

No. _____
IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 2026

JOSEPH A. CAMMARATA,
Petitioner,
v.
UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether Federal Rule of Criminal Procedure 5, as amended by the Due Process Protections Act of 2020 to add subsection (f), directing that in all criminal proceedings the judge “shall issue” an oral and written order confirming the prosecution’s disclosure obligations under *Brady v. Maryland* and the consequences of violating them, imposes a duty on the district court that a defendant cannot forfeit by silence; and whether the complete failure to issue that order in both of the prosecutions brought against this petitioner may be treated as harmless where the government then withheld every category of exculpatory evidence in its possession, each of which independently defeated an element of 26 U.S.C. 7201: the business records establishing expenses exceeding the income charged, the Forms 1042-S showing that the income had been reported to the Internal Revenue Service and tax withheld and paid on it, and the tens of thousands of settlement administrator letters telling claimants that the payments were generally not taxable income.
2. Whether the government satisfies *Brady v. Maryland* by delivering exculpatory material to counsel who represented the defendant in a different prosecution, where the defendant was never provided that material, thereafter proceeds pro se under *Faretta v. California*, and is transferred to a county jail a month

before trial without his discovery computer and without his legal work; and whether a defendant who exercises the right of self-representation thereby waives, within the meaning of *United States v. Olano*, any objection that he was unable to review discovery delivered to counsel in a different case, when he told the district court so at every pretrial hearing and in every motion.

3. Whether 28 U.S.C. 455(a) and the Due Process Clause permit the judges of a court of appeals to decide a criminal appeal, and to deny rehearing, where the attorney who serves as the Assistant Circuit Executive for Legal Affairs in that court's own Office of the Circuit Executive, an active member of the bar whose employer and business address of record are the court itself, is asserted, without denial by the government or by any court in more than two years, to be the spouse of the Securities and Exchange Commission attorney who led the parallel enforcement action that froze the defendant's assets and produced a judgment against him of \$50,471,573; where the Chief Judge who sat on the panel had himself authored the one sentence, unexplained order denying the motion to disqualify the entire court on that ground; and where requests for a statement of reasons were denied without reasons.

PARTIES TO THE PROCEEDING

The petitioner is Joseph A. Cammarata, the defendant and appellant below. The respondent is the United States of America.

RELATED PROCEEDINGS

United States v. Cammarata, No. 22-cr-00639 (D.N.J.) (judgment entered May 14, 2024), and *United States v. Cammarata*, No. 24-1983 (3d Cir.) (opinion and judgment April 7, 2026; rehearing denied May 7, 2026). This petition arises from those proceedings.

United States v. Cammarata, No. 21-cr-00427 (E.D. Pa.), and *United States v. Cammarata*, No. 23-2110 (3d Cir.). A petition for a writ of certiorari has been submitted to this Court in that matter.

Securities and Exchange Commission v. Cammarata, No. 21-cv-04845 (E.D. Pa.), and *Cammarata v. Securities and Exchange Commission*, No. 24-1381 (3d Cir.) (appeal docketed March 5, 2024; pending).

In re Cammarata, No. 25-1188 (3d Cir.) (mandamus petition docketed January 31, 2025; denied January 26, 2026; rehearing denied March 4, 2026), and *Cammarata v. United States District Court for the Eastern District of Pennsylvania*, No. 26-5387 (U.S.) (petition for a writ of certiorari filed July 28, 2026; respondent's waiver of the right to respond filed August 31, 2026; distributed for the conference of September 28, 2026).

In re Cammarata, No. 25-6128 (U.S.) (petition for a writ of mandamus filed October 21, 2025; denied without opinion January 20, 2026; rehearing denied May 18, 2026). That disposition reached no question on the merits.

United States v. Cammarata, No. 21-cr-00427 (E.D. Pa.) (amended motion under 28 U.S.C. 2255, ECF No. 489, Civil Action No. 26-379; pending).

Cammarata v. Washington, No. 2:26-cv-00007 (M.D. Ala.).

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OPINIONS BELOW

The opinion of the court of appeals (App. A) is not precedential and is unreported. The judgment of the court of appeals appears at App. B, and the order denying panel rehearing and rehearing en banc at App. C. The judgment of conviction and sentence of the district court, entered May 14, 2024, appears at App. D. The memorandum and order of the district court denying post trial relief (App. E) and the opinion and order denying reconsideration (App. F) are unreported.

JURISDICTION

The court of appeals entered its judgment on April 7, 2026. A timely petition for panel rehearing and rehearing en banc was denied on May 7, 2026. On June 1, 2026, Justice Alito extended the time to file a petition for a writ of certiorari to and including October 4, 2026, in Application No. 25A1323. This petition is filed within that time. See Sup. Ct. R. 29.2. This Court has jurisdiction under 28 U.S.C. 1254(1).

CONSTITUTIONAL, STATUTORY AND RULE PROVISIONS INVOLVED

The Fifth Amendment provides in relevant part that no person shall “be deprived of life, liberty, or property, without due process of law.” The suppression of evidence favorable to an accused violates that guarantee. *Brady v. Maryland*, 373 U.S. 83, 87 (1963).

The Sixth Amendment provides in relevant part that “[i]n all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury,” and “to have the Assistance of Counsel for his defence.” The right of a defendant to conduct his own defense, and the right to retain counsel of his choice, both derive from that Amendment. *Faretta v. California*, 422 U.S. 806, 819 (1975); *United States v. Gonzalez-Lopez*, 548 U.S. 140, 144 (2006).

Federal Rule of Criminal Procedure 5(f)(1) provides: “In all criminal proceedings, on the first scheduled court date when both prosecutor and defense counsel are present, the judge shall issue an oral and written order to prosecution and defense counsel that 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.”

Title 28 U.S.C. 455(a) provides: “Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.”

Title 26 U.S.C. 7201 provides: “Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony.” Conviction requires proof beyond a reasonable doubt of three elements: the existence of a tax deficiency, that is, a tax due and owing beyond what was reported; an affirmative act constituting an attempt to evade or defeat that tax,

meaning conduct the likely effect of which would be to mislead or to conceal; and willfulness, the voluntary and intentional violation of a known legal duty. *Sansone v. United States*, 380 U.S. 343, 351 (1965); *Spies v. United States*, 317 U.S. 492, 499 (1943); *Cheek v. United States*, 498 U.S. 192, 201 (1991). A deficiency cannot be established without determining the character of the receipts said to produce it, *Boulware v. United States*, 552 U.S. 421, 424 (2008), and it cannot be established at all where documented deductions exceed the income alleged.

INTRODUCTION

This case presents the first opportunity for this Court to say what Rule 5(f) requires. Congress adopted the Due Process Protections Act because prosecutors had repeatedly failed to honor *Brady* and because Congress concluded that a standing order from the bench, in every case, at the outset, was the least intrusive way to keep that from recurring. The rule is addressed to the judge. It says the judge “shall issue” the order. It asks nothing of the defendant.

No such order was issued in this case. None appears on this docket, none appears on the docket of the related prosecution of the same defendant in the Eastern District of Pennsylvania, and none appears in any transcript. What followed is what the rule exists to prevent. The government then withheld all of the records that defeated the elements of the offense. It produced an index that dropped nearly every account its own earlier index had listed, and the dropped accounts held the records proving there was no tax deficiency at all. It told the defense in

writing that Forms 1042-S and the settlement administrators' claim letters did not exist. The forms were in its own production in the earlier case, and they showed that the income had been reported to the Internal Revenue Service and tax withheld and paid on it. The letters, which told claimants that the payments were generally not taxable income, accompanied every claim payment check across three hundred ninety seven settlement funds and existed in the tens of thousands.

The single most telling fact is what the government did with those records internally. It did not give them to its own Internal Revenue Service revenue agent, the witness who calculated the tax due and owing on which this conviction rests. He testified that he was given no evidence of any expenses at all. A prosecution team that had truly produced those records to the defense would have had no reason to keep them from the agent whose job was to compute the tax.

The court of appeals affirmed in a nine page unpublished opinion that never mentions Rule 5(f). On *Brady* it held that there was "no suppression" because the government had handed material to lawyers, and it held in a footnote that the petitioner had "waived" any argument that he never had the chance to review it. The first proposition makes *Brady* a matter of paperwork. The second conditions the exercise of the right of self-representation on the surrender of the right to exculpatory evidence.

The third question concerns the forum. The petitioner has asserted, repeatedly and in writing,

that an attorney employed by the Third Circuit, who serves as the Assistant Circuit Executive for Legal Affairs in its own Office of the Circuit Executive, is the spouse of the Securities and Exchange Commission attorney who led the parallel enforcement action against him. In more than two years no court and no government lawyer has denied it or addressed it. When he moved to disqualify the entire circuit, the Chief Judge authored a one sentence order denying the motion, and seven months later sat on the panel that decided this appeal.

BACKGROUND

The proceedings that produced this petition are part of a single sequence that began in the first week of November 2021.

The indictment in the fraud case was unsealed on November 3, 2021. That same day the Securities and Exchange Commission filed a civil enforcement action in the same district, which was assigned to the same judge who would preside over the criminal case. The petitioner was arrested in the Southern District of Florida and was detained at the Federal Detention Center in Miami. Agents searched his office and removed his business records. His three computers were left behind with a cooperating defendant for approximately two weeks, and that cooperating defendant acknowledged in his trial testimony that he had accessed them.

The Commission's application was made *ex parte* and was signed by the attorney who led the action. It

was supported by a declaration with one hundred four exhibits, filed in five volumes. SEC v. Cammarata, No. 21-cv-04845 (E.D. Pa.), ECF Nos. 2, 3 (Nov. 3, 2021). The district court granted it the next day, freezing approximately seventy eight million dollars, which was the whole of the petitioner's assets. Id., ECF No. 4 (Nov. 4, 2021); App. J. The motion did not allege irreparable harm. The order issued in less than a day. The petitioner was in the physical custody of the United States Marshals in the Southern District of Florida on the morning the show cause hearing proceeded in Philadelphia. The return of service records personal service on him in the Marshals cellblock in Miami. He has maintained, in filings no court has addressed, that the date the return records is not the date on which that occurred. The freeze was extended beyond the fourteen days Rule 65(b) allows without notice or hearing. The freeze is what left him unable to retain counsel of his choice in the prosecution that produced this petition.

The fraud prosecution went to trial in October 2022. No Rule 5(f) order was issued there either. The petitioner has shown on that record, and the government has never denied, that the prosecutor acknowledged at trial that the claims had been assigned and then moved to strike the reference to the assignments, and that no court has applied the controlling authority of *Sprint Communications Co. v. APCC Services, Inc.*, 554 U.S. 269 (2008), under which a valid assignment transfers the right to enforce a claim. The petitioner has also asserted, in filings that no court has answered, that the

district judge in those matters was subject to disqualification on several grounds, including a financial interest, comments reflecting bias, and the deletion of portions of a transcript. That judge is also a defendant in a civil action the petitioner filed in the District of New Jersey, *Cammarata v. Donnelly*, No. 24-cv-01000, which remains pending on an amended complaint after the claims first pleaded against him were dismissed on immunity grounds. He has not recused in any of these matters, and no court has adjudicated the grounds the petitioner has raised. The defects in the freeze order and in the judgment that followed it were the subject of a motion under Federal Rule of Civil Procedure 60(b) (4) in No. 21-cv-04845 (ECF No. 421), which the Commission opposed (ECF No. 423) and which the same district judge denied on September 9, 2026 (ECF Nos. 425, 426). A timely motion to alter or amend that judgment, filed September 14, 2026 (ECF No. 427), remains pending.

The tax indictment followed in the District of New Jersey on September 22, 2022, fourteen days after a superseding indictment in the fraud case and twenty five days before the fraud trial began. The sole witness before the grand jury was an Internal Revenue Service special agent, examined by a Special Assistant United States Attorney who used the word fraud twenty seven times in a fifty page presentation, at a time when no jury had found the petitioner guilty of fraud and the presumption of innocence remained intact. The probable cause the grand jury found rested on the premise that the income at issue was fraud proceeds, a premise the

prosecutor affirmed as established fact twenty seven times before any fraud trial had taken place.

In January 2025 the petitioner sought a writ of mandamus in the court of appeals addressed to all three of these matters at once. *In re Cammarata*, No. 25-1188 (3d Cir.). The petition asked that court to reach what no court had reached: the refusal to apply *Sprint Communications Co. v. APCC Services, Inc.*, 554 U.S. 269 (2008), to claims the government itself acknowledged had been assigned; the conduct of the district judge in the fraud and civil cases, including comments reflecting bias, the deletion of portions of a transcript, the holding of simultaneous hearings in the criminal and civil matters, and ex parte communication with the judge of a related case; the suppression and grand jury misrepresentations in this tax case; and the disqualification of the Third Circuit itself. Neither the United States nor the Commission filed any response to the petition. The petitioner filed motions to transfer the proceeding to another circuit, to expedite it, to supplement it with newly discovered evidence, and for a statement of reasons. The court of appeals held the petition for three hundred sixty one days and then denied it on the ground that the issues could be raised on appeal, stating that it saw “no evidence of bias” on the part of the district judges. The opinion did not address the disqualification of the circuit itself, which was the one question no appeal could reach, and it disposed of every pending motion in a single sentence.

