

HILLSBOROUGH, SS.
Northern District

THE STATE OF NEW HAMPSHIRE

SUPERIOR COURT

IN RE: TWO HUNDRED SEVENTY-FOUR THOUSAND FIFTEEN DOLLARS AND
SEVENTY-SEVEN CENTS UNITED STATES CURRENCY, AND A SILVER 2020 HONDA
PASSPORT VIN# 5FNYP8H24LB014611
(*State v. Marcus Cherry*)

Case No.: 216-2022-CV-00003

COMPLAINT FOR FORFEITURE PURSUANT TO RSA 318-B:17-b

NOW COMES the State of New Hampshire, by and through its attorneys, the Office of the Attorney General, and requests that this Honorable Court, pursuant to the provisions of RSA 318-B:17-b, order the forfeiture of Two Hundred Seventy-Four Thousand Fifteen Dollars and Seventy-Seven Cents (\$274,015.77) in U.S. currency, as well as a silver 2020 Honda Passport VIN# 5FNYP8H24LB014611, that was seized by members of the Manchester Police Department on November 4 and 5, 2021, from the Respondent, Marcus Cherry. In support of this Complaint, the State says as follows:

FACTS

1. The following facts are taken from the investigative reports generated in this matter. In August of 2021, Detective Olsen and Detective DeJoy of the Manchester Police Department initiated a drug investigation into a male who was identified as Marcus Cherry DOB 07/04/1978, 51 Cumberland Street 2FL, Manchester, New Hampshire. The initiation of the drug investigation was a result of two post-arrest debriefs that were conducted by members of the Manchester Police Department Special Enforcement Division/Special Investigations Unit.

2. On 08/02/2021, Detective Joyal and Detective DeJoy conducted a post arrest debrief with Justin Oliver DOB 11/26/1982. Oliver was arrested earlier that day on an outstanding warrant. Oliver agreed to speak with us regarding information on the illegal drug

sales happening in the city of Manchester, New Hampshire. Oliver explained that one of his sources is Marcus Cherry. Oliver stated that Marcus is currently living on Cumberland Street and he has been dealing with him for the past six months. According to Oliver, Marcus is distributing large amounts of Cocaine, Methamphetamine and Marijuana. Oliver stated that Cherry is also selling firearms and that he has a large amount of firearms at his residence on Cumberland Street. Oliver explained that Cherry carries a large amount of money on him, and he has seen Cherry with at least \$250,000.00 before. Oliver informed Detective Joyal and Detective DeJoy that Cherry will pay for a vehicle and then have him go pick up the vehicle at different locations. Oliver stated that once he picks up the vehicle, the illegal drugs or firearms will already be in the vehicle and he will then sell the product or firearm that Cherry provided. Oliver also stated that Cherry will receive his product in the mail and it is delivered to a house in the area of Somerville Street and Beech Street, on the north side of the street. Oliver stated that Cherry will then store most of the drugs at his girlfriend's house. Oliver knew Cherry's girlfriend to be "Zoey," and Zoey is currently living in Bow, NH on Dicandra Drive. Oliver explained that he has seen large amounts of methamphetamine, cocaine, and heroin/fentanyl inside of Zoey's residence on Dicandra Drive.

3. On 08/25/2021, Detective Fierimonte and Detective DeJoy completed a post arrest debrief with Brandon Legere DOB 10/04/1981. Legere was arrested earlier that day for outstanding warrants to include Felon in Possession of a Dangerous Weapon, Felonious Use of a Firearm and Possession of a Controlled Drug. Legere was read his Miranda Rights and agreed to speak with Detective Fierimonte and Detective DeJoy. Legere explained that the first person he would go to purchase illegal drugs is Marcus Cherry aka "E." Legere stated that Cherry is currently living on Cumberland Street on the second floor. This address was later identified as 51 Cumberland Street, Manchester, New Hampshire. Legere stated that Cherry is living at this

