will  
15 tell you, as outstanding as a lawyer you are, he's your  
16 client. This is the case you have. So I feel for you and I  
17 appreciate you having remorse for the victims, some of whom  
18 may or may not be in this courtroom, but your client has  
19 showed zero remorse.

20 MR. AXEL: Your Honor, if I could just give a little  
21 more background here. When you look at this case, it is a  
22 horrific, horrific crime that took place. There's obviously  
23 no defending that. When you look at Mr. Marsh and the facts of  
24 the case, it doesn't add up without a mental health crisis.

25 THE COURT: There's no diagnosis of a mental health

1 question that because there's no evidence to support that this  
2 was a result of a mental psychosis. Look, the idea that no  
3 one can have committed a crime as horrific as this because  
4 they have no criminal history, I think that is a presumption  
5 that I don't agree with. There are folks that commit horrific  
6 crimes every day that have no criminal history. They commit  
7 murder without ever failing to be late on their taxes.

8 MR. AXEL: Your Honor, I'm not trying to say that  
9 just because he doesn't have a criminal history there's some  
10 kind of psychosis. What I'm trying to say is the totality of  
11 the circumstances an individual, who there's not one shred of  
12 evidence ever had any hate towards anyone prior to this, and  
13 the weeks leading up to it his family is repeatedly calling  
14 the police, begging for help, saying that he's having a mental  
15 health breakdown and that they need help. The night before  
16 the incident they called the police begging for help.  
17 Unfortunately, and tragically, he didn't get the help he  
18 needed desperately.

19 THE COURT: Mr. Axel, I have to ask the question. Do  
20 you think that everyone who hates Jews or Muslims or  
21 Christians will put that on the internet first to make sure  
22 they've announced their hatred for a particular group of  
23 people before they will commit a crime of violence? Because I  
24 will tell you, in life experience there are plenty of those  
25 folks out there that did not advertise their hatred until they

1 commit the very act that we're talking about in this  
2 courtroom. So the fact that he has not advertised any hatred  
3 towards Jews in the past doesn't convince me that it doesn't  
4 exist. He sits here currently today without any remorse for  
5 what he's done. He has not submitted anything to the Court to  
6 show that he's remorseful. I don't even know if he intends to  
7 speak today. I guess we'll find out to see how sorry he is  
8 and see what he wants to say today, but he's demonstrated no  
9 remorse for the crimes he committed. None.

10 MR. AXEL: Your Honor, if I could just add a few more  
11 things.

12 THE COURT: Yes.

13 MR. AXEL: I understand the Court's position. I just  
14 have -- I want to point out that you had said that there's no  
15 evidence that this wasn't drugs or another cause. Well, in  
16 the presentence report it indicates that he stopped using  
17 drugs, I believe, in the beginning of that year, using hard  
18 drugs. When he was arrested and processed he tested positive  
19 for only marijuana, so this was not a situation where he  
20 tested positive for drugs. The information that I have is  
21 that he stopped using -- he had been addicted to cocaine,  
22 crack cocaine and heroin, and he had stopped within the months  
23 leading up to it and that's when his strange behavior started.  
24 And it is speculation. I can't say exactly why his strange  
25 behavior started, but he didn't exhibit this behavior prior to

1 that. And that is from all the people that we've spoken to.  
2 It's from the information in the presentence report, and  
3 that's the information that's before the Court is that this is  
4 not someone who had been planning this for months and had  
5 never thought about anything months earlier. This is someone  
6 who is in the midst of what appears to be a mental health  
7 crisis and committed a horrific, horrific, act. The family  
8 tried their best to get help and, unfortunately, it didn't  
9 work out that way.

10 Your Honor, we also believe that a sentence of 210  
11 months imprisonment would be sufficient but not greater than  
12 necessary to comply with the purposes of sentencing. We are  
13 also asking that the Court consider running his sentence  
14 concurrently to his expected state sentence, which I provided  
15 case law, Third Circuit case law.