The financial consequences of these proceedings are cumulative. In the criminal fraud case the district

court ordered restitution and forfeiture totaling \$47,769,779.02, although the court of appeals later vacated the restitution order, vacated the forfeiture order in part, and remanded. In the civil enforcement action the court entered a final judgment on January 23, 2024 for disgorgement of \$43,496,148 plus prejudgment interest of \$6,975,425, a total of \$50,471,573. In this case the court ordered restitution of \$6,023,189.

STATEMENT OF THE CASE

A. The offense and its elements

The indictment charged five counts of tax evasion under 26 U.S.C. 7201 for calendar years 2015 through 2019, alleging unreported income of approximately sixteen million dollars in the aggregate. Conviction required proof of a tax deficiency, an affirmative act of evasion, and willfulness. *Sansone*, 380 U.S. at 351.

B. The parallel prosecution and the two discovery indexes

In the earlier fraud prosecution the government produced a four page financial discovery index, created in February 2022, listing roughly twenty one groups of financial accounts, including accounts at Merrill Lynch, Bank of America, Morgan Stanley, E*Trade, TD Ameritrade, Columbia Bank and American Express.

The production index in this case is two pages. Of the roughly twenty one account groups in the earlier fraud discovery index, only two survive, and neither

of the two contains the business expense records. Merrill Lynch, Bank of America, Morgan Stanley, E*Trade, TD Ameritrade, Columbia Bank and American Express are absent in their entirety. The Merrill Lynch accounts are where the petitioner's business transactions were concentrated, and they hold the records of the business expenses at issue here. The two indexes are reproduced at App. K1 and App. K2 and may be compared line by line.

The government cannot claim ignorance of those accounts. Ten months before the tax indictment, the Commission had obtained an asset freeze order whose Appendix A lists, account by account, the petitioner's own accounts and those of fifteen business entities, including accounts at Merrill Lynch, Bank of America, Morgan Stanley and Columbia Bank. App. J. The Internal Revenue Service special agent assigned to this case told the grand jury he had obtained information from the Commission's parallel civil case, and defense counsel identified him at trial as the preparer of the summary exhibit presenting the tax due and owing. Grand Jury Tr. 4-5 (Sept. 22, 2022); Tr. Vol. 10 at 1534.

Nor did the government give those records to the revenue agent it retained to compute the tax. That agent testified at trial that he received no evidence of business expenses at all. Tr. Vol. 8 at 1386-87, 1389. The government's failure to give the records to its own computation witness is the strongest indication in this record that the suppression was knowing and deliberate rather than inadvertent.

C. The district court directs the government to identify the relevant discovery, and the laptop

On March 24, 2023 the district court entered a memorandum on the scope of discovery. The court observed that the government's attorneys were "more knowledgeable about the content of discovery based on its involvement in the Eastern District of Pennsylvania criminal proceeding" and directed that the government "should review and direct defense counsel to the discovery that is relevant to this action." App. G.

Two weeks later, at a hearing on April 6, 2023, the court addressed the petitioner's records and the computer holding his discovery. The court said it was "hard to detail an order that will allow Mr. Cammarata to develop a defense," that "I do agree with Mr. Cammarata that is necessary," and that "I do think Mr. Cammarata has a right to access his own records." ECF No. 139 at 10-11 (quoting Tr. of Apr. 6, 2023, at 28-29).

The petitioner's discovery was kept on a laptop in the custody of the Bureau of Prisons at the Federal Detention Center in Philadelphia. The government itself had loaded the discovery onto it; one of its own production folders is captioned "Discovery to put on Cammarata Computer." Over ten months the petitioner was permitted access to that laptop fewer than ten times.

After the court's March 2023 memorandum the government took the laptop from the Bureau of Prisons in order to update it. The petitioner told the district court, in a motion filed under seal, that the

government had done so without notice to him and had thereby obtained his legal notes, his marked evidence and his defense strategy. The court struck that motion on the government's application rather than deciding it. When the laptop came back it carried the new, reduced discovery index and the files associated with it, and still contained none of the business expense records. The purpose of the court's memorandum had been to get the relevant discovery to the defense, and the government used the occasion of complying with it to update the laptop without adding the one category of records the petitioner had demanded at every pretrial hearing and in every motion.

D. Transfer, self-representation, and trial

The district court permitted the petitioner to represent himself in October 2023, with appointed counsel remaining as standby counsel.

On or about September 10, 2023, a month before trial, the petitioner was transferred from the Federal Detention Center in Philadelphia to the Monmouth County Correctional Institution. He was transferred without the discovery laptop and without his legal work and trial preparation, all of which was left behind. The laptop was never provided to him again, despite repeated requests, including requests that it be examined forensically to establish that the business expense records the government claimed to have produced had never been on it.

A drive of data approved by the county jail did not reach him until October 24, 2023, about a week before trial. The jail permitted review of discovery

one day a week for fifty minutes. That was the whole of his access to the record of his own case. The data he finally received also contained no business expense records. He did not obtain the underlying expense records at all before the verdict. During trial his brother obtained material from counsel in the fraud case, but it arrived on thumb drives that standby counsel could not open. Tr. Vol. 7 at 1038, 1041-42. The district court itself later described the sequence, writing that the petitioner “failed to develop the business expense deductions until about the last day of trial.” App. E at 6.

At trial the government told the court that all of the fraud case discovery had been reproduced to counsel in this case before the petitioner went pro se. He answered on the record: “That’s not true. I never got that discovery. I had no access to it until Wednesday, and the jail only prints on Wednesday. I printed it as of yesterday.”

What he had printed were Forms 1042-S. Before trial, defense counsel had asked the government in writing for Forms 1042-S, Forms 1099 and the settlement administrators’ claim letters. The government answered in writing that there were none. The forms were in the government’s own production in the earlier case. The petitioner produced sixty eight of them at trial, bearing the government’s own Bates numbers. For two settlement funds in 2017 alone they reflected more than \$375,330 reported to the Internal Revenue Service with tax withheld and paid. The petitioner’s filings state that the government responded by claiming that the forms had never existed in its

records, or were falsified, or had not come from the Internal Revenue Service. ECF No. 155 at 9. What is undisputed is what the government told the court of appeals. After the petitioner raised the forms at trial, the government “undertook a new search and confirmed that the approximately 42 Forms 1042 that it had provided in discovery had been filed with the IRS,” and it then told that court that the forms reflected total withholding of “only about \$12,000.” Gov’t C.A. Br. 52-53. The testimony on which that characterization rested was given on a trial day whose transcript has never been produced to the petitioner.

The petitioner moved at once for relief. “I wanted to make an oral motion for *Brady* violation relief.” Tr. Vol. 8 at 1198. The court did not rule. It said: “I’ll reserve right now, but if you want to use those documents, we’ll mark them in for you.” Id. at 1202. It then said what the claim would require: “We have to swear you in and have a hearing on that if that’s what you’re saying. I don’t think I need to do that right now. You have access to the documents, you can use them if you want.” Id. at 1202-03. No such hearing was ever held, in the six months before sentencing or at any time after. Five days later the court summarized the ruling differently: “he was saying there was a *Brady* violation, and I denied it.” Tr. Vol. 10 at 1539.

The same written request had asked for the settlement administrators’ claim letters, the statements sent to claimants that the distributions being paid were generally not taxable income. Those were not occasional documents. A statement of that

kind accompanied every claim payment check, and the claimant entities had recovered from three hundred ninety seven settlement funds, each paying claims by check in the thousands. The letters therefore numbered in the tens of thousands. They had been seized by the Federal Bureau of Investigation and were in the government's files. The government said no such documents existed and produced not one of them.

The government's tax computation expert, an Internal Revenue Service revenue agent, testified that he had not prepared the original computation, which his supervisor had prepared from figures assembled by others. Tr. Vol. 10 at 1538-39. On deductions he testified: "There was no evidence provided to me that there were expenses at all, even ones already on the tax return, and certainly not additional expenses beyond what was deducted on the tax return." Tr. Vol. 8 at 1387. Asked whether he had looked for deductions the petitioner was entitled to, he answered: "I was not asked to analyze records to find those, and so I did not." Id. at 1389. The summary exhibit through which the tax due and owing was presented to the jury, Government Exhibit 1004, was captioned "criminal tax computation," and defense counsel objected that the agent who prepared it was never called to lay its foundation. Tr. Vol. 10 at 1533-34. The district court ordered the word removed. It then found that the word had nevertheless appeared "in two places when it was shown to the jury during Mr. Shapiro's closing argument," called it "a mistake," and denied a mistrial. Id. at 1569-72.

The jury convicted on all five counts. The court imposed seventy two months of imprisonment and ordered restitution of \$6,023,189.

E. The post trial record

In post trial filings the petitioner documented business expenses for 2015 through 2019, line by line, against the government's own Bates numbers. His sworn declaration executed February 14, 2024 put the documented total at \$16,982,751.81. ECF No. 139 at 16-17. That declaration states the documented total and stated that the total exceeds twenty million dollars when credit card and additional bank records are included. In those same filings he identified the suppression of the Forms 1042-S and of the claims administrator letters that "stated the payments were not taxable." ECF No. 137 at 2; ECF No. 155 at 9.

The government has never contested a single line item of those expenses. Every version of the figure exceeds the approximately sixteen million dollars of income alleged in the indictment. On this record, with the expenses unchallenged, there was no tax due and owing, and the first element of the offense fails.

The district court denied relief. The petitioner sought reconsideration, invoking *Houston v. Lack*, 487 U.S. 266 (1988) and filing a declaration of the date he handed his motion to jail staff. A successor judge denied the motion on the grounds that the notice of appeal had divested the court of jurisdiction and that the evidence was not new because the petitioner had possessed it earlier. The second ground cannot be

squared with the first premise of the *Brady* claim. If he had the records, the deficiency was disproved at trial. If he did not, the suppression is established.

F. The appeal

Appointed counsel filed an opening brief in December 2024. The petitioner had earlier filed a pro se brief and a pro se supplemental brief in the related appeal. Retained counsel then appeared here and filed a second brief, which the clerk designated the operative opening brief, and appointed counsel's brief was disregarded.

On August 4, 2025 the petitioner moved pro se to replace retained counsel, stating that four emails in the preceding month had gone unanswered and that filings had been made over his written objection. Two days later counsel moved to withdraw. On August 25, 2025 the court denied both motions and refused to docket the petitioner's pro se reply brief, which raised the suppression, Rule 5(f), constructive amendment and confrontation arguments counsel had not raised. Counsel filed a reply brief on September 5, 2025 that did raise Rule 5(f). In September 2025 an order of the court addressed to the petitioner was returned by the Postal Service marked "RETURN TO SENDER."

On January 29, 2026 the petitioner filed a formal notice to the Chief Judge of pending matters requiring adjudication. On February 4, 2026 the clerk refused it, stating that parties represented by counsel may not file pro se and that in the future only submissions made by counsel would be accepted.

The case was submitted on December 2, 2025 to a panel consisting of the Chief Judge and two circuit judges. On April 7, 2026 the panel affirmed. The same day, retained counsel was allowed to be relieved by the court.

The opinion held that the sufficiency challenge was reviewable only for plain error because appellate counsel had argued a different element than trial counsel; that three of the six claimed disclosure violations, including those concerning the Forms 1042-S and the claim letters, would not be reached because they had not been included in the Rule 33 motion; that there had been no suppression of the documents used to prepare the government's income summary because "Cammarata does not argue that the government withheld those documents from the defense," and that he argued "only that, after he obtained permission to represent himself, he was unable to review the documents the government provided to his attorney when he was represented by counsel"; and, in a footnote, that "Cammarata has waived any argument that he did not have the opportunity to review the documents that were produced." App. A at 5-9. The opinion does not mention Rule 5(f) or the Due Process Protections Act.

The premise of that holding is not what the record shows. The petitioner did not argue merely that he lost access when he began representing himself. He had never received the business expense records at any point: not from counsel in the fraud case, not from counsel in this case, not from the government, and not on the discovery laptop even after the government took the laptop to comply with the

district court's direction. He said so at every pretrial hearing and in every motion, he said so at trial, and he proved it in post trial filings the government has never disputed.

Rehearing was denied on May 7, 2026.

REASONS FOR GRANTING THE PETITION

I. This Court should decide what Rule 5(f) requires and what follows when a district court never issues the order the rule commands.

A. The rule is a duty imposed on the court, not a request the defendant must make.

Rule 5(f)(1) is written in the imperative and it is addressed to one actor. "In all criminal proceedings, on the first scheduled court date when both prosecutor and defense counsel are present, the judge shall issue an oral and written order." The defendant has no role in it. He is not required to ask for the order, to object to its absence, or to remind the court of its own obligation. The rule exists precisely because the ordinary adversarial mechanisms had failed to secure compliance with *Brady*, and Congress therefore placed the duty on the only participant with the power to enforce it.

That drafting choice matters to the question of forfeiture. A defendant can forfeit a right he was required to invoke. He cannot forfeit the court's failure to perform a duty the rule assigns to the court alone and that the rule requires the court to perform at a moment when, in the ordinary case, the

defendant has just been arraigned and has no reason to know the rule exists. Treating silence as forfeiture would make Rule 5(f) unenforceable in every case in which it matters most, because the defendants most harmed by its absence are precisely those who do not know it should have happened.

The distinction this Court drew in *United States v. Olano*, 507 U.S. 725, 733 (1993), confirms the point. Waiver is the intentional relinquishment of a known right. Forfeiture is the failure to make a timely assertion of one. Neither concept fits a defendant who never had a right to assert, because the rule directed the court, not him, to act, and who never knew that the order had been omitted. Whatever else Rule 5(f) may permit, it cannot be that the defendant loses its protection by failing to correct the judge.