address with his wife and children and that he met Cherry through his brother and has known him for about 15 years. Legere provided information that he had from his own observations and from spending time with Cherry. Legere explained that Cherry is currently distributing cocaine, methamphetamine, fentanyl, marijuana, percocets, adderall and firearms. Legere stated that Cherry receives about 5 or more kilos of cocaine, 10 pounds of methamphetamine and 5 or more kilos of fentanyl in the mail every two weeks. Legere stated that Cherry will then stash the drugs through different stash houses though the city of Manchester, NH and one in Bow, NH. Legere stated that Cherry stores methamphetamine, cocaine, fentanyl and Percocet's at 508 Dubuque Street 1FL with Joy Schofield 01/05/1979. Legere stated that Schofield will distribute a significant amount of methamphetamine for Cherry. Legere stated that the stash pad in Bow, NH is owned by a female who he knew as "Zoey." Legere went on to explained that Zoey lives at this first condo on the right when you drive into the condo complex and drives a smaller grey GMC SUV. This address was later identified as 58 Dicandra Drive, Bow, NH. Legere stated that Cherry will keep the drugs inside of a bag and place it into Zoey's basement. Zoey will often weigh out the product and cut it for Cherry at her residence. Legere last observed approximately 4.5 ounces of cocaine, a kilogram of heroin/fentanyl, 2 pounds of marijuana, 500 percocets, and 125 grams of methamphetamine at the Dicandra Drive address. According to Legere, he has also seen Cherry with approximately \$20,000.00 in a fanny pack at this address. According to Legere, Cherry has numerous vehicles to include a black Mercedes SUV, blue Toyota Camry, Chevy Yukon and two Audi sedans. It should be noted that there is no known connection between Legere and Oliver.

4. On 08/27/2021, Detective McDonald, who is serving as a task force officer with the United States Postal Inspection Service, notified Detective DeJoy that a suspicious package was delivered to 508 Dubuque Street 1 Fl, Manchester, on 08/09/2021. Detective McDonald

informed me that he queried postal records and determined that a female, who was later identified as Joy Schofield DOB 01/05/1979, was receiving packages at this address. According to Detective McDonald, this package was mailed from a known methamphetamine source state, Arizona, and was addressed to Schofield. When looking up the return address on the package Detective McDonald was able to determine it to be a fictitious address, which is common when illegal drugs are being sent through the USPS. Detective McDonald was unable to confirm whether this package contained illegal narcotics as it had been delivered prior to the beginning of his involvement in this investigation.

5. On this same day, 08/27/2021, Detective DeJoy also was in the area of 58 Dicandra Drive in Bow when he observed a grey/silver Hyundai Santa Fe SUV parked in front of the address. He was later able to identify this vehicle as NH 4935954, which comes back to Zoe Murphy DOB 02/08/1983 of 58 Dicandra Drive, Bow, NH. This is the only vehicle registered to Murphy.

6. On 08/30/2021, Detectives of the Manchester Police Department/Special Investigations Unit conducted surveillance on 508 Dubuque Street #1, Manchester. While on surveillance, Detective Olsen and Detective DeJoy observed a blue Toyota Camry parked in the driveway of the address. This Toyota Camry was later identified as: NH 4957549, 2003 Toyota Camry, Color Blue, VIN: 4T1BE32K13U239379, registered to: Marcus Cherry 07/04/1978 of 51 Cumberland Street, Manchester, NH.

7. It was apparent that there was a black male seated in the driver's seat of the vehicle, and Detective DeJoy was able to positively identify Cherry through an in-house photograph as the male seated in the driver's seat. Cherry exited the vehicle and entered the first floor of 508 Dubuque Street. After about 20 minutes, Cherry exited the same way he entered and got back into the driver's seat of the Toyota Camry. Cherry then traveled north on Dubuque

Street west back and picked up a male who was later identified as Christopher Adams DOB 08/03/1973. It should be noted that Adams has been known to be a crack cocaine distributor in the city of Manchester. Adams has a lengthy criminal history to include a conviction on 6/17/19 out of Hillsborough County Superior Court for Possession of a Controlled Drug.

8. Cherry and Adams then traveled to the area of Amory Street and Kimball Street in Manchester. As Cherry was driving, it was apparent that Cherry was constantly checking his mirrors. Cherry then pulled over and parked on Kimball Street for a few minutes before pulling away from the curb and continuing north on Kimball. Cherry then traveled south on I-293 and was traveling in the far left lane. When Cherry reached the area of the Everett Turnpike and the I-293 S split, he quickly went from the left lane on the highway, cut across three lanes and took the I-293 S exit at the last second. As Cherry was taking the exit, he was approximately 20 feet away from striking the large sign marked I-293 S Exit. Based on my training and experience, I know that drug dealers will conduct counter surveillance in order to identify who may be following them. Some of these counter surveillance techniques include constantly checking their mirrors, pulling over on the side of the road to watch which cars go by, and taking last second turns to see if anyone behind them does the same. These type of counter surveillance techniques make it close to impossible to conduct surveillance on Cherry. These counter surveillance techniques also pose as a threat to not only law enforcement but the public as well as Cherry. Cherry then continued south on I-293 in the left lane, and when he reached the area of Exit 1 in Manchester, he waited until the last possible second to travel from the far left lane over two lanes of traffic to take Exit 1. Based on all of the counter surveillance moves, Detectives concluded surveillance on Cherry.