16 THE COURT: The state has charged Mr. Marsh for  
17 pretty much the same crime; is that right?

18 MR. AXEL: He has already pled guilty to the same  
19 conduct in the state. It just so happened that he was charged  
20 in --

21 THE COURT: I don't know what the state is going to  
22 do. I'm not involved in the state case at all, but I agree  
23 with you that whatever sentence I give I'll recommend should  
24 run concurrently to his state sentence because it's the same  
25 crime. We're not going to double tap this, but I'm focused on

1 today. The recommendation is?

2 MR. AXEL: Your Honor, we'd also ask that the Court  
3 recommend that the Bureau of Prisons designate a state  
4 facility for service of his sentence. The research we've done  
5 is if that is not done, and the BOP does not recommend that,  
6 then it becomes a messy situation where we're going to have to  
7 come back to the court in years from now asking that it be  
8 done because that's how you -- that has to effectuate the  
9 concurrent sentence when he is currently in primary state  
10 custody.

11 MR. GRIBKO: For what it's worth, I have no objection  
12 to any of the concurrency. This is the same crime he was  
13 charged with in the state.

14 THE COURT: It's not a separate case. It's literally  
15 these facts being charged under some terrorism statute by  
16 New Jersey, correct?

17 MR. GRIBKO: That's correct, Your Honor.

18 MR. AXEL: Your Honor, that's all I have for the  
19 Court today.

20 THE COURT: All right. I appreciate it.

21 Let me ask the question. Does Mr. Marsh want to say  
22 anything on his own behalf regarding this case?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: If you want to speak, I will tell you,  
25 you have a right to speak. You may speak, but I'm going to

1 ask you to stand.

2 THE DEFENDANT: Yes. Your Honor, things that  
3 happened in April clearly are horrible. I'm more than  
4 gravely, like, really sorry about the whole situation and  
5 things that happened. Like, things happened out of my  
6 control. And I've tried to speak, tell my side of the story.  
7 Anything I've ever said never really mattered, so at the end  
8 -- I may seem hard and cold about it, but it is just the fact  
9 that I had to be a man and accept what happened. You know,  
10 like I'm not -- not that, like, I'm really not that. You  
11 know, I'm strong, but I sure ain't that strong, knowing the  
12 consequences of something like that happening. That's all I  
13 have to say, Your Honor. And I'm sorry to the victims.

14 THE COURT: All right. I appreciate that, Mr. Marsh.

15 Mr. Axel, I want to put a few things more on the  
16 record. I don't know if you want to respond to it. So Mr.  
17 Marsh says today that that was back then and he's a different  
18 person today, but let's talk about it. So in your mitigation  
19 specialist's report you provided to the Court that according  
20 to disciplinary records from the Ocean County jail, Mr. Marsh  
21 was involved in several physical altercations, including  
22 striking other inmates on multiple occasions and assaulting a  
23 nurse. So that happened, right?

24 MR. AXEL: Your Honor, the point of that was --

25 THE COURT: No, no. I know what the point of it --



1 make sure he's okay.

2 MR. GRIBKO: No, Your Honor.

3 THE COURT: Nothing further from the United States?

4 MR. GRIBKO: Nothing further, Your Honor.

5 THE COURT: Sorry, Mr. Axel. Anything further on  
6 behalf of the defense?

7 MR. AXEL: No, Your Honor.

8 THE COURT: All right.

9 This is a difficult case and not a difficult case to  
10 sentence. It's not difficult in the sense that I think I  
11 placed on the record that I absolutely agree that these crimes  
12 were premeditated and that a more significant punishment  
13 should be imposed upon Mr. Marsh for the horrific crimes that  
14 he committed on April 8th of 2022.

15 What's difficult is whether the guidelines even at 324  
16 to 405 months are sufficient, because the amount of damage he  
17 has caused these victims and the community and the lack of  
18 remorse that has been demonstrated by Mr. Marsh to date,  
19 including his words, which are disingenuous today, at best,  
20 signal to me that maybe even a greater punishment may be  
21 warranted here outside of the advisory guidelines range.

22 I want to talk about this case briefly, because I think  
23 we have not placed on record even all of the facts in  
24 sequential order of what occurred on April 8th -- and I think  
25 it's worth speaking about, folks. With respect to Victim 1,

1 Victim 1 was assaulted repeatedly in his face and body, and  
2 that was where Mr. Marsh stole Victim 1's Toyota. He had a  
3 black eye and required stitches, and in some ways this victim  
4 may have been one of the more fortunate in this horrific  
5 rampage on April 8th.

6 With respect to Victim 2, not four hours later Mr.  
7 Marsh returned home. He then took his grandmother's car, a  
8 Honda, and drove back to Lakewood. And he returned basically  
9 to the same town where he knew that there would be Orthodox  
10 Jews in the community, that it was on a Friday, that they  
11 would be walking around, going to synagog, like Mr. Goldberg  
12 and others, and he intended to do that. And when he was doing  
13 that he was wearing a black coat and other clothing that he  
14 apparently had taken from Vehicle 1, which was more likely  
15 than not done to help disguise himself, to help make him  
16 appear to be a member of the community he was in. All of this  
17 is premeditated. I made that finding, but it's important to  
18 emphasize that this was thought through. That when he went  
19 home he thought about, how should I return to Lakewood? How  
20 can I commit more damage on this Jewish community? And he did  
21 exactly that.

22 With respect to Victim 3, less than an hour later,  
23 Victim 3 had severe broken bones, the windshield was  
24 shattered.

25 Victim 4, according to the presentence report, was the

1 victim who was hit and stabbed in the neck. His father had  
2 spoken earlier today. And this is where Mr. Marsh ends up  
3 returning home again and coming back to Lakewood in the Toyota  
4 that he initially stole from Victim 1. At this point it  
5 appears that he intended to commit further attempts at murder.  
6 And that's where you get to Victim 5, more than an hour later.

7 I think it's also worth noting -- and this victim is  
8 not part of the case, but there was a Victim 6. The  
9 presentence report indicates that prior to the carjacking  
10 there was an attempted carjacking of a father who had two  
11 minor children in his car where Mr. Marsh attempted to  
12 actually get into the vehicle, and this individual, this  
13 victim locked the doors in time to save himself and his minor  
14 children. And then Mr. Marsh attempted to get into the car  
15 because he had not been able to close the window in time and  
16 had to drive off, basically throwing Mr. Marsh from the car  
17 and was successful in preventing Mr. Marsh from causing injury  
18 to himself, but I think in some way, even more importantly,  
19 saving his minor children.

20 I don't know how to describe any of this other than he  
21 committed an act of terror in Lakewood that day. He committed  
22 this act intentionally because folks were Jewish, and he  
23 wanted to instill fear, not just in the victims who he  
24 attempted to murder, but he wanted the entire community not to  
25 feel safe. That's the reason why he kept going back there to

1 do this. And this is just -- it's one of the more egregious  
2 crimes that has come before the Court. I understand he's pled  
3 guilty. He's taken responsibility, but he has not accepted  
4 any sort of remorse. He has not convinced the Court that he's  
5 even sorry for what he's done. That he's even sorry for these  
6 injuries. And I think it's important to note that all of  
7 these victims may have survived, but many of them have  
8 injuries that they will suffer from for the rest of their  
9 lives. Mr. Goldberg appeared here. He's had more than 13  
10 surgeries. He's never going to walk the same again. He is  
11 never going to feel the same way again. He has to suffer from  
12 pain every morning, something Mr. Marsh is not suffering from,  
13 and that's the way he will likely live the remainder of his  
14 life.

15           Mr. Marsh, you can sit there and you can shrug it off  
16 and not be concerned about these folks that you attempted to  
17 kill or the community that you terrorized, folks that are  
18 scared to live in the town. One victim moved out of Lakewood  
19 simply because of the fear of having to see the area that he  
20 was attacked in. We have other folks that every time they go  
21 outside and a car passes by, they think, is somebody coming to  
22 hit them? This is posttraumatic stress. This is a common  
23 disorder when somebody suffers from trauma, and you don't seem  
24 to have any remorse about the physical or psychological damage  
25 that you caused. You just don't have it in you. And you

1 convinced the Court that if you're allowed out too early that  
2 I'm going to place these folks and their community in danger  
3 again, and that I won't do.

4 In assessing what's an appropriate sentence in a case  
5 and what's the most appropriate sentence and nothing greater  
6 than necessary, I have to look at several factors. When I  
7 address the severity of this offense, I think I've already  
8 spoken about it. We've discussed it in some detail. It's an  
9 absolutely egregious offense. He showed and demonstrated a  
10 reckless and complete disregard for human life, and what's  
11 even worse is he targeted these folks based on their religion.

12 When we talk about respect for the law, Mr. Marsh has  
13 demonstrated he has a lack of respect for the law. He has  
14 demonstrated no remorse for the crimes he's committed. And  
15 when we talk about specific and general deterrence, specific  
16 deterrence, the sentence has to be appropriate to deter Mr.  
17 Marsh from ever committing this crime again and it also has to  
18 generally deter others. There are others out there that will  
19 target this Jewish community. There are others that will  
20 target other communities based on race and religion. The  
21 sentence today has to be appropriate and that will deter folks  
22 outside this courtroom from committing this type of crime and  
23 that if you commit this type of crime, the most egregious  
24 punishment, the harshest punishment will come your way. And  
25 that is how we have to deter others from thinking -- even if

1 they feel the hatred, that they cannot act upon it and that  
2 the law is here to protect this community and other  
3 communities from those violent acts.

4 We also have to address punishment. Mr. Marsh has to  
5 be appropriately punished for this crime. He has to be  
6 appropriately punished. He has to serve that punishment, and  
7 he has to serve punishment not only for the lengthy  
8 consequences of the injuries he caused to these individuals  
9 and the terror that he caused in the community on April 8th,  
10 but also in part that he hasn't shown any genuine lack of  
11 remorse for the crimes that he committed. For that he  
12 deserves punishment. When I consider all of those factors, a  
13 sentence within the 324 to 405 month range is insufficient.

14 I believe that in this particular case an upward  
15 variance is warranted from the sentencing guidelines. Mr.  
16 Marsh has demonstrated that if he returns from prison too  
17 early, that it is likely that he will commit this crime again,  
18 that he will terrorize other communities, maybe not in  
19 Lakewood, but other folks that are members of a Jewish  
20 community, and I can't permit him to return from prison until  
21 he's much older.

22 With that, I'm going to ask Mr. Marsh to stand so I can  
23 issue his sentence.

24 Pursuant to the Sentencing Reform Act of 1984, it's the  
25 judgment of the Court that you, Dion Marsh, are hereby

1 committed to the custody of the Bureau of Prisons to be  
2 imprisoned for a total term of 480 months, which is comprised  
3 of a term of 120 months on Count 1, 480 months on each of the  
4 Counts 2 through 5, and 180 months as to Count 6, all to be  
5 served concurrently. I'll recommend that this term of service  
6 be served concurrently with any sentence which may be imposed  
7 in the pending related state case at docket number  
8 OCN22-06-01226-I, which is in the Superior Court of New Jersey  
9 in Ocean County. I'll recommend that the Bureau of Prisons  
10 designate the New Jersey Department of Corrections as a place  
11 of service for this sentence.

12       Upon release from imprisonment you will also be placed  
13 on supervised release for a term of five years. This term  
14 consists of a term of five years on each of Counts 2 through 5  
15 and three years on Counts 1 and 6, all such terms to run  
16 concurrently. Within 72 hours of release from custody you  
17 must report in person to the probation office in the district  
18 to which you are released.

19       While on supervised release you must not commit another  
20 federal, state, or local crime; must not possess a firearm or  
21 other dangerous device; must not possess an illegal controlled  
22 substance; and must comply with the other mandatory and  
23 standard conditions that have been adopted by this Court. You  
24 must submit to one drug test within 15 days of commencement of  
25 supervision and at least two tests thereafter as determined by

1 the probation officer.

2 I also intend to impose certain special conditions as a  
3 condition of your supervision. In imposing these conditions  
4 the Court has considered the nature and circumstances of the  
5 offense of conviction, history and characteristics of the  
6 defendant, Mr. Marsh, deterrence, protection of the public,  
7 and providing needed correctional treatment. I find these  
8 conditions involve no greater deprivation of liberty than is  
9 reasonably necessary.

10 You must refrain from the illegal possession and use of  
11 drugs and you will be subject to alcohol and drug testing and  
12 treatment, consent to search, financial disclosure, new debt  
13 restrictions, life skills education, mental health treatment,  
14 motor vehicle compliance, and no contact with the victims.  
15 You must not communicate or otherwise interact with Victims 1  
16 through 5, either directly or indirectly, without first  
17 obtaining the permission of the U.S. Probation Office. This  
18 includes, but is not limited to, contact through a third  
19 party, personal visits, letters, communication devices, audio  
20 or visual devices or social networking sites.

21 Pursuant to Title 18, United States Code, Section 3664,  
22 I'll set a date for the final determination of restitution not  
23 to exceed 90 days after sentencing. During that time the  
24 Government will provide sufficient information, including a  
25 list of all identified victims, mailing addresses and are now



1 subject to restitution to fashion a restitution order. I find  
2 that Mr. Marsh does not have the ability to pay a fine, so I  
3 will waive a fine in this case.

4 It's further ordered that you must pay to the United  
5 States a total special assessment of \$600 consisting of the  
6 following, which is due immediately: On Counts 1 through 6 a  
7 special assessment fee of \$100 per count. You are remanded to  
8 the custody of the U.S. Marshal Service.

9 I also advise you that you may appeal your verdict  
10 and/or your sentence, as applicable, pursuant to Title 18,  
11 United States Code, Section 3742, subject to any preexisting  
12 appellate waivers that may limit that right. If the defendant  
13 is not able to pay, the defendant may request the Clerk of the  
14 Court to file a notice of appeal on your behalf.

15 Are there any counts to be dismissed, Mr. Gribko?

16 MR. GRIBKO: No, Your Honor.

17 THE COURT: There is no forfeiture, correct?

18 MR. GRIBKO: No, Your Honor.

19 THE COURT: All right. That is my sentence. I want  
20 to be clear that I considered the information that was  
21 provided by defense with respect to the mitigation  
22 specialist's report. I took into consideration the argument  
23 that Mr. Marsh is suffering from some mental health issues,  
24 none of which I think are -- well, I would say all of which,  
25 even though speculative in nature, are significantly

1 outweighed by the crimes he committed and his lack of remorse.  
2 He doesn't seem to be suffering from what is alleged to be the  
3 same mental health issues that he suffered on April 8th when  
4 he was incarcerated, spitting on officers and injuring a nurse  
5 who works in the prison and assaulting inmates.

6 I will also say this is -- and this is probably going  
7 to fall on deaf ears, Mr. Marsh -- but anti-Semitism will  
8 never be tolerated in this country. It will not be tolerated  
9 in New Jersey. These acts of terror will be punished to the  
10 fullest extent possible. Every American, regardless of their  
11 race, ethnicity, religion, deserves to live peacefully in our  
12 country. This Court will enforce that to the most significant  
13 reaches of the law, and that's why I decided to give you a  
14 sentence higher than your advisory guideline range. I hope  
15 that that will be a significant amount of time, and I hope  
16 that will prevent you from committing this crime in the  
17 future.

18 With that, that's my sentence. We are adjourned.

19 MR. AXEL: Your Honor, may I add just one thing for  
20 the record? I apologize.

21 THE COURT: You may.

22 MR. AXEL: I didn't get a chance. I just wanted to  
23 confirm, did Your Honor -- I didn't hear you -- did you make  
24 this -- recommend that the Bureau of Prisons designate a state  
25 facility to serve the sentence?

1           THE COURT: I recommended that the Bureau of Prisons  
2 designate the New Jersey Department of Corrections as a place  
3 of service for their sentence. That was my understanding of  
4 the request. Is that accurate?

5           MR. AXEL: I believe that's adequate. Thank you.

6           THE COURT: I did make that recommendation, and that  
7 will be part of the judgment.

8           MR. AXEL: Thank you, Your Honor. For the record, I  
9 do want to object to the sentencing, as I don't believe that  
10 3553(a) factors were adequately considered that would warrant  
11 such an upward variance in this case.

12           THE COURT: Fair enough. I appreciate that. Your  
13 objection is noted. Anything further?

14           MR. AXEL: That's it, Your Honor.

15           THE COURT: Thank you. That is my sentence. This  
16 matter is adjourned.

17           THE DEPUTY COURT CLERK: All rise.

18           (Court concludes at 1:28 p.m.)  
19  
20  
21  
22  
23  
24  
25

FEDERAL OFFICIAL COURT REPORTER'S CERTIFICATE.

- - - - -

I certify that the foregoing is a correct transcript from  
the record of proceedings in the above-entitled matter.

I

/S/ Megan McKay-Soule, RDR, CRR

October 8, 2024

Court Reporter

Date

**APPENDIX D**  
**UNITED STATES DISTRICT COURT**  
**District of New Jersey**

UNITED STATES OF AMERICA

v.

**CASE NUMBER 3:24-CR-00071-ZNQ-1**

DION MARSH

Defendant.

**JUDGMENT IN A CRIMINAL CASE**  
**(For Offenses Committed On or After November 1, 1987)**

The defendant, DION MARSH, was represented by ADAM K. AXEL, AFD.

The defendant pleaded guilty to counts 1-6 of the INFORMATION on 2/1/2024. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Date of Offense</u>	<u>Count Number</u>
18:249(a)(1)	HATE CRIMES PREVENTION ACT	4/8/2022	1-5
18:2119(1)	CARJACKING	4/8/2022	6

As pronounced on July 23, 2024, 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.

It is ordered that the defendant must pay to the United States a special assessment of \$600.00 for counts 1-6, which shall be due immediately. Said special assessment shall be made payable to the Clerk, U.S. District Court.

It is further 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 any material change in economic circumstances.

Signed this 23rd day of July 2024.

  
Zahid M. Duraishi  
U.S. District Judge

Defendant: DION MARSH  
Case Number: 3:24-CR-00071-ZNQ-1

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 480 months on each of counts 2-5, 120 months on count 1 and 180 months on count 6, all such terms should run concurrently to each and concurrent with any sentence which may be imposed in the pending related state case at Docket OCN-22-06-01226-I, in the Superior Court of New Jersey, Ocean County.

The Court makes the following recommendations to the Bureau of Prisons: The Court recommends that the Bureau of Prisons designate the New Jersey Department of Corrections as place of service for this sentence.

The defendant will remain in custody pending service of sentence.

### 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 Marshal

Defendant: DION MARSH  
Case Number: 3:24-CR-00071-ZNQ-1

## **SUPERVISED RELEASE**

Upon release from imprisonment, you will be on supervised release for a term of 5 years. This term of Supervised Release consists of a term of 5 years on each of counts 2-5 and 3 years on each of counts 1 and 6, all such terms to run concurrently.

Within 72 hours of release from custody of the Bureau of Prisons, you must report in person to the Probation Office in the district to which you are released.

While on supervised release, you must not commit another federal, state, or local crime, must refrain from any unlawful use of a controlled substance and must comply with the mandatory and standard conditions that have been adopted by this court as set forth below.

You must submit to one drug test within 15 days of commencement of supervised release and at least two tests thereafter as determined by the probation officer.

You must cooperate in the collection of DNA as directed by the probation officer

If this judgment imposes a fine, special assessment, costs, or restitution obligation, it is a condition of supervised release that you pay any such fine, assessments, costs, and restitution that remains unpaid at the commencement of the term of supervised release.

You must comply with the following special conditions:

### **ALCOHOL/DRUG TESTING AND TREATMENT**

You must refrain from the illegal possession and use of drugs, including prescription medication not prescribed in your name, and the use of alcohol, and must submit to urinalysis or other forms of testing to ensure compliance. It is further ordered that you must submit to evaluation and treatment, on an outpatient or inpatient basis, as approved by the U.S. Probation Office. You must abide by the rules of any program and must remain in treatment until satisfactorily discharged by the Court. You must alert all medical professionals of any prior substance abuse history, including any prior history of prescription drug abuse. The U.S. Probation Office will supervise your compliance with this condition.

### **FINANCIAL DISCLOSURE**

Upon request, you must provide the U.S. Probation Office with full disclosure of your financial records, including co-mingled income, expenses, assets and liabilities, to include yearly income tax returns. With the exception of the financial accounts reported and noted within the presentence report, you are prohibited from maintaining and/or opening any additional individual and/or joint checking, savings, or other financial accounts, for either personal or business purposes, without the knowledge and approval of the U.S. Probation Office. You must cooperate with the U.S. Probation Officer in the investigation of your financial dealings and must provide truthful monthly statements of your income. You must cooperate in the signing of any authorization to release information forms permitting the U.S. Probation Office access to your financial records.

### **MENTAL HEALTH TREATMENT**

You must undergo treatment in a mental health program approved by the U.S. Probation Office until discharged by the Court. As necessary, said treatment may also encompass treatment for gambling, domestic violence and/or anger management, or sex offense-specific treatment, as approved by the U.S. Probation Office, until discharged by the Court. The U.S. Probation Office will supervise your compliance with this condition.

Defendant: DION MARSH  
Case Number: 3:24-CR-00071-ZNQ-1

#### NEW DEBT RESTRICTIONS

You are prohibited from incurring any new credit charges, opening additional lines of credit, or incurring any new monetary loan, obligation, or debt, by whatever name known, without the approval of the U.S. Probation Office. You must not encumber or liquidate interest in any assets unless it is in direct service of the fine and/or restitution obligation or otherwise has the expressed approval of the Court.

#### CONSENT TO SEARCH

You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

#### LIFE SKILLS/EDUCATION

As directed by the U.S. Probation Office, you must participate in and complete any educational, vocational, cognitive or any other enrichment programs offered by the U.S. Probation Office or any outside agency or establishment while under supervision.

#### MOTOR VEHICLE COMPLIANCE

You must not operate any motor vehicle without a valid driver's license issued by the State of New Jersey, or in the state in which you are supervised. You must comply with all motor vehicle laws and ordinances and must report all motor vehicle infractions (including any court appearances) within 72 hours to the U.S. Probation Office.

#### VICTIM (NO CONTACT)

You must not communicate, or otherwise interact with J.M., K.L., T.K, T.S. and Y.G. either directly or indirectly, without first obtaining the permission of the U.S. Probation Office. This includes, but is not limited to, contact through a third person, personal visits, letters, communication devices, audio or visual devices, or social networking sites.



Defendant: DION MARSH  
Case Number: 3:24-CR-00071-ZNQ-1

## 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 fulltime 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.

Defendant: DION MARSH  
Case Number: 3:24-CR-00071-ZNQ-1

### STANDARD CONDITIONS OF SUPERVISION

13) You must follow the instructions of the probation officer related to the conditions of supervision.

*For Official Use Only - - U.S. Probation Office*

Upon a finding of a violation of probation or supervised release, I understand that the Court may (1) revoke supervision or (2) extend the term of supervision and/or modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions, and have been provided a copy of them.

You shall carry out all rules, in addition to the above, as prescribed by the Chief U.S. Probation Officer, or any of his associate Probation Officers.

(Signed) \_\_\_\_\_  
Defendant Date

\_\_\_\_\_  
U.S. Probation Officer/Designated Witness Date

Defendant: DION MARSH  
Case Number: 3:24-CR-00071-ZNQ-1

## **RESTITUTION AND FORFEITURE**

### **RESTITUTION**

Pursuant to 18 U.S.C. § 3664(d)(5), the Court shall set a date for the final determination of restitution, not to exceed 90 days after sentencing. During that time, the government shall provide sufficient information including a listing of all identified victims, mailing addresses, and amounts subject to restitution to fashion a restitution order. The restitution hearing date is set for 10/21/2024.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during 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.

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) JVT A assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.