B. The question is recurring, important and unresolved.

Rule 5(f) governs every federal criminal case in the country. Since the rule took effect, district courts have issued thousands of Rule 5(f) orders, and the form of those orders varies widely among districts. What has not been settled is the consequence of a complete failure. The court of appeals did not decide the question here. It did not mention the rule. No order in this case, and none in the related fraud prosecution of the same defendant by the same prosecutors, addresses the omission. The petitioner is aware of no decision of this Court addressing it, and the courts of appeals have not converged on an answer. This case therefore presents the question

cleanly, and it presents it in a posture where the answer will make a difference.

The question also has an institutional dimension that this Court alone can address. Congress enacted the Due Process Protections Act as a corrective. If the rule's violation carries no consequence, and if a defendant's failure to demand compliance forfeits the point, the statute becomes advisory. Rules of criminal procedure adopted by this Court and confirmed by Congress ought not depend for their force on the willingness of the party they protect to remind the court to follow them. That is especially so where, as here, the suppressed evidence was dispositive of guilt and the same prosecutors appeared in both of the prosecutions in which the order was omitted.

C. The failure here cannot be dismissed as harmless.

This is not a case in which the missing order would have been a formality. The Rule 5(f) order is a warning about *Brady*. Here the government suppressed not one item but every category of exculpatory evidence in its possession, and each category defeated a different element of the offense.

First, the business records. The government held them. It had gathered them in the earlier prosecution and indexed them there. It dropped them from the index it produced in this case. It did not restore them after the district court directed it to identify the relevant discovery, and it did not add them to the petitioner's discovery laptop even when it took the laptop for the stated purpose of complying

with that direction. It did not give them to its own revenue agent, the witness whose assignment was to calculate the tax alleged to be due. Those records establish documented business expenses of \$16,982,751.81, against alleged unreported income of approximately sixteen million dollars. If they had been produced, there would have been no deficiency to prove.

Second, the Forms 1042-S. Defense counsel requested them in writing. The government answered in writing that they did not exist. They did exist, in the government's own production in the earlier case, and the petitioner produced sixty eight of them with the government's Bates numbers on them. Forms 1042-S reporting the distributions and reflecting withholding are the opposite of concealment, and concealment is the affirmative act the government had to prove.

Third, the settlement administrators' statements that the distributions were generally not taxable income. A defendant who relies in good faith on such a statement does not act willfully. *Cheek*, 498 U.S. at 202. The statements were in the government's files and were never produced.

A Rule 5(f) violation and a *Brady* violation of this scope are not independent events. The first is what allows the second to happen without anyone noticing until it is too late. When a court asks whether the absence of the warning mattered, the answer here is visible on the face of the record: the warning was omitted and then every element of the offense was

proved with the dispositive exculpatory proof removed from the case.

D. The question is preserved for review in the only way it could be.

The petitioner raised Rule 5(f) below. It was raised in his pro se reply brief, which the court refused to docket, and it was raised in the reply brief filed by counsel on September 5, 2025. It was also raised in his related petition for a writ of mandamus in that court. The court of appeals said nothing about it. Whatever the government now says about the sequence in which the issue reached the court of appeals, the duty at issue was the district court's, the failure was complete, and this Court has discretion to decide a question that the court below passed over in silence where, as here, the question is legal, is fully developed, and would control the disposition.

II. The decision below makes *Brady* a matter of delivery to a lawyer rather than disclosure to the accused, and it turns the exercise of the right of self-representation into a waiver.

A. The holding.

The court of appeals wrote that the petitioner “does not argue that the government withheld those documents from the defense,” that he argues “only that, after he obtained permission to represent himself, he was unable to review the documents the government provided to his attorney when he was represented by counsel,” and that “[a] *Brady* violation requires the suppression of evidence, and there was none here.” It added, in a footnote, that the

petitioner “has waived any argument that he did not have the opportunity to review the documents that were produced.”

Those two sentences state a rule of decision. They also misdescribe the claim. The petitioner never had the business expense records, before or after he began representing himself, and he obtained them only after the verdict. Delivery to a lawyer ends the inquiry, and a defendant who thereafter represents himself has waived any complaint that he never saw what was delivered.

B. The rule is inconsistent with what Brady protects.

Brady is not a filing requirement. It is a due process guarantee that the defense will have the exculpatory evidence in time to use it. *Brady v. Maryland*, 373 U.S. 83, 87 (1963); *United States v. Bagley*, 473 U.S. 667, 678 (1985). This Court has repeatedly measured suppression by practical availability rather than by the formal fact of a transfer. *Kyles v. Whitley*, 514 U.S. 419, 437 (1995), requires the suppressed evidence to be considered collectively and asks what effect its availability would have had on the trial. *Banks v. Dretke*, 540 U.S. 668, 696 (2004), holds that a defendant is not obliged to scavenge for hints of undisclosed evidence and that the government may not hide evidence and then blame the defendant for not finding it. *Strickler v. Greene*, 527 U.S. 263, 281 to 282 (1999), frames the elements without any suggestion that a delivery to one lawyer in one case discharges the obligation in another.

On the rule announced below, a production made to counsel in a different prosecution, of a body of documents so large that the district court itself described it as excessive and directed the government to narrow it, discharges the obligation even though the petitioner never received the documents and even though the index in this case omitted them. The proof that it discharged nothing is in the record: the government's own revenue agent, the witness who computed the tax due and owing on which the conviction rests, testified that he was given no evidence of any business expenses at all. A production that never reached the government's own expert cannot have delivered to the defense the proof that no tax was due.

C. The waiver footnote conditions one constitutional right on the surrender of another.

The petitioner exercised the right this Court recognized in *Faretta v. California*, 422 U.S. 806 (1975). The consequence, on the reasoning below, is that he waived the right to complain that he could not review discovery that had been given to the lawyers he no longer had. A defendant should not have to choose between conducting his own defense and receiving the evidence that would allow any defense at all. The footnote does not identify any act by which the petitioner relinquished a known right. Under *United States v. Olano*, 507 U.S. 725, 733 (1993), waiver requires the intentional relinquishment of a known right, and what the footnote describes is not that. It is a condition imposed by the government's production practice and

by the petitioner's custody. A month before trial he was transferred from the federal detention center to a county jail without his discovery laptop and without his legal work, none of which was ever returned to him. The data the jail approved did not reach him until October 24, 2023, about a week before trial, and the jail allowed him to review discovery one day a week for fifty minutes. That was the whole of his preparation time with the record of his case, and the data he received contained no business expense records.

The government also cannot rely on the district court's March 2023 direction to identify the relevant discovery. It took the petitioner's laptop from the Bureau of Prisons for the stated purpose of complying with that direction, and it returned the laptop without the business expense records that were the reason the direction was given and the subject of the petitioner's demands at every pretrial hearing and in every motion.

The conflict is sharpest where the pro se defendant is incarcerated. *Faretta* guarantees the right to conduct a defense. That guarantee assumes access to the materials of the defense. When the government produces to former counsel, the defendant is placed in a position where the only way to put the suppressed proof before the jury is to abandon another constitutional right, in this case by testifying, in order to cure the government's failure.

D. The suppression here defeated every element.

Materiality is not close. The three categories of suppressed evidence map onto the three elements of

26 U.S.C. 7201. The business records defeat the deficiency. The Forms 1042-S defeat the affirmative act. The administrators' statements defeat willfulness. *Sansone*, 380 U.S. at 351, requires the government to prove all three. *Kyles* requires the suppressed material to be weighed together. Weighed together, what was withheld here was not impeachment at the margins. It was the defense. The expenses documented in the petitioner's post trial filings, \$16,982,751.81 against alleged income of approximately sixteen million dollars, have never been contested in a single line item by the government. Had they been produced, there would have been no tax due and owing, and no offense to try.

Four facts make the point unanswerable on this record.

One. The government says it produced the business records. Its own tax computation expert testified he received none.

Two. The government loaded its discovery onto the petitioner's laptop, took the laptop back from the Bureau of Prisons to update it after the district court directed it to identify the relevant discovery, and returned it still without the business expense records.

Three. The government told the defense in writing that the Forms 1042-S did not exist, and then, when sixty eight of them were produced at trial bearing its own Bates numbers, questioned their authenticity and called them a handful worth about twelve thousand dollars, when the sixty eight forms before

the court reflected more than \$375,330 reported to the Internal Revenue Service for two settlement funds in a single year.

Four. The petitioner told the district court all of this and was denied relief by the same judge who never gave the Rule 5(f) warning.

E. The default holding compounds the error.

The court of appeals declined to reach the claims concerning the Forms 1042-S and the settlement administrators' claim letters because they had not been included in the Rule 33 motion. The petitioner had in fact placed both categories before the district court in his own timely pro se post trial filings, which identified the suppression of the Forms 1042-S and of the claims administrator letters that "stated the payments were not taxable." He pressed them again in his motion for reconsideration, which he deposited with jail staff on Friday, May 24, 2024, the day before his notice of appeal was filed, and in which he cited *Houston v. Lack*, 487 U.S. 266 (1988) and submitted a declaration of the date of deposit. Under *Houston* a pro se prisoner's filing is made when it is delivered to prison authorities, not when the mail room sends it or the clerk stamps it. The district court instead relied on a postmark. The effect of that approach is to default the very claims that arise from evidence the government said did not exist.

III. The court that decided this appeal denied a motion to disqualify itself, in one sentence, through the judge who then sat on the panel.

A. The asserted conflict, and the silence that has met it.

The petitioner has asserted, in filings in the court of appeals in this case and in No. 24-1381, that Jeanne Donnelly, the Assistant Circuit Executive for Legal Affairs in the Office of the Circuit Executive of the United States Court of Appeals for the Third Circuit, is the spouse of John V. Donnelly III, the Securities and Exchange Commission attorney who led the Commission's enforcement action against him. Her position and employer are documented on the court's own website, which also identifies her as the court's coordinator for employment dispute resolution. She is also an attorney. The public register of the Disciplinary Board of the Supreme Court of Pennsylvania lists Jeanne T. Donnelly, Attorney ID No. 93845, admitted November 16, 2004, status active, whose employer of record is the "U.S. Court of Appeals for the Third Circuit" and whose business address of record is the Third Circuit Court of Appeals, 22409 United States Courthouse, 601 Market Street, Philadelphia. App. L. She is therefore not merely an administrator of the court. She is a lawyer employed by the court, serving in the office responsible for the court's legal affairs, and bound as an officer of the court by the rules of professional conduct.

The same register lists John V. Donnelly III, Attorney ID No. 93846, admitted two days later on

November 18, 2004, status active, whose employer of record is the “U.S. Securities and Exchange Commission” and whose business address of record is the Commission’s Philadelphia office. App. L. The register thus documents, from the Commonwealth’s own records, that two attorneys sharing a surname were admitted in the same group with consecutive registration numbers, one of whom is employed by the court of appeals that has decided every one of the petitioner’s appeals, and the other by the agency that obtained the freeze of his assets and the judgment against him. The petitioner has said for more than two years that they are married. The Commission has not denied it. The United States has not denied it. No court has addressed it. The Commission’s litigation release and the signature block of its complaint identify Mr. Donnelly as the attorney leading the action against the petitioner. He requested the service of process on the petitioner, and signed the certificate of service on the executed return. No. 21-cv-04845, ECF No. 10 (Nov. 8, 2021). He remains the Commission’s counsel of record in that action today, and personally signed its opposition to the petitioner’s motion under Rule 60(b) (4), filed August 26, 2026. Id., ECF No. 423.

That office is responsible for the legal affairs of the court in which all four of the petitioner’s appeals have been decided or are pending. Those four matters have produced one sentence denials, refusals to recuse or to transfer, and, in the mandamus case, a disposition that came three hundred sixty one days after the petition was docketed and that addressed none of the arguments raised. In the appeal that

challenges the Commission's own freeze and judgment, No. 24-1381, the Commission has filed no response brief in more than thirty months.

The relationship the petitioner asserts has never been denied. Not by the Commission. Not by the United States. Not by the district court. Not by the court of appeals. In more than two years of filings, no order has addressed it and no brief has answered it. Neither the Commission, nor its counsel, nor the United States, nor the district court, nor the court of appeals has denied it. An assertion of that kind, about the appearance of impartiality in the forum itself, ordinarily draws a response, if only to dispose of it. Here it has drawn none.

B. The court decided the question of its own disqualification, without reasons.

On August 21, 2025, in No. 24-1381, the petitioner moved to disqualify the entire Third Circuit under 28 U.S.C. 455 and to certify the matter for immediate review by this Court. Six days later the motion was denied in a single sentence: "Appellant's requests to disqualify the entire Third Circuit in this matter and to certify the case for immediate review by the Supreme Court of the United States are hereby Denied." The order gives no reasons. It was authored by the Chief Judge and joined by eleven other circuit judges.

Seven months later the same Chief Judge sat on the panel that decided this appeal and affirmed the petitioner's conviction. When rehearing was sought, the poll went to the judges of the circuit, including judges who are named subjects of a pending

complaint of judicial misconduct filed by the petitioner, and rehearing was denied.