9. On 09/14/2021 at approximately 1655 hours, Detective DeJoy, was assigned to the Special Enforcement Division/Special Investigations Unit. He was attired in plain clothes,

with his badge fully displayed, and operating a Manchester Police Department unmarked vehicle. On the above date and time, Detective DeJoy was conducting surveillance on an address on 508 Dubuque Street 1FL, Manchester. While in the area of 508 Dubuque Street, Detective DeJoy observed a small Toyota Matrix (NH 4504911) pull into the address. Once the vehicle pulled in, he observed a female get out of the driver's seat. This female was later identified as Jessica Houle DOB 06/13/1990. Jessica then went inside of the residence and exited after approximately two minutes. Through his training and experience, Detective DeJoy knows that individuals who are purchasing/distributing illegal drugs will enter and exit a known drug residence within a short amount of time. Based on Jessica's behavior, Detective DeJoy believed that she purchased illegal drugs inside of the residence. He continued surveillance on Jessica as she traveled east on Kelley Street in Manchester toward Coolidge Ave. It was at this point that Detective DeJoy noticed Jessica had a defective tail light, which was located in the middle of the rear window. Based on the suspected drug activity and motor vehicle violation observed, Detective DeJoy asked dispatch if there were any marked patrol vehicles in the area to conduct a motor vehicle stop on NH 4504911.

10. Detective DeJoy continued surveillance on the vehicle as it traveled east on the Amoskeag Bridge toward Elm Street and then south on Elm Street in Manchester. It was at this point that Officers Garland and Rogerio arrived in the area and completed a motor vehicle stop on the vehicle as it was pulling to Rite Aid, 1631 Elm Street, Manchester. Once the vehicle came to a stop, Detective DeJoy approached the vehicle and made contact with Jessica. Detective DeJoy asked Jessica where she was coming from and she explained she was coming from C Street. He asked Jessica if she stopped anywhere after C Street and she stated that she also stopped on Dubuque Street. As Detective DeJoy was speaking to Jessica, he noticed that she had

marks on her neck which appeared to be consistent with someone injecting drugs. It was at this point, that Detective DeJoy asked Jessica if she would step outside of the vehicle.

11. Jessica later explained that she is an addict and that she has some “stuff” in her purse. Jessica also explained that she had some needles and a spoon inside of her purse. Detective DeJoy asked Jessica if she had any dope (Heroin/fentanyl) in her purse and she stated that she had a little. He then asked Jessica if she would allow officers to search the vehicle and she stated that they could. While searching the vehicle, Detective DeJoy located a pink box inside of her purse, which was on the passenger floorboard of the vehicle. The pink box contained needles, a spoon and a white folded up piece of paper. Inside of the folded up white piece of paper was 6.4 grams, to include packaging, of a tan powdery substance which through Detective DeJoy’s training and experience was consistent with heroin/fentanyl. Jessica was subsequently arrested for Possession of a Controlled Drug.

12. Based on the investigation, Detective DeJoy applied for and was granted a search warrant on 09/28/2021, by the Honorable Judge Messer, to apply a GPS tracking device on Cherry’s blue Toyota Camry (NH 4957549) until 10/28/2021. The search warrant was executed on 09/29/2021. As a result of the GPS tracking device installation, it is apparent that Cherry is traveling numerous times to and from 51 Cumberland Street, Manchester, NH; 508 Dubuque Street, Manchester, NH; 58 Dicandra Drive, Bow, NH; and the Filotimo Casino & Restaurant/DraftKings Sportsbook, 1279 S Willow Street, Manchester, NH.

13. On 10/11/2021, Detective DeJoy was notified by FBI Task Force Officer (“TFO”) McGee that an individual was arrested in Hooksett, NH by the Hooksett Police Department for Operating with a Suspended Registration. This arrest resulted from a stop made at approximately 2019 hours near the intersection of Pine Street and Springer Road in Hooksett. The Hooksett Police Department has an inventory policy, and while they were inventorying the vehicle before

it was towed they located approximately 249.30 grams, to include packaging, of suspected heroin/fentanyl within a gray backpack on the back seat of vehicle, which they seized. (This suspected heroin/fentanyl was sent to DEA's Northeast Laboratory for testing, and was confirmed to be approximately 161.5 grams of fentanyl.) The person that was arrested and will herein be referred to as (IT#1) as (IT#1) would fear for (IT#1's) safety if (IT#1's) identity became known to persons being investigated in this or any other police investigation. (IT#1) previously agreed to cooperate with the Manchester Police Department in consideration for pending charges. It should be noted that (IT#1) does not have any prior criminal history and has never been an informant in the past.

14. FBI TFO McGee, DEA TFO Ellston, and Detective DeJoy later went to the Hooksett Police Department to conduct a post-arrest interview with (IT#1). (IT#1) was escorted to an interview room within the Hooksett Police Department, and it was at this time that DEA TFO Ellston read (IT#1) (IT#1's) Miranda rights. (IT#1) agreed to waive (IT#1's) Miranda rights and speak to officers.

15. (IT#1) explained to officers that that night (10/11/2021), (IT#1) received a call from an individual (IT#1) knows as Marcus Cherry a/k/a "E." (IT#1) stated that (IT#1) has known of Cherry since January 2021, but did not actually get to know Cherry until April 2021. According to (IT#1), Cherry lives at 51 Cumberland Street, and he is currently distributing large amounts of Methamphetamine, Heroin/Fentanyl, Cocaine, and Firearms within the city of Manchester. (IT#1) stated that Cherry has numerous vehicles to include a Toyota Camry, Yukon, Audi A6, Mercedes, and Cadillac. The Cadillac was recently sold to a male (IT#1) knew as "Dusty," and the Yukon was also recently sold to a male (IT#1) knew as "A1." (IT#1) explained that Cherry is currently using the Toyota Camry because the Audi Cherry just purchased was in the shop.

16. According to (IT#1), Cherry is receiving large shipments of Methamphetamine and Cocaine in the mail. Approximately one month ago, (IT#1) explained that (IT#1) saw Cherry with about a kilogram of Methamphetamine and 3 kilograms of Cocaine inside of Cherry's Toyota Camry. (IT#1) stated that Cherry has told (IT#1) that East Coast product (referring to drugs) is "touched," and that West Coast product isn't, so Cherry has been getting cocaine from the West Coast instead. (IT#1) stated that Cherry will sell the product straight with no cut.

17. (IT#1) later explained to officers that (IT#1) has seen Cherry with firearms in the past, to include on his person. (IT#1) stated that Cherry has an individual who lives on the west side of Manchester in between Second Street and S Main Street that assembles firearms for him. (IT#1) stated that Antonio Clough will also help him assemble firearms for him.

18. According to (IT#1), (IT#1) has seen Cherry with large amounts of cash. Back in May 2021, (IT#1) stated that (IT#1) was at a hotel and Cherry had a money counter with approximately \$250,000. (IT#1) stated that Cherry will gamble most of his money and will go to DraftKings on S Willow Street to do that. (IT#1) stated that approximately two weeks ago, Cherry won approximately \$180,000, which was separated in two checks, at DraftKings. (IT#1) also stated that sometimes Cherry will ask (IT#1) to go bet for him at DraftKings. It should also be noted that (IT#1) explained that Cherry is unemployed.

19. (IT#1) was later asked what happened tonight prior to the motor vehicle stop. (IT#1) stated that (IT#1) received a phone call from Cherry, who asked (IT#1) to come to his house, 51 Cumberland Street, to pick up a bag. (IT#1) stated that (IT#1) never asked what was in the bag or what to do with it and just went toward his house. (IT#1) stated that as (IT#1) got close to Cherry's house, Cherry told (IT#1) to retrieve the bag from the rear of a blue Audi, which was parked near his residence. (IT#1) stated that (IT#1) pulled up near the Audi, which was unoccupied, and retrieved a gray bag out of it and placed it into (IT#1's) vehicle. (IT#1)

explained that (IT#1) never opened the bag and was unsure what was in it. (IT#1) stated that this wasn't very uncommon considering the fact Cherry would have (IT#1) store bags in (IT#1's) basement. (IT#1) also stated that Cherry would store firearms inside of (IT#1's) residence in Bow, NH.

20. Before the interview concluded, (IT#1) provided consent to search (IT#1's) vehicle, which was towed to the Hooksett Police Department. During the consent search a gray backpack was located in the back seat of (IT#1's) vehicle. (IT#1) identified this as the backpack Cherry asked (IT#1) to retrieve from the Audi. This was the same backpack from which Hooksett PD had previously removed the suspected heroin/fentanyl. Inside of the gray backpack was approximately 1302.90 grams, to include packaging, of a white powdered substance. Through DEA TFO Ellston's training and experience, the white powdered substance was consistent with cocaine. The suspected cocaine was wrapped in clear vacuum sealed bags, blue cloths, and black plastic. (On 10/15/2021 this suspected cocaine was sent to DEA's Northeast Laboratory for testing. Test results were received on 11/2/2021, which confirmed the substance to be approximately 1001.4 grams of cocaine. This is just over a kilogram of cocaine, which is equivalent to approximately 35.3 ounces or 2.2 pounds.) Also in the gray backpack was approximately 161.79 grams, to include packaging, which was a clear vacuum sealed bag containing numerous small blue round pills with an "M" inscribed on one side and "30" on the other side. These markings would be consistent with 30mg oxycodone pills, but through DEA TFO Ellston's training and experience, based on the deterioration of the pills they were consistent with counterfeit pills that contain heroin/fentanyl. (One of the pills was tested at DEA's Northeast Laboratory and was confirmed to be fentanyl, p-fluorofentanyl, and 4-ANPP.) The vacuum sealed bag also contained multiple Buprenorphine and Naloxone Sublingual Films. The gray bag also contained approximately 282.75 grams, to include packaging, of orange circle

and yellow oblong pills, which were contained in clear vacuum sealed and zip lock plastic bags. The orange pills had the number “30” inscribed on one side. There were unknown markings on the yellow pills. (A sample of the orange and yellow pills were tested at DEA’s Northeast Laboratory. The orange pills tested were confirmed to be methamphetamine, and the yellow pill tested was confirmed to be fentanyl and p-fluorofentanyl.) There was an additional approximately 390.53 grams, to include packaging, of an unknown substance. (This substance was also tested at DEA’s Northeast Laboratory and was confirmed to be approximately 336.8 grams of a mixture of fentanyl, p-fluorofentanyl, and xylazine.)

21. In addition to the gray backpack in the back seat, there was a second gray colored backpack in the trunk area of the vehicle. Inside of the second gray backpack, DEA TFO Ellston located an unloaded silver Smith & Wesson .357 Magnum revolver bearing serial number CUC9563. The revolver had a Millet red dot sight affixed to the top of the firearm. Officers at the Hooksett Police Department checked the firearm through NCIC and found that the firearm had been reported stolen by the Hampstead New Hampshire Police Department in 2017. DEA TFO Ellston also located an additional firearm inside the trunk area of the vehicle. The firearm located was an unloaded black Landor Arms BPX902 GEN 2 12-gauge shotgun bearing serial number BPX12759.

22. (IT#1) explained that the revolver that was found in the trunk of the vehicle was placed inside of (IT#1’s) basement in Bow, NH, by Cherry a few months prior to the stop. (IT#1) also stated that the larger firearm (Landor Arms BPX902 GEN 2 12-gauge shotgun) was brought over to (IT#1’s) residence by “A1.” “A1” is one of Cherry’s associates. (IT#1) stated that Cherry was over at the house in Bow, NH, when “A1” brought the larger firearm over and left it in the corner of the room inside of a bag. (IT#1) stated that (IT#1) brought that firearm downstairs into the basement at Bow, NH, and Cherry told (IT#1) that he knew (IT#1) would

take care of it for him. (IT#1) explained that (IT#1) moved the firearms from the basement to the trunk of the vehicle because family was moving in to (IT#1's) residence.

23. It should be noted that on 09/08/2021, the DEA assisted the Manchester Police Department in placing a static surveillance camera device that focuses on the exterior of 51 Cumberland Street, Manchester. Based on the information (IT#1) provided Detective DeJoy, he went back and reviewed the camera footage to corroborate what (IT#1) stated. On 10/11/2021 at approximately 1938 hours, the camera shows that two individuals walk from the driveway of 51 Cumberland Street and get into what appears to be a Toyota Camry, which was parked in the front of 51 Cumberland Street. At approximately 1939 hours, another individual walks down the driveway of 51 Cumberland Street and gets in the passenger's side of the vehicle. At approximately 1940 hours, the Toyota Camry leaves the area. A small SUV then pulls into the driveway of 51 Cumberland Street. At approximately 1951 hours, a vehicle pulