

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 25-2024

UNITED STATES OF AMERICA

VS.

BRYANT CALLOWAY a/k/a Bigs,
Appellant

(E.D. Pa. Crim. No. 2:17-cr-00518-001)

Present: KRAUSE, PHIPPS, and SCIRICA, Circuit Judges

Submitted are:

- (1) By the Clerk for possible dismissal due to jurisdictional defect;
- (2) By the Clerk for possible summary action under 3rd Cir. LAR 27.4 and Chapter 10.6 of the Court's Internal Operating Procedures;
- (3) Appellant's response

in the above-captioned case.

Respectfully,

Clerk

ORDER

Bryant Calloway appeals the District Court's order entered May 8, 2025, denying his motions for sanctions under Fed. R. Civ. P. 11. We have appellate jurisdiction over the District Court's order under 28 U.S.C. § 1291 and we review denials of motions for sanctions for abuse of discretion. See DiPaolo v. Moran, 407 F.3d 140, 144 (3d Cir. 2005). We discern no abuse of discretion in the District Court's denial of Calloway's motions. See United States v. Droganes, 728 F.3d 580, 588 (6th Cir. 2013) (explaining

that Fed. R. Civ. P. 1 “is plainly inapplicable in a criminal proceeding.”). Accordingly, no substantial question is presented here, and we summarily affirm the District Court’s order denying Calloway’s motions for sanctions. See 3d Cir. L.A.R. 27.4(a) (2011); 3d Cir. I.O.P. 10.6.

By the Court,

s/Anthony J. Scirica
Circuit Judge

Dated: October 2, 2025

Amr/Cc: All counsel of record

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL ACTION
: :
v. : NO. 17-518-1
: :
BRYANT CALLOWAY : :

ORDER

AND NOW, this 8th day of May, 2025, upon consideration of Defendant Bryant Calloway's pro se Rule 11 Sanctions Motions (ECF Nos. 293, 294), it is ORDERED the Motions are DENIED.¹

¹ After a jury trial in February 2019, Defendant Bryant Calloway was convicted of drug distribution and firearms offenses, including the offense of murder in the course of using and carrying a firearm for which he was sentenced to life in prison. Calloway appealed, asserting, *inter alia*, that the Government presented perjured testimony from witness Thomas "Valdo" Guilford to the grand jury. Reviewing the claim for plain error, the Court of Appeals rejected it, finding the jury's guilty verdict rendered the allegedly perjurious grand jury testimony harmless and Calloway had not shown the testimony "was so incredible that the prosecutor should have known it was perjurious" in any event. *United States v. Calloway*, No. 20-1124, 2022 WL 989362, at *2 & n.5 (3d Cir. Apr. 1, 2022). Calloway later sought relief under 28 U.S.C. § 2255 and again raised claims regarding the Government's use of alleged perjury by Guilford, both before the grand jury and at trial. This Court denied relief, finding Calloway could not relitigate his claim regarding Guilford's alleged perjury before the grand jury and the claim regarding Guilford's alleged perjury at trial was procedurally defaulted. ECF No. 282 at 6-7. The Third Circuit denied Calloway's request for a certificate of appealability. ECF No. 290.

Calloway now asks the Court to impose sanctions under "Rule 11" on Assistant United States Attorney Jonathan B. Ortiz, one of the prosecutors in this case, for failing to correct Guilford's allegedly false testimony at trial. Insofar as Calloway relies on Federal Rule of Civil Procedure 11, the Rule is inapplicable here. *See United States v. Droganes*, 728 F.3d 580, 588 (6th Cir. 2013) (noting Rule 11 "is plainly inapplicable in a criminal proceeding"); Fed. R. Civ. P. 11 advisory committee's note to 1993 amendment (explaining Rule 11 "applies only to assertions contained in papers filed with or submitted to the court"). Moreover, Calloway has not established a basis for sanctions. With regard to Guilford's alleged perjury, Calloway asserts only that his trial testimony "contradicted the testimony of other trial witnesses, including the testimony of the crime scene technician who collected evidence of the crime scene." ECF No. 293; *see also* ECF No. 294. As the Third Circuit previously recognized, however, "Calloway's belief that Guilford's testimony was incredible or inconsistent does not make it perjurious." *Calloway*, 2022 WL 989362, at *2. And Calloway again has made no showing that the prosecutor should have known the testimony was perjurious. Accordingly, Calloway's sanctions motions are denied.

BY THE COURT:

/s/ Juan R. Sánchez
Juan R. Sánchez, J.

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available in the
Clerk's Office.**