When the petitioner asked, in both dockets, for a statement of reasons for that ruling, the request was itself denied without reasons. In the mandamus case a motion to transfer the proceedings to the Second Circuit was filed on March 24, 2025 and disposed of on January 26, 2026 in a single line, as one of “[p]etitioner’s pending motions,” without discussion, three hundred sixty one days after the petition was docketed.

C. Why this matters under this Court’s decisions.

Section 455(a) asks whether the judge’s impartiality might reasonably be questioned. The inquiry is objective. It does not depend on proof of actual bias, and it exists because the appearance of justice is itself a component of justice. *Offutt v. United States*, 348 U.S. 11, 14 (1954); *In re Murchison*, 349 U.S. 133, 136 (1955). In *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988), this Court held that relief was available under Section 455(a) even where the judge was unaware of the circumstance creating the appearance of partiality, and it emphasized the public’s confidence in the judiciary as the interest the statute protects. In *Williams v. Pennsylvania*, 579 U.S. 1 (2016), this Court held that an unconstitutional failure to recuse by one member of a multimember court is not cured by the participation of the others, because the influence of the disqualified judge cannot be measured. And in *Caperton v. A.T. Massey Coal Co.*,

556 U.S. 868 (2009), this Court held that in extreme cases the Due Process Clause requires recusal regardless of the statutory standard.

Those principles converge here. A judge who has denied, in his own unexplained order, a motion asserting that the entire court including him is disqualified, and who then sits in judgment on the movant's criminal appeal, presents the very appearance the statute forbids. The problem is structural rather than personal. It cannot be cured by the same court, because every avenue of review inside the circuit runs back to the judges whose participation is challenged. That is why the petitioner asked the court of appeals to certify the question here, and why this Court's intervention is the only means of resolving it.

D. The related appeal shows what the conflict has produced.

The appeal in No. 24-1381, which challenges the asset freeze and the judgment obtained by Mr. Donnelly's office, was docketed on March 5, 2024. It has now been pending more than thirty months.¹ The petitioner filed a pro se brief and a pro se supplemental brief in the summer of 2024. The Commission then obtained an order vacating the

¹ The result is a closed loop. Denying the petitioner's motion under Rule 60(b)(4), the district court added that, because the appeal in No. 24-1381 is pending, it "lacks authority to grant any motions brought pursuant to Federal Rule of Civil Procedure 60(b)(4)." No. 21-cv-04845, ECF No. 425, at 2 (citing Fed. R. Civ. P. 62.1(a)). The district court will not act while the appeal is pending, and the appeal does not move because the Commission has not briefed it.

briefing schedule, and those pro se filings were removed from the docket; a brief was filed by counsel on January 27, 2025, and the petitioner's pro se filings were later restored as an appendix to it. The Commission sought and received extension after extension of its own deadline, in one instance by order of a judge who later sat on motions in these matters, and it had still not filed any response brief when, in September 2025, it asked for sixty days more.

Meanwhile the freeze has remained in force. On January 23, 2024 the district court entered a final judgment against the petitioner and his entities for disgorgement of \$43,496,148 and prejudgment interest of \$6,975,425, a total of \$50,471,573, in a case the petitioner contends was brought without subject matter jurisdiction and resolved on a record that includes an impossible return of service. That judgment is the largest money judgment entered against him, and it was entered while the appeal from it sat unbriefed. The criminal judgments in the two prosecutions imposed restitution and forfeiture of \$47,769,779.02 in the fraud case, since vacated in relevant part and remanded, and restitution of \$6,023,189 in this one, and the civil judgment recites that the petitioner's obligation to the Commission is reduced by the criminal amounts. The point is not the arithmetic of the offsets. It is that judgments of this magnitude were entered and are being enforced in a forum whose disqualification the petitioner has asked four times to have adjudicated, and that the appeal which would test the largest of them has sat for two and a half years without a response brief. It

is the same freeze that left him unable to retain counsel of his choice in the prosecution that produced this petition.

IV. This case is an appropriate vehicle.

The questions are legal and the record is complete. The first question turns on the text of a rule, not on disputed facts. The second turns on a holding the court of appeals actually announced, with its own footnote supplying the waiver premise. The third turns on documents that are public: the court's own website, the Commission's own filings, and the orders of the court of appeals.

Nothing about the posture impedes review. There is no jurisdictional obstacle, no vehicle problem arising from an alternative ground of decision, and no factual dispute this Court would need to resolve. The government's own filings supply many of the facts on which the petition relies, including its statement that it produced the earlier discovery to counsel, its characterization of the Forms 1042-S, and its concession that the tax returns of the petitioner's entities were part of its production.

Finally, the questions are of consequence beyond this case. Rule 5(f) applies in every federal criminal case. The *Brady* question affects every defendant who exercises the right to represent himself after counsel has received discovery, a category that includes a large share of incarcerated pro se litigants. The disqualification question concerns the confidence of the public in the courts of appeals, which is the interest Section 455(a) was written to protect.

CONCLUSION

The petition for a writ of certiorari should be granted. In the alternative, the Court should grant the petition, vacate the judgment below, and remand for consideration of the effect of Federal Rule of Criminal Procedure 5(f) and of the suppression of the exculpatory evidence described in this petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Cammarata', with a stylized flourish at the end.

Joseph A. Cammarata
Petitioner, pro se
Register No. 02555-506
Federal Prison Camp Montgomery
1001 Willow Street
Montgomery, Alabama 36112
September 29, 2026

APPENDIX A
NOT PRECEDENTIAL
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1983

UNITED STATES OF AMERICA

v.
JOSEPH CAMMARATA,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal No. 3:22-cr-00639-001)
District Judge: Honorable Peter G. Sheridan

Submitted Under Third Circuit L.A.R. 34.1(a)
on December 2, 2025
Before: CHAGARES, *Chief Judge*, FREEMAN and
MASCOTT, *Circuit Judges*
(Opinion filed: April 7, 2026)

OPINION¹

FREEMAN, *Circuit Judge*.

Joseph Cammarata appeals his conviction for five counts of tax evasion. For the following reasons, we will affirm the judgment.

I

¹ This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Cammarata and two co-conspirators, Erik Cohen and David Punturieri, ran a securities fraud scheme from at least 2015 to 2019. Through the scheme, they made over \$40 million by submitting false claims in securities class actions across the United States.

In 2021, all three co-conspirators were indicted in the Eastern District of Pennsylvania on various fraud and money-laundering charges related to the securities fraud scheme. *See United States v. Cammarata*, 145 F.4th 345, 359 (3d Cir. 2025). In 2022, while Cammarata was awaiting trial in that case (the “Securities Fraud Case”), a grand jury in the District of New Jersey returned an indictment charging him with five counts of tax evasion, in violation of 26 U.S.C. § 7201. The latter case (the “Tax Evasion Case”) is the one at issue here.

The indictment in the Tax Evasion Case charged Cammarata with attempting to evade his tax obligations by filing fraudulent tax returns for five calendar years: 2015 to 2019. The indictment alleged several affirmative acts in support of each count, including that Cammarata failed to report his income from the securities fraud scheme.

The government provided voluminous discovery to Cammarata’s counsel in the Tax Evasion Case. The initial discovery included only tax-related materials, but by March 2023 the government also provided the entire discovery production from the Securities Fraud Case.

After Cammarata was convicted and sentenced in the Securities Fraud Case, the District Court granted Cammarata’s motion to represent himself in the Tax

Evasion Case.² The court required both attorneys who had been representing Cammarata to remain in the case as standby counsel.

Shortly before trial was scheduled to begin in the Tax Evasion Case, Cammarata stated he did not have an adequate opportunity to review the discovery, but he also expressed a desire for trial to begin immediately. The District Court colloquied Cammarata about those positions, and Cammarata confirmed that he was prepared to proceed and wished to do so. Trial began the next day.

During trial, Cohen and Punturieri testified for the government.³ Cohen testified that he and Cammarata “had discussed not filing on what we had taken in, just to keep more money.” Supp. App. 942. Cohen further testified that Cammarata recommended using Eisner CPA as accountants because they were “disastrous,” so “if there was ever an issue with the IRS, [Cammarata] would just say that it was a mistake on their end and it was not on him.” Supp. App. 584–85. Cohen and Punturieri testified that, for each calendar year charged in the indictment, they would put together a spreadsheet of profits and then Cammarata would alter the numbers before submitting the spreadsheet to his accountants for tax purposes. In 2016, Cammarata

² Cohen and Punturieri each pleaded guilty to two counts in the Securities Fraud Case, and a jury convicted Cammarata of eight counts. *Cammarata*, 145 F.4th at 359–60.

³ Cohen and Punturieri were charged with tax evasion in separate indictments. After Cammarata’s conviction in the Tax Evasion Case, each of them pleaded guilty to one count of tax evasion.

told Cohen that the two men would not get caught for filing false returns if they were consistent about the numbers, so Cohen started filing false returns, too. And when Cammarata learned that Punturieri filed a tax return that reported some of his fraudulent income, Cammarata got angry and directed Punturieri to “fix it.” Supp. App. 587. All three co-conspirators decided that they would not accurately report their income in the future.

The government introduced a summary chart of Cammarata’s fraudulent income (“Exhibit G-1001”) that a lay witness prepared. The government also introduced a second summary exhibit (“Exhibit G-1004”) through the testimony of its tax computation expert, IRS Agent Thomas Mazur. Although Mazur did not prepare Exhibit G-1004, he testified that he verified the figures in that exhibit were accurate before using the figures in his expert report.

The jury found Cammarata guilty of all five counts, and the District Court denied Cammarata’s motions for judgment of acquittal and a new trial. After sentencing, Cammarata timely appealed.

II⁴

Cammarata raises four challenges to his conviction. None of them is availing.

A

Cammarata argues that the District Court erred in denying his motion for a judgment of acquittal. When he filed that motion in the District Court, he argued

⁴ The District Court had jurisdiction pursuant to 18 U.S.C. § 3231. We have jurisdiction pursuant to 28 U.S.C. § 1291.

the government presented insufficient evidence of the “tax due and owing” element of the tax evasion offense. On appeal, Cammarata argues that the government presented insufficient evidence of a different element: willfulness. Because Cammarata did not raise his willfulness argument in the District Court, we review it for plain error. *See United States v. Jackson*, 849 F.3d 540, 544 (3d Cir. 2017). We discern no error, plain or otherwise. Cohen’s and Punturieri’s testimony that Cammarata falsified financial data to keep more money and advised them to do the same is sufficient evidence of Cammarata’s willful tax evasion.

B

Cammarata also argues that the District Court improperly admitted evidence of the securities fraud scheme during trial in the Tax Evasion Case. We review the court’s decision to admit evidence for abuse of discretion. *United States v. Saada*, 212 F.3d 210, 220 (3d Cir. 2000).

Although Cammarata purports to appeal the admission of all securities fraud evidence, at trial he stated that he was “okay with” the admission of securities fraud evidence from on or before December 31, 2019. Supp. App. 221. Thus, he waived any challenge to the evidence from 2019 or earlier. *See United States v. James*, 955 F.3d 336, 344–45 (3d Cir. 2020).

We review only Cammarata’s challenge to the post-2019 evidence, which includes the tax return he filed in October 2020 for tax year 2019, plus certain statements he made in 2020 to an undercover federal

agent in connection with a fraudulent claim he submitted. He does not dispute that evidence of the securities fraud scheme — including the post-2019 evidence — was intrinsic to the charges in the Tax Evasion Case. After all, it is probative of Cammarata’s unreported taxable income during the period charged in the indictment. *See Boulware v. United States*, 552 U.S. 421, 424 (2008) (“One element of tax evasion under § 7201 is the existence of a tax deficiency.” (internal quotation omitted)). Instead, he argues that the District Court should have excluded the post-2019 evidence under Federal Rules of Evidence 403 and 404(b).

Rule 403 permits a court to exclude relevant evidence “if its probative value is substantially outweighed by a danger of... unfair prejudice.” Fed. R. Evid. 403. But while “[i]ntrinsic evidence ‘that reveals a defendant’s legal guilt can be highly prejudicial,... that alone does not make it unfairly so.’” *Cammarata*, 145 F.4th at 368 (quoting *United States v. Long*, 92 F.4th 481, 488 (3d Cir. 2024)). Here, the District Court did not abuse its discretion under Rule 403 in concluding any prejudice from the post-2019 evidence did not substantially outweigh the probative value.

Rule 404(b) governs the permissible uses of “other crimes” evidence. Fed. R. Evid. 404(b). As such it applies only to extrinsic evidence. *United States v. Bailey*, 840 F.3d 99, 128 (3d Cir. 2016). Intrinsic evidence “directly proves the charged offense,” so it is not evidence of “other crimes.” *Id.* (cleaned up). Therefore, Rule 404(b) did not apply here.

C

Cammarata next argues that the government constructively amended the indictment by presenting evidence regarding falsified tax returns (a violation of 26 U.S.C. § 7206), when he was charged with tax evasion (a violation of 26 U.S.C. § 7201). Because Cammarata did not raise this objection at trial, we review for plain error. *Cammarata*, 145 F.4th at 360.

“A constructive amendment occurs where trial evidence or arguments modify essential terms of the charged offense in such a way that there is a substantial likelihood that the jury may have convicted the defendant for an offense differing from the offense charged in the indictment.” *Cammarata*, 145 F.4th at 361 (cleaned up). The “key inquiry” is thus “whether the defendant was convicted of the same conduct for which he was indicted.” *Id.* (cleaned up).

A conviction under § 7201 requires an affirmative act of tax evasion. *Sansone v. United States*, 380 U.S. 343, 351 (1965). The indictment alleged that Cammarata engaged in several affirmative acts, including filing false and fraudulent tax returns for the applicable calendar year of each of his five counts. Because the government presented evidence of the affirmative acts alleged in the indictment, there was no constructive amendment.

D

Lastly, Cammarata argues the District Court should have granted his motion for a new trial because the government purportedly violated *Brady v. Maryland*,

373 U.S. 83 (1963), and failed to comply with its expert discovery obligations.

Of the six purported *Brady* violations and discovery deficiencies, Cammarata only raised three in his Rule 33 motion. Under Rule 33, “a judge has no power to order a new trial on his own motion.” *United States v. Wright*, 363 F.3d 237, 248 (3d Cir. 2004) (quoting Fed. R. Crim. Proc. 33, Advisory Committee Notes, 1966 Amendments). Therefore, we will not reach the merits of the arguments Cammarata did not include in his Rule 33 motion.⁵ *See id.*

As to the arguments Cammarata did raise in his Rule 33 motion, we review the District Court’s ruling for abuse of discretion. *United States v. Kelly*, 539 F.3d 172, 181 (3d Cir. 2008). A district court may grant a Rule 33 motion if it “believes that there is a serious danger that a miscarriage of justice has occurred — that is, that an innocent person has been convicted.” *United States v. Johnson*, 302 F.3d 139, 150 (3d Cir. 2002) (citation modified).

The District Court did not abuse its discretion in denying Cammarata’s motion. First, Cammarata argues the government violated *Brady* by not providing all documents used to develop Exhibit G-

⁵ This applies to the arguments that (1) the government violated *Brady* by not providing Cammarata’s IRS Forms 1042-S and related payment confirmation letters; (2) the government violated *Brady* by not providing Plan of Action forms from each class action settlement claims administrator involved in the securities fraud scheme; and (3) the District Court erred in admitting Exhibit G-1001 because it was prepared by a lay witness.

1001. But Cammarata does not argue that the government withheld those documents from the defense. He argues only that, after he obtained permission to represent himself, he was unable to review the documents the government provided to his attorney when he was represented by counsel. A *Brady* violation requires the suppression of evidence, and there was none here. See *United States v. Pelullo*, 399 F.3d 197, 209 (3d Cir. 2005).⁶

Second, Cammarata argues the government did not comply with its expert discovery obligations under Federal Rule of Criminal Procedure 16 because it did not provide a written summary of Mazur's anticipated expert testimony. But the record includes an email from the government to Cammarata's then-counsel that belies this argument.

Third, Cammarata argues that the District Court erred by permitting the government to introduce Exhibit G-1004 through Mazur, who did not personally prepare that document. But there is no requirement that the preparer of a summary exhibit testify. Rather, a district court may admit a summary exhibit if it "accurately summarize s the materials involved." *Pritchard v. Liggett & Myers Tobacco Co.*, 295 F.2d 292, 301 (3d Cir. 1961). Agent Mazur testified that he verified the accuracy of the figures in Exhibit G-1004, so the District Court acted within its discretion when it admitted the exhibit.

* * *

⁶ Cammarata has waived any argument that he did not have the opportunity to review the documents that were produced.

For the forgoing reasons, we will affirm the judgment.

APPENDIX B

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790
Website: www.ca3.uscourts.gov

PATRICIA S. DODSZUWEIT
CLERK

TELEPHONE
215-597-2995

April 7, 2026

Joseph Cammarata
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139 N Croskey Street
Philadelphia, PA 19103

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Office of United States Attorney
615 Chestnut Street

Suite 1250
Philadelphia, PA 19106

RE: USA v. Joseph Cammarata
Case Number: 24-1983
District Court Case Number: 3:22-cr-00639-001

ENTRY OF JUDGMENT

Today, **April 07, 2026**, the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment.

45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service, unless the petition is filed and served through the Court's electronic-filing system.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition seeks only panel rehearing, the petition will be construed as requesting both panel and en banc rehearing. A party seeking both forms of rehearing must file the petitions as a single document. Fed. R. App. P. 40(a).

A party who is entitled to costs pursuant to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,
Patricia S. Dodszeit, Clerk

By: s/Alicia
Case Manager
267-299-4948

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1983

UNITED STATES OF AMERICA,
v.
JOSEPH CAMMARATA,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal No. 3:22-cr-00639-001)
District Judge: Honorable Peter G. Sheridan

Submitted Under Third Circuit L.A.R. 34.1(a)
on December 2, 2025
Before: CHAGARES, *Chief Judge*, FREEMAN and
MASCOTT, *Circuit Judges*

JUDGMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third Circuit L.A.R. 34.1(a) on December 2, 2025.

On consideration whereof, it is hereby ORDERED and ADJUDGED that the District Court's judgment entered on May 14, 2024, be and is hereby AFFIRMED. Costs will not be taxed.

All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit
Clerk

Dated: April 7, 2026

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1983

UNITED STATES OF AMERICA,

v.

JOSEPH CAMMARATA,
Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal No. 3:22-cr-00639-001)

SUR PETITION FOR REHEARING

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

The petition for rehearing filed by Appellant Joseph Cammarata 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/ Arianna J. Freeman
Circuit Judge

Dated: May 7, 2026
Amr/Cc: All counsel of record

APPENDIX D

AO 245B (Mod. D/NJ 12/06) Sheet 1 - Judgment in a Criminal Case

UNITED STATES DISTRICT COURT District of New Jersey

UNITED STATES OF AMERICA

v. CASE NUMBER 3:22-CR-00639-PGS-1

JOSEPH CAMMARATA

Defendant.

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1,
1987)

The defendant, JOSEPH CAMMARATA, was represented by FLOYD JAMES MILLER CJA COUNSEL AND MARGARET M. GRASSO CJA COUNSEL.

The defendant was found guilty on counts 1-5 by a jury verdict on 11/15/2023 after a plea of not guilty. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

Title & Section	Nature of Offense	Date of Offense	Count Numbers
26:7201	TAX EVASION 2015	1/1/2015- 10/13/2016	1
26:7201	TAX EVASION 2016	1/1/2016- 10/30/2017	2

Title & Section	Nature of Offense	Date of Offense	Count Numbers
26:7201	TAX EVASION	1/1/2017- 9/26/2018	3
26:7201	TAX EVASION	1/1/2018- 10/4/2019	4
26:7201	TAX EVASION	1/1/2019- 10/12/2020	5

As pronounced on May 13, 2024, the defendant is sentenced as provided in pages 2 through 8 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 \$500.00 consisting of \$100 on each count 1 through 5, 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 14th day of May, 2024.

Peter G. Sheridan
Senior U.S. District Judge

AO 245B (Mod. D/NJ 12/06) Sheet 2 - Imprisonment

Judgment - Page 2 of 8

Defendant: JOSEPH CAMMARATA

Case Number: 3:22-CR-00639-PGS-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 72 months — On Counts 1, 2, 3 and 4, the term of imprisonment is 60 months on each count to be served concurrently. On Count 5 the term of imprisonment is 12 months to be served consecutively to Counts 1 through 4. Additionally, Counts 1 through 4 will run concurrently to the ED/PA sentence on 21CR427-1. Count 5 will run consecutively to the ED/PA sentence on 21CR427-1.

The Court makes the following recommendations to the Bureau of Prisons: The Court recommends to the BOP that the defendant be designated to Fort Dix Correctional as the facility to serve sentence if there are no security concerns.

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

AO 245B (Mod. D/NJ 12/06) Sheet 3 - Supervised Release

Judgment - Page 3 of 8

Defendant: JOSEPH CAMMARATA

Case Number: 3:22-CR-00639-PGS-1

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of 3 years on each of Counts 1 through 5 to be served 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:

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.

**INTERNAL REVENUE SERVICE -
COOPERATION**

You must fully cooperate with the Internal Revenue Service by filing all delinquent or amended returns within six months of the sentence date and timely file all future returns that come due during the period of supervision. You must properly report all corrected taxable income and claim only allowable expenses on those returns. You must provide all appropriate documentation in support of said returns. Upon request, you must furnish the Internal Revenue Service with information pertaining to all assets and liabilities, and you must fully cooperate by paying all taxes, interest and penalties due, and otherwise comply with the tax laws of the United States.

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.

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.

AO 245B (Mod. D/NJ 12/06) Sheet 3 - Supervised Release

Judgment - Page 4 of 8

Defendant: JOSEPH CAMMARATA

Case Number: 3:22-CR-00639-PGS-1

SELF-EMPLOYMENT/BUSINESS DISCLOSURE

You must cooperate with the U.S. Probation Office in the investigation and approval of any position of self-employment, including any independent, entrepreneurial, or freelance employment or business activity. If approved for self-employment, you must provide the U.S. Probation Office with full disclosure of your self-employment and other business records, including, but not limited to, all of the records identified in the Probation Form 48F (Request for Self Employment Records), or as otherwise requested by the U.S. Probation Office.

AO 245B (Mod. D/NJ 12/06) Sheet 3a - Supervised Release

Judgment - Page 5 of 8

Defendant: JOSEPH CAMMARATA

Case Number: 3:22-CR-00639-PGS-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 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.

AO 245B (Mod. D/NJ 12/06) Sheet 3a - Supervised Release

Judgment - Page 6 of 8

Defendant: JOSEPH CAMMARATA

Case Number: 3:22-CR-00639-PGS-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

AO 245B (Mod. D/NJ 12/06) Sheet 5 - Fine

Judgment - Page 7 of 8

Defendant: JOSEPH CAMMARATA

Case Number: 3:22-CR-00639-PGS-1

FINE

The defendant shall pay a fine of \$100,000.00.

This fine, plus any interest pursuant to 18 U.S.C. § 3612(f)(1), is due immediately and shall be paid in full within 30 days of release from imprisonment.

This amount is the total of the fines imposed on individual counts, as follows: On Counts 1 through 5, a fine of \$20,000 on each Count.

The Court determines that the defendant does not have the ability to pay interest and therefore waives the interest requirement pursuant to 18 U.S.C. § 3612(f)(3).

If the fine is not paid, the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.

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.

AO 245B (Mod. D/NJ 12/06) Sheet 6 - Restitution and Forfeiture

Judgment - Page 8 of 8

Defendant: JOSEPH CAMMARATA

Case Number: 3:22-CR-00639-PGS-1

RESTITUTION AND FORFEITURE

RESTITUTION

The defendant shall make restitution in the amount of \$6,023,189.00. The Court will waive the interest requirement in this case. Payments should be made payable to the U.S. Treasury and mailed to Clerk, U.S.D.C., 402 East State Street, Rm 2020, Trenton, New Jersey 08608, for distribution to IRS RACS,

Attn: Mail Stop 6261 Restitution, 33 W. Pershing Ave, Kansas City, Missouri 64108.

The restitution is due immediately. It is recommended that the defendant participate in the Bureau of Prisons Inmate Financial Responsibility Program (IFRP). If the defendant participates in the IFRP, the restitution shall be paid from those funds at a rate equivalent to \$25 every 3 months. In the event the entire restitution is not paid prior to the commencement of supervision, the defendant shall satisfy the amount due in monthly installments of no less than \$1500, to commence 30 days after release from confinement.

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

APPENDIX E

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

v.

JOSEPH CAMMARATA

Crim. No.: 3:22-00639-PGS

MEMORANDUM AND ORDER

This Memorandum and Order vacates both the Court's decision read into the record on May 14, 2024 and the subsequent Order (ECF No. 149). This Memorandum and Order supplements the Court's rationale stated on the record on May 13, 2024 for denying Defendant Joseph Cammarata's ("Defendant") combined motion for a judgment of acquittal under Rule 29(c) or alternatively, a motion for a new trial under Rule 33 (ECF Nos. 134, 137); this combined motion is denied because it does not meet the standard under either Rule 29 or Rule 33. In addition, this Memorandum and Order also denies the Government's Motion to Strike (ECF No. 138).

I.

Under Rule 29(c), the moving party bears the very "heavy burden" to show that there was insufficient evidence to maintain a conviction. *United States v. Anderson*, 108 F.3d 478, 481 (3d Cir. 1997) (internal citations and marks omitted). Evidence is to be reviewed in the light most favorable to the prosecution. *United States v. Hart*, 273 F.3d 363, 371 (3d Cir. 2001) (internal citations omitted). The Court must not usurp the role of the jury "by weighing

credibility and assigning weight to the evidence, or by substituting its judgment for that of the jury.” *United States v. Flores*, 454 F.3d 149, 154 (3d Cir. 2006) (quoting *United States v. Brodie*, 403 F.3d 123, 133 (3d Cir. 2005)); see also *United States v. Brown*, 22-cr-108, 2022 WL 16855129 (D.N.J. Nov. 10, 2022).

Under Rule 33, a court “may vacate any judgment and grant a new trial if the interest of justice so requires.” Fed.R.Crim.P. 33. This is a broader standard than Rule 29. A district court can order a new trial on the ground that the jury’s verdict is contrary to the weight of the evidence only if it “believes that ‘there is a serious danger that a miscarriage of justice has occurred—that is, that an innocent person has been convicted.’” *United States v. Johnson*, 302 F.3d 139, 150 (quoting *United States v. Santos*, 20 F.3d 280, 285 (7th Cir.1994) (internal quotations omitted). Such motions are not favored and should be granted “sparingly and only in exceptional cases.” *United States v. Silveus*, 542 F.3d 993, 1005 (3d Cir. 2008)(quoting *Gov’t of Virgin Islands v. Derricks*, 810 F.2d 50, 55 (3d Cir.1987)).

II.

The combined motion is based upon two grounds. First, Defendant argues that in a tax evasion case, the Government has the burden to show the amount of income not reported and subtract from that amount all of Defendant’s business expenses to determine the net income on which the tax was calculated. Relatedly, Defendant claims that the Government failed to disclose certain business records that would have shown his business

deductions (specifically, Merrill Lynch Wealth Management Account wire transfers and other credit card purchases referenced in undisclosed credit card statements). Defendant claims that this evidence was produced in his trial in the Eastern District of Pennsylvania, but this evidence was withheld from him in this matter. Defendant argues that if these alleged expenses and documents were disclosed to him, he would have produced them as evidence at trial.

The first issue is whether the Government has the burden to prove all business deductions and to deduct them from the evaded income that was reviewed at trial. The answer to this question is no. The Government has no such burden. *See United States v. Link*, 202 F.2d 592 (3d Cir. 1953); *United States v. Stayback*, 212 F.2d 313 (3d Cir. 1953); *United States v. Smith*, 206 F.2d 905 (3d Cir. 1953). As the Third Circuit explained in *Stayback*:

It is well settled that once the government establishes unreported income of the defendant and allows deductions claimed by him in his tax return and others that it can calculate without his assistance, the burden is on the defendant to prove that he had other allowable deductions which were not shown in his return[.]

Stayback, 212 F.2d at 317. Further, the *Stayback* court explained that the “government is not required to prove the negative, i.e that the defendant did not have any other deductions.” *Id.* (citing *Gariepy v. United States*, 189 F.2d 459, 462 (6th Cir. 1951)). The

Third Circuit in *Link* expanded upon this idea, stating that “[o]ther deductions, if there were any, could have easily been established by the defendant.” *Link*, 202 F.2d at 593.

In this case, the Government established proof of evaded income at trial by producing a multitude of evidence—including but not limited to testimony, documentary evidence, and affirmative acts of evasion on the part of Defendant—that were considered by the jury. The Government allowed deductions claimed by Defendant. The Government satisfied its burden of proof, and the Court will not usurp the role of the jury by deciding otherwise under Rule 29. In a similar way, no evidence has been presented that the verdict was contrary to the weight of the evidence or that anything about the present prosecution merits the use of the Court’s discretion under Rule 33.

Next, the Court evaluates whether the Government failed to disclose the business expenses to Defendant. There is no evidence that the Government failed to comply with its obligations. The Government stated on the record on May 13, 2024 that it disclosed all documents to Defendant—including the disputed Merrill Lynch records—and complied with its discovery obligations on several different occasions.

In support of his argument that the Government withheld documents from him, at oral argument on May 13, 2024, Defendant relied upon an index provided to him by the Government dated sometime in 2022 to prove that the Government had not disclosed the documents to him in this prosecution.

This argument holds no water for the following reason; there were other indices which the Government had submitted that showed the production of all documents. Rather, because of the volume of discovery in this case, the parties conferred, and the Government provided a streamlined index to the Defense, resulting in the index of which Defendant complains. Defendant was always in possession of the Merrill Lynch documents of which he claims he did not have; Defendant pointing to an index that does not list those documents does not prove otherwise. The Court is satisfied with the Government's representations that it complied with its discovery obligations and does not believe that Defendant's accusations have merit.

Assuming *arguendo* that the Defendant was correct that these documents were not disclosed to him, the Court struggles with the commonsense proposition which undermines his argument: Defendant knew of his business deductions and of the existence of the supporting documentation. At the May 13, 2024 hearing, Defendant stated on the record that these documents had been produced in the Eastern District of Pennsylvania prosecution. The Court fails to see how the Government prevented Defendant from arguing the existence of these expenses where Defendant already knew of the expenses and where—prior to trial—both parties indicated that they were prepared to try the case. No party argued that any expenses or documents were not disclosed or that a third-party subpoena was required to obtain the records.

Rather, the quagmire here is that Defendant—in his own judgment—did not seek to develop evidence that supported these business expenses. This issue falls back upon Defendant’s choice to represent himself. After approving Defendant’s request to proceed *pro se*, stand-by counsel with expertise in tax law, Mr. Floyd Miller, was appointed. In order to manage the volume of discovery foisted upon Mr. Miller, another stand-by counsel, Ms. Margaret Grasso, was appointed to assist in the representation of Defendant. Unfortunately, Defendant—in his own judgment— failed to develop the business expense deductions until about the last day of trial. This was a strategic decision for which Defendant bears full responsibility; this issue has little to do with discovery issues.

Accordingly, Defendant’s motions are denied. An appropriate order follows.

/s/ Peter G. Sheridan
PETER G. SHERIDAN, U.S.D.J.

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH CAMMARATA,

Defendant.

Crim. No.: 3:22-cr-00639-PGS

ORDER

WHEREAS, this matter comes before the Court on Defendant Joseph Cammarata's post-trial motions under Federal Rules of Civil Procedure 29 and 33 (ECF Nos. 134, 137); and

WHEREAS, the Government opposes these motions (ECF Nos. 136) and filed a motion to strike (ECF No. 138); and

WHEREAS, the Court heard oral arguments on these motions on May 13, 2024; and

WHEREAS, the Court previously entered an order dated May 14, 2024 (ECF No. 149) and entered a decision on the record on that same day; and

WHEREAS, the Memorandum entered on May 16, 2024 supplements the record developed on these motions on May 13, 2024.

IT IS on this 16th day of **May, 2024**,

ORDERED that the decision read into the record on May 14, 2024 is **VACATED**; and it is further

ORDERED that the Order dated May 14, 2024 (ECF. No 149) is **VACATED**; and it is further

ORDERED that, for the reasons stated in the May 16, 2024 Memorandum and on the record on May 13, 2024, Defendant Joseph Cammarata's motions (ECF No. 134, 137) are **DENIED**; and it further

ORDERED that, for the reasons stated in the May 16, 2024 Memorandum and on the record on May 13, 2024, the Government's Motion to Strike (ECF No. 138) is **DENIED** as **MOOT**.

/s/ Peter G. Sheridan
PETER G. SHERIDAN, U.S.D.J.

APPENDIX F

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

v.

JOSEPH CAMMARATA

Crim. No.: 3:22-00639 (RK)

OPINION

KIRSCH, District Judge

THIS MATTER is before the Court on *pro se* Defendant Joseph Cammarata's ("Defendant") Second Motion for Acquittal pursuant to Federal Rules of Criminal Procedure 29 and 33 ("Renewed Motion for Acquittal") and his Motion to Move the Court to Rule on his Renewed Motion for Acquittal ("Letter Motion"). (*See* ECF Nos. 155, 162.) For the reasons below, both Motions are DENIED.

I. BACKGROUND

Defendant proceeded to trial by jury with the assistance of stand-by counsel, Floyd Miller, esq. and Margaret Grasso, esq. ("Stand-by Counsel"). (*See* ECF Nos. 13, 15, 43.) After a jury trial presided over by Hon. Peter G. Sheridan (ret.), Defendant was found guilty on five counts of income tax evasion in violation of 26 U.S.C. § 7201 on November 15, 2023. (ECF No. 109.) On November 21, 2023, the Government moved, *inter alia*, to limit Defendant to a single set of post-trial motions to avoid duplicative filings filed by Defendant and Stand-by Counsel. (ECF No. 112.) On December 4, 2023, the Court

granted the Government's Motion in part, issuing an Order (the "December 4, 2023 Order") limiting Defendant to one brief on each post-trial Motion and noting that "any brief or writing by defendant outside of the one provided for above shall be deemed extraneous and stricken unless it is authorized by the Court in advance." (ECF No. 124 at 1.)

Defendant, through Stand-by Counsel, filed his post-trial motions pursuant to Federal Rules of Criminal Procedure 29 and 33 ("First Motion for Acquittal") on January 29, 2024. (See ECF No. 134.) On February 13, 2024, Defendant filed a Motion to Dismiss the Indictment. (See ECF No. 137.) The Government opposed these motions, and it filed a Motion to strike Defendant's Motion to Dismiss the Indictment. (See ECF Nos. 136, 137.) On May 13, 2024, Hon. Peter G. Sheridan (ret.) heard oral arguments on the pending motions before denying both of Defendant's motions from the bench and denying the Government's motion as moot. (See ECF No. 148.) On that same day, Defendant was sentenced to 72 months imprisonment—with 60 months on Counts 1 to 4 to run concurrently with Defendant's sentence from the Eastern District of Pennsylvania¹ and 12 months from Count 5 to run consecutively to Defendant's sentence from the Eastern District of Pennsylvania. (ECF No. 150 at 2.) On May 16, 2024, the Court issued a written Memorandum and Order setting

¹ On June 8, 2023, in a separate criminal matter, Defendant was sentenced to 120 months of imprisonment after being found guilty at a trial by jury in the Eastern District of Pennsylvania. (Eastern District of Pennsylvania Docket No. 21-cr-427, ECF No. 307 at 3).

forth its rationale and its grounds for its denial of Defendant's posttrial motions. (See ECF No. 152.)

On May 25, 2024, Defendant—through Stand-by Counsel—filed a Notice of Appeal. (See ECF No. 154.) On May 30, 2024, Defendant filed his Renewed Motion for Acquittal. (See ECF No. 155.) On June 5, 2024, the Government filed its Opposition to the Renewed Motion for Acquittal, raising its jurisdictional objection to the same and noting that the “pendency of [Defendant's] appeal deprives this Court of jurisdiction over the reconsideration motion.” (ECF No. 157 at 3.) Defendant's Reply was entered on July 9, 2024. (See ECF No. 159.)

This case was reassigned to the undersigned on July 12, 2024. (See ECF No. 160.) On August 7, 2024, Defendant filed a Letter Motion requesting that the Court rule on his Renewed Motion for Acquittal (See ECF No. 162.) Thus, before the Court today are both the Renewed Motion for Acquittal and a Letter Motion pertaining to the same.

II. STANDARD

“As a general rule, the timely filing of a notice of appeal is an event of jurisdictional significance, immediately conferring jurisdiction on a Court of Appeals and divesting a district court of its control over those aspects of the case involved in the appeal.” *Venen v. Sweet*, 758 F.2d 117, 120 (3d Cir. 1985) (citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982); *United States v. Leppo*, 634 F.2d 101, 104 (3d Cir. 1980)). As further explained by the Third Circuit:

“Divest” means what it says—the power to act, in all but a limited number of circumstances, has been taken away and placed elsewhere. This judge-made rule has the salutary purpose of preventing the confusion and inefficiency which would of necessity result were two courts to be considering the same issue or issues simultaneously.

Venen, 758 F.2d at 120-21. A court may, however, decide a timely motion to reconsider, notwithstanding the filing of the notice of appeal. *United States v. Banks*, 674 F. App’x 121, 124 (3d Cir. 2017).

III. DISCUSSION

These Motions are denied because the Court does not have jurisdiction over the Renewed Motion for Acquittal and the Letter Motion. There is an appeal pending before the Third Circuit, with motions being filed in the appeal as recently as Monday, August 12th of this week. (Third Circuit Docket No. 24-1983 at ECF No. 17.) The Court lost jurisdiction over matters pertaining to Defendant’s conviction once this appeal was filed. *See United States v. Georgiou*, 777 F.3d 125, 145 (3d Cir. 2015) (affirming the district court where it, *inter alia*, denied a motion to unseal filed after a notice of appeal was filed with the Third Circuit and noting that the District Court lacked jurisdiction when defendant-appellant filed his motion to unseal); *see also United States v. Flamer*, No. 08-1421, 2009 WL 237084, at *2 (3d Cir. Feb. 3, 2009) (affirming the District Court where it

denied defendant-appellant's motion for discovery material since the motion was filed after defendant-appellant's notice of appeal of his conviction and sentence, "at which time the District Court lost jurisdiction over matters pertaining to the conviction."). Here, Defendant—through Stand-by Counsel—filed his Notice of Appeal from Defendant's final Judgment of Conviction and Sentence on May 25, 2024. (See ECF No. 154.) The two Motions before the Court were both filed after the Notice of Appeal's filing.² The Renewed Motion for Acquittal was filed on May 30, 2024,³ and the Letter Motion was filed on

² A question of the timeliness of the motion filed by defendant on May 30, 2024 (ECF No. 155) was raised in the briefing. Stand-by Counsel noted this in his Notice of Appeal. (ECF No. 154 at 2.) Defendant raises these arguments himself in his motions, invoking the mailbox rule with respect to when his Renewed Motion for Acquittal was filed. (*E.g.*, ECF No. 162 at 1 (arguing his motion was filed on May 24, 2024); *see also* ECF No. 155 at 1 (where Defendant indicates that a separate judicial misconduct complaint was entered into the prison mailbox on May 27, 2024)). The only evidence the Court has as to the actual mailing of the Renewed Motion for Acquittal is the postage date on the envelope of the Renewed Motion for Acquittal, indicating a postmark date of May 28, 2024. (ECF No. 155 at 41.) As discussed at *infra*, since the motion filed by Defendant on May 30, 2024 (ECF No. 155) is more properly styled a "a renewed motion for acquittal" than a motion for reconsideration, the Court will not address arguments as to the timeliness of a motion to reconsider in this case.

³ The Court also notes that the filing of the Renewed Motion for Acquittal is in direct contravention of the Court's December 4, 2023 Order. (See ECF No. 124.) In the December 4, 2023 Order, the Court gave clear directives to Defendant that he "may file a single brief on each post-trial motion." (*Id.* at 1.) It stated that "any brief or writing by [D]efendant outside of the one provided for above shall be deemed extraneous and stricken unless it is

August 7, 2024. (See ECF Nos. 155, 162.) The Court lacks jurisdiction over the Renewed Motion for Acquittal and the Letter Motion.

While it is clear to the Court that it lacks jurisdiction to decide both the Renewed Motion for Acquittal and the Letter Motion, the Court briefly addresses a question of semantics. Defendant styles the Renewed Motion for Acquittal as a “motion for reconsideration.” Upon review, the Renewed Motion for Acquittal contains largely recycled facts from Defendant’s First Motion for Acquittal—coupled with Defendant’s desire to “put on the record what he believes to have (*sic*) an unfair trial, judicial errors in denying post-trial motions, improper sentencing hearing,” while raising the specter that the trial court had some “pre-existing medical condition that may have impacted the post-trial motion procedures and sentencing.”⁴ (ECF No. 155 at 2.) The Court harbors serious doubts as to whether such a Motion is properly labeled a “motion for reconsideration.”

Even if the Court were to consider it as a motion for reconsideration, Defendant’s arguments fail. Defendant appears to raise several different arguments not explicitly addressed in the previous briefing. These arguments surround: (1) the Government’s purported withholding of 1042 tax

authorized by the Court in advance.” (*Id.*) (emphasis added).

⁴ To this last point, among the 41 pages of briefing in the Renewed Motion for Acquittal, Defendant levels conclusory accusations against the judge presiding over his trial in the District of New Jersey, the Hon. Peter G. Sheridan (ret.). (ECF No. 155 at 3-4; ECF No. 162 at 1.) These arguments lack support in the factual record.

forms; (2) complaints regarding grand jury testimony; (3) complaints regarding the constructive amendment of the indictment by the Government; (4) complaints about the use of the word “fraud” at the District of New Jersey trial. (ECF No. 155 at 7, 21-28.) These arguments do not meet the standard required for a motion for reconsideration.

A motion for reconsideration is appropriate only where there is “(1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the court [made its initial determination on the underlying motion]; or (3) the need to correct a clear error of law or fact or to prevent manifest injustice.” *United States v. Dfouni*, 856 F. App’x 388, 389 (3d Cir. 2021) (quoting *United States ex rel. Schumann v. AstraZeneca Pharm. L.P.*, 769 F.3d 837, 848-49 (3d Cir. 2014)). Defendant does not argue (as he cannot) that there was an intervening change in the law or the need to correct an error of law or fact. Rather, he appears to argue that this is “new evidence.” This evidence is not new. As pointed out by the case law, where Defendant’s arguments are based upon information or evidence that was in Defendant’s possession when he filed his First Motion for Acquittal, they are not “new” evidence. *Dfouni*, 856 F. App’x at 390 (finding that a settlement agreement that was appended to a motion for reconsideration did not qualify as “new evidence” given that defendant “had obtained the settlement agreement prior to submitting” his initial motion.) Here, Defendant was in possession of all of the information or evidence he puts forth prior to the filing of his First Motion for Acquittal on January 29,

2024. There is no intervening change in the controlling law. There is no need to correct a clear error of law or fact or prevent manifest injustice. Defendant fails to meet any of the three factors necessary to grant a motion for reconsideration. Thus, although this Court lacks jurisdiction to consider the Renewed Motion for Acquittal and Letter Motion—even if it did have jurisdiction—Defendant’s arguments fail.

CONCLUSION

For the foregoing reasons, Defendant’s Renewed Motion for Acquittal (ECF No. 155) and his Letter Motion (ECF No. 162) are DENIED. An appropriate Order will accompany this Opinion.

**ROBERT KIRSCH
UNITED STATES DISTRICT
JUDGE**

Dated: August 15, 2024

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

v.

JOSEPH CAMMARATA

Crim. No.: 3:22-00639 (RK)

ORDER

THIS MATTER comes before the Court on *pro se* Defendant Joseph Cammarata's ("Defendant") Second Motion for Acquittal pursuant to Federal Rules of Criminal Procedure 29 and 33 ("Renewed Motion for Acquittal") (ECF No. 155) and Defendant's Motion to Move the Court to Rule on his Renewed Motion for Acquittal ("Letter Motion") (ECF No. 162.) After careful consideration of the parties' submissions, and for the reasons set forth in the accompanying Opinion, and for other good cause shown,

IT IS on this 15th day of August, 2024, ORDERED that:

1. Defendant's Renewed Motion for Acquittal (ECF No. 155) is DENIED; and
2. Defendant's Letter Motion (ECF No. 162) is DENIED.

ROBERT KIRSCH
UNITED STATES DISTRICT
JUDGE

APPENDIX G

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**CHAMBERS OF
PETER G. SHERIDAN
JUDGE**

Clarkson Fisher Building and U.S. Courthouse
402 East State Street
Trenton, NJ 08608
(609) 989-0508

TO: Floyd J. Miller
Paul Shapiro
David Ignall

Cc: Renee Ettleman, Case Budgeting Attorney, U.S.
Courts for the Third Circuit

FROM: Peter G. Sheridan, U.S.D.J.

DATE: March 23, 2023

RE: USA v. Cammerata, 22-cr-00639

The purpose of this memorandum is to encourage counsel to confer with regard to the scope of discovery in this matter. It is my understanding that discovery is estimated to be in excess of 2 million pages. This is excessive. It is my view that if counsel confer and are open with each other, the relevant discovery can be substantially reduced. More importantly, it appears at first glance that the Government's attorneys are more knowledgeable about the content of discovery based on its involvement in the Eastern District of Pennsylvania

criminal proceeding. As such, the Government should review and direct defense counsel to the discovery that is relevant to this action. While this may take some preparation and planning, this is the best way to move the case forward expeditiously and efficiently. The status of your progress on this issue will be addressed at the hearing on April 6, 2023.

APPENDIX H

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 24-1983

United States v. Cammarata

To: Clerk

- 1) Pro Se Motion by Appellant for Appointment of New Counsel
- 2) Motion by Attorney Jack J. McMahon, Jr., Esq. to Withdraw as Counsel for Appellant
- 3) Pro Se Reply Brief with Appendix attached filed by Appellant

The foregoing motions are denied. It is the Court's practice that counsel whether retained or appointed continue on appeal absent extraordinary circumstances. 3d Cir. L.A.R. Misc. 109.1. It is noted that "extraordinary" circumstances require more than a conflict as to strategy or tactics and may not be based on allegations that counsel has been ineffective unless the District Court has made a determination concerning ineffective assistance. Moreover, claims of ineffective assistance of counsel are generally not reviewable on direct appeal. *United States v. Thornton*, 327 F.3d 268 (3d Cir. 2003).

No action will be taken on the pro se reply brief as Appellant is represented by counsel in the appeal. Pro se briefs are prohibited. See 3d Cir. L.A.R. 31.3. See also *United States v. Turner*, 677 F.3d 570 (3d Cir. 2012) (except in cases governed by *Anders*,

parties represented by counsel may not file pro se briefs). The pro se brief will be forwarded to counsel in accordance with Local Rule 31.3 and Turner. Counsel is directed to review this Court's opinion in Turner regarding counsel's obligations with respect to the pro se arguments. Appellant's reply brief, if any, must be filed by counsel within fourteen (14) days of the date of this order.

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Dated: August 25, 2025

Amr/cc: All counsel of record

UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT

No. 24-1983

United States v. Cammarata

To: Clerk

1) Formal Notice from Appellant of Pending Matters
Requiring Adjudication directed to Chief Judge
Chagares

No action will be taken on the foregoing submission.
Parties represented by counsel may not file a motion
or other document pro se. See 3d Cir. L.A.R. 27.8. In
the future, only submissions made by counsel will be
accepted for filing. Decisions as to what issues will be
submitted to the Court are solely within counsel's
professional discretion. Accordingly, the submission
will be forwarded to Appellant's counsel for whatever
action counsel deems appropriate.

For the Court,

s/ Patricia S. Dodszuweit
Clerk

Dated: February 4, 2026
Amr/Cc: All counsel of record

APPENDIX I

UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT

No. 24-1381

SECURITIES AND EXCHANGE COMMISSION

v.

JOSEPH A. CAMMARATA; ERIK COHEN; DAVID
H. PUNTURIERI; ALPHAPLUS PORTFOLIO
RECOVERY CORP.; ALPHA PLUS RECOVERY
LLC

Joseph A. Cammarata,
Appellant

(E.D. Pa. No. 2:21-cv-04845)

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

ORDER

Appellant's requests to disqualify the entire Third
Circuit in this matter and to certify the case for
immediate review by the Supreme Court of the
United States are hereby denied.

By the Court,

s/ Michael A. Chagares
Chief Judge

Dated: August 27, 2025

Amr/cc: All counsel of record

APPENDIX J

Appendix A

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
Alianza Valores Comisionista de Bolsa S.A.	Joseph Cammarata	Unknown
Bancolombia S.A.	Joseph Cammarata	*4558
Bank of America	Nine Six Tech Inc.	*2745
Bank of America	Nine Six Tech Inc.	*5184
Bank of America	WOT Trading LLC	*5599
Coinbase	Unknown	Unknown
Columbia Bank	Present Six LLC	*5275
E*Trade	David Punturieri	*4976
Entrex Capital Market Inc.	Unknown	Unknown
Interactive Brokers LLC	Speedroute Technologies Inc.	*4121
Interactive Brokers LLC	Speedroute Technologies Inc.	*7677
Interactive	Speedroute	*8834

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
Brokers LLC	Technologies Inc.	
Interactive Brokers LLC	Speedroute Technologies Inc.	*0947
Interactive Brokers LLC	Speedroute Technologies Inc.	*2682
Interactive Brokers LLC	Speedroute Technologies Inc.	*6476
Interactive Brokers LLC	Speedroute Technologies Inc.	*9438
Investors Bank	Quartis Trade & Investments LLC	*5993
Lincoln Investments	David Punturieri	*2872
Lincoln Investments	David Punturieri 401(a)	*2872
Lincoln Investments	David Punturieri IRA	*2872
Lincoln Investments	David Punturieri SEP IRA	*2872
Merrill Lynch	Joseph & Nina Cammarata	*8187

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
	(Joint Sub CMA)	
Merrill Lynch	Joseph Cammarata	*6349
Merrill Lynch	Joseph Cammarata	*2319
Merrill Lynch	Joseph Cammarata	*3524
Merrill Lynch	Joseph Cammarata	*4310
Merrill Lynch	Joseph Cammarata	*3121
Merrill Lynch	Joseph Cammarata	*3120
Merrill Lynch	Joseph Cammarata	*6351
Merrill Lynch	Joseph Cammarata	*4305
Merrill Lynch	Joseph Cammarata	*4304
Merrill Lynch	Joseph Cammarata	*4303
Merrill Lynch	Joseph Cammarata	*5348
Merrill Lynch	Joseph Cammarata cst for Josepha Cammarata	*0264

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
	Jr. UTMA	
Merrill Lynch	Misc. Holdings Corp SEP FBO Joseph Cammarata	*5956
Merrill Lynch	PB Trade LLC	*2002
Merrill Lynch	PB Trade LLC	*2304
Merrill Lynch	PB Trade LLC	*2306
Merrill Lynch	PB Trade LLC	*2307
Merrill Lynch	PB Trade LLC	*2309
Merrill Lynch	PB Trade LLC	*2368
Merrill Lynch	Sandy Cay LLC	*2321
Merrill Lynch	Sandy Cay LLC	*2357
Merrill Lynch	Sandy Cay LLC	*2358
Merrill Lynch	Sandy Cay LLC	*2362
Metropolitan Commercial Bank	PB Trade LLC	*3217
Metropolitan Commercial Bank	PB Trade LLC	*3233
Morgan Stanley	Joseph Cammarata	*7435
Morgan Stanley	PB Trade LLC	*1529
Morgan Stanley	PB Trade LLC	*2442

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
National Financial Services	Erik Cohen	*911-1
National Financial Services	Erik Cohen IRA	*849-1
New York Community Bank	David Punturieri	*5702
Oppenheimer	David Punturieri	Unknown
PNC Bank	Alpha Plus Recovery LLC	*6602
PNC Bank	Erik Cohen	*8257
PNC Bank	Nimello Holding LLC	*6658
TD Ameritrade	Joseph Cammarata	*1707
TD Bank	710 Properties LLC	*2832
TD Bank	Advanced Tech NJ LLC	*9194
TD Bank	Alpha Plus Recovery LLC	*7766
TD Bank	Alpha Plus Recovery LLC	*1530
TD Bank	Alpha Plus Recovery LLC	*1481

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
TD Bank	Alpha Plus Recovery LLC	*1340
TD Bank	Alpha Plus Recovery LLC	*1308
TD Bank	Alpha Plus Recovery LLC	*1415
TD Bank	Alpha Plus Recovery LLC	*1473
TD Bank	Alpha Plus Recovery LLC	*1449
TD Bank	Alpha Plus Recovery LLC	*1423
TD Bank	Alpha Plus Recovery LLC	*1580
TD Bank	Alpha Plus Recovery LLC	*8747
TD Bank	Alpha Plus Recovery LLC	*1506
TD Bank	Alpha Plus Recovery LLC	*1465
TD Bank	Alpha Plus Recovery LLC	*1514
TD Bank	Alpha Plus Recovery LLC	*1457
TD Bank	Alpha Plus Recovery LLC	*1522
TD Bank	Alpha Plus Recovery LLC	*1407

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
TD Bank	Alpha Plus Recovery LLC	*1431
TD Bank	Alpha Plus Recovery LLC	*1324
TD Bank	Alpha Plus Recovery LLC	*1556
TD Bank	Alpha Plus Recovery LLC	*1316
TD Bank	Alpha Plus Recovery LLC	*1548
TD Bank	Alpha Plus Recovery LLC	*6452
TD Bank	Alpha Plus Recovery LLC	*3752
TD Bank	Alpha Plus Recovery LLC	*1499
TD Bank	Alpha Plus Recovery LLC	*1390
TD Bank	Alpha Plus Recovery LLC	*1291
TD Bank	David & Carla Punturieri	*8930
TD Bank	David Punturieri	*6341
TD Bank	David Punturieri	*6507
TD Bank	Erik & Tammy Cohen	*6197

Bank/Broker	Account Holder	Account Number (Last 4 Digits)
TD Bank	Erik Cohen	*2738
TD Bank	Erik Cohen	*9024
TD Bank	Erik Cohen	*8096
TD Bank	Erik Cohen	*4718
TD Bank	Joseph & Nina Cammarata	*0808
TD Bank	Misc. Holdings Corp	*2956
TD Bank	N328MB LLC	*6114
TD Bank	Newer Ventures LLC	*7783
TD Bank	Nine Six Tech Inc.	*0087
TD Bank	Nine Six Tech Inc.	*8436
TD Bank	PB Trade LLC	*3555
TD Bank	Present Six LLC	*9931
TD Bank	SSA Technologies LLC	*0181
TradeStation	Erik Cohen	*6169
TradeStation	David Punturieri	*9142

APPENDIX K

Discovery Index Joseph Cammarata Financial Records

File No.	Bates Numbers	Description
01	BofA_00000001- BofA_00000084	Acct 5909 Card Statements 2015-2020 (Joseph Cammarata)
01	BofA_00000085- BofA_00000119	Acct 6848 Documents, Card Account Summary, Check & Ticket (Joseph Cammarata)
01	BofA_00000120- BofA_00000395	Acct 7947 Card Statements 2015-2020 (Joseph Cammarata)
02	BofA_00000396- BofA_00000437	Acct 4350 Card Statements 2020 (Sandy Cay LLC)
03	Columbia Bank_00000001- Columbia Bank_00000187	Acct 6802 Statements (Liquid Claims LLC)
03	Columbia Bank_00000188- Columbia Bank_00000200	Acct 6802 Checks (Liquid Claims LLC)
04	ETrade_00000001- ETrade_00000006	Acct 5557 Account notes, Opening Docs & Profile (Joseph Cammarata)

File No.	Bates Numbers	Description
04	ETrade_00000007- ETrade_00000430	Acct 7026 Docs, Statements & Interactions (Joseph Cammarata)
05	Merrill_00000001- Merrill_00001206	Account Docs, Applications & Authorizations (Joseph Cammarata)
05	Merrill_00001207- Merrill_00001574	Account Checks, Deposits & Wires (Joseph Cammarata)
05	Merrill_00001575- Merrill_00002646	Account Statements (Joseph Cammarata)
06	MetroBank_00000 001- MetroBank_00000 289	Acct 3217 Correspondence (PB Trade)
06	MetroBank_00000 290- MetroBank_00000 308	Acct 3217 Deposits & Docs (PB Trade)
06	MetroBank_00000 309- MetroBank_00000 506	Acct 3217 Statements (PB Trade)
06	MetroBank_00000 507- MetroBank_00000 563	Acct 3233 Statements (PB Trade)
07	MorganStanley_00	Acct 2459 Account

File No.	Bates Numbers	Description
	000001- MorganStanley_00 000054	Forms & Statements (Joseph Cammarata)
07	MorganStanley_00 000055- MorganStanley_00 000725	Acct 7435 Account Forms & Statements (Joseph Cammarata)
07	MorganStanley_00 000726- MorganStanley_00 001537	Acct 1529 Account Forms & Statements (PB Trade)
07	MorganStanley_00 001538- MorganStanley_00 001563	Acct 2442 Account Forms & Statements (PB Trade)
08	PNC_00000001- PNC_00001039	Acct 6602 Checks & Deposits (Alpha Plus)
08	PNC_00001040- PNC_00002494	Acct 6602 Checks & Deposits (Alpha Plus)
08	PNC_00002495- PNC_00002843	Acct 6602 Checks & Statement (Alpha Plus)
08	PNC_00002844- PNC_00002852	Acct 6602 Wires (Alpha Plus)
08	PNC_00002853- PNC_00002921	Acct 6602 Statements Oct 2016 to Dec 2017 (Alpha Plus)
09	Ameritrade_00000 1- Ameritrade_00045	Acct 1707 Application, Correspondence, Transactions, Wires &

File No.	Bates Numbers	Description
	5	Statements (Joseph Cammarata)
10	TD Bank_00000001- TD Bank_00000429	Acct 9194 Statements & Checks (Advanced Tech)
10	TD Bank_00000430- TD Bank_00000889	Acct 9194 Statements & Checks (Advanced Tech)
11	TD Bank_00000890- TD Bank_00001788	Acct 6452 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00001789- TD Bank_00001852	Acct 3128 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00001853- TD Bank_00003571	Acct 1219 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003572- TD Bank_00003681	Acct 1308 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)

File No.	Bates Numbers	Description
11	TD Bank_00003682- TD Bank_00003856	Acct 1316 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003857- TD Bank_00003887	Acct 1324 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003888- TD Bank_00003940	Acct 1340 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00003941- TD Bank_00004664	Acct 1390 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00004665- TD Bank_00004854	Acct 1407 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00004855- TD Bank_00053018	Acct 1407 Account Deposits (Alpha Plus)
11	TD	Acct 1415 Business

File No.	Bates Numbers	Description
	Bank_00053019- TD Bank_00053178	Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053179- TD Bank_00053265	Acct 1423 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053266- TD Bank_00053287	Acct 1449 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053288- TD Bank_00053308	Acct 1457 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053309- TD Bank_00053331	Acct 1465 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053332- TD Bank_00053371	Acct 1473 Business Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD	Acct 1481 Business

File No.	Bates Numbers	Description
	Bank_00053372- TD Bank_00053605	Docs, Authorizations, Statements, Checks, Deposits, WD, Wires & Balance (Alpha Plus)
11	TD Bank_00053606- TD Bank_00053623	Acct 1499 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053624- TD Bank_00053634	Acct 1506 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053635- TD Bank_00053657	Acct 1514 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053658- TD Bank_00053687	Acct 1522 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053688- TD Bank_00053752	Acct 1530 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053753- TD Bank_00053779	Acct 1548 Statement, Deposit & Balance (Alpha Plus)
11	TD Bank_00053780-	Acct 1556 Statement, Deposit & Balance

File No.	Bates Numbers	Description
	TD Bank_00053805	(Alpha Plus)
11	TD Bank_00053806- TD Bank_00053809	Transfers (Alpha Plus)
12	TD Bank_00053810- TD Bank_00053931	Acct 1059 Account Docs, Statements, Deposits, WD & Wires (IPeg LLC)
13	TD Bank_00053932- TD Bank_00054974	Acct 0808 Business Docs, Statements, Checks, Deposits, WD & Wires (Joseph Cammarata)
14	TD Bank_00054975- TD Bank_00056787	Acct 5769 Business Docs, Statements, Checks, Deposits (Liquid Claims)
14	TD Bank_00056788- TD Bank_00059082	Acct 1069 Account Docs, Statements, Checks, Deposits, Wires & Balance (Liquid Claims)
15	TD Bank_00059083- TD Bank_00062856	Acct 9843 Account Docs, Statements, Checks, Deposits & Balance (Manalapan Fitness & Wellness)
16	TD	Acct 2956 Account

File No.	Bates Numbers	Description
	Bank_00062857- TD Bank_00062965	Docs, Statements, Deposits, WD, Wires & Balance (Misc Holdings Group)
17	TD Bank_00062966- TD Bank_00063055	Acct 6114 Account Docs, Statements, Checks, Deposits, WD, Wires & Balance (N328MB LLC)
18	TD Bank_00063056- TD Bank_00063854	Acct 3555 Account Documents, Statements, Deposits, Checks, WD & Wires (PB Trade)
18	TD Bank_00063855- TD Bank_00063867	Acct 1621 Application & Statements (PB Trade)
19	TD Bank_00063868- TD Bank_00064157	Acct 1824 Account Docs, Statements, Checks, Deposits, WD & Wires (Pro Securities)
20	TD Bank_00064158- TD Bank_00064844	Acct 0181 Account Docs, Statements, Checks, Deposits, WD & Wires (SSA Technologies)
21	TD Bank_00064845-	Acct 8212 Account Docs, Statements,

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MCB Limited Liability Company – 3233	MCB_000249-MCB_000253
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APPENDIX L

United States Court of Appeals for the Third Circuit,
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<https://www.ca3.uscourts.gov/circuit-executives-office>
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Circuit Executive's Office

The Office of the Circuit Executive was created by statute to provide professional administrative assistance to the Judicial Councils of each Circuit. The Third Circuit Office of the Circuit Executive provides administrative support to the Judicial Council of the Third Circuit and its various committees. It also provides direct services, such as technical support and space and facilities assistance, to all the judicial court units in the Circuit. The Office of the Circuit Executive is committed to providing professional support to the Judicial Council and the Courts of the Third Circuit, and to ensuring the highest level of public trust in the administration of justice.

The Office of the Circuit Executive is located on the 22nd Floor of the United States Courthouse at 6th and Market Streets in Philadelphia. Office Hours are 8:30 A.M. to 5:00 P.M.. The main switchboard number for the Office of the Circuit Executive is 215-597-0718.

The mailing address for the Circuit Executive's Office is:

Office of the Circuit Executive
22409 U.S. Courthouse

601 Market Street
Philadelphia, PA 19106

Margaret A. Wiegand, Circuit Executive

Joel McHugh, Deputy Circuit Executive

P. Mark Soltys, Deputy Circuit Executive for
Information Technology

Lori Casner, Assistant Circuit Executive for Budget
& Finance

Jeanne Donnelly, Assistant Circuit Executive for
Legal Affairs

Derek Pedersen, Assistant Circuit Executive for
Space, Facilities & Security

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website page
[https://www.ca3.uscourts.gov/office-workplace-
relations](https://www.ca3.uscourts.gov/office-workplace-relations)
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Office of Workplace Relations

OFFICE OF WORKPLACE RELATIONS UNITED STATES COURTS FOR THE THIRD CIRCUIT

The Federal Judiciary is committed to a workplace of respect, civility, fairness, tolerance, and dignity, free of discrimination and harassment. These values are essential to the Judiciary, which holds its Judges and Employees to the highest standards.

Pursuant to this commitment, the United States Courts for the Third Circuit has established an Office of Workplace Relations. The Office of Workplace Relations is led by Director of Workplace Relations Julie Procopiow Todd, Esq., who joined the Third Circuit on October 14, 2019. The Circuit Director of Workplace Relations provides confidential and impartial assistance to judges and judiciary employees on workplace conduct matters; serves as the primary expert on resolving internal employment disputes and related workplace conduct issues throughout the Third Circuit; coordinates implementation of employment dispute resolution (“EDR”) policies for all courts within the Third Circuit, including the Court of Appeals, and the Federal district and bankruptcy courts in the Districts of Delaware, New Jersey, Pennsylvania, and the United States Virgin Islands; and provides

training aimed at fostering healthy working environments and the fair resolution of workplace conduct matters.

YOUR EMPLOYEE RIGHTS AND HOW TO REPORT WRONGFUL CONDUCT

If you feel that you have been subjected to discrimination, sexual, racial, or other discriminatory harassment, abusive conduct, or retaliation in the workplace, you have rights. Early action is the best way to maintain a safe work environment.

For more information, contact Julie Todd, Third Circuit Director of Workplace Relations or see the Third Circuit Employment Dispute Resolution Plan.

Workplace Relations

Circuit Director of Workplace Relations:
Julie Procopiow Todd, Esq.

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National Office of Judicial Integrity

Michael Henry, Judicial Integrity Officer
Administrative Office of the U.S. Courts
Office of Judicial Integrity
202-502-1603
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**Third Circuit Court of Appeals (COA) EDR
Coordinator**

Jeanne Donnelly, Office of the Circuit Executive
215-597-0718

**Third Circuit Court of Appeals Alternate EDR
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The Disciplinary Board of the Supreme Court of
Pennsylvania, attorney detail page
<https://www.padisciplinaryboard.org/for-the-public/find-attorney/attorney-detail/93845>
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District: District 1

Professional Liability Insurance:

I do not maintain professional liability insurance
because I do not have private clients and have no
possible exposure to malpractice actions (e.g. retired,
full-time in-house counsel, prosecutor, full-time
government counsel, etc.)

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Pennsylvania, attorney detail page
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District: District 1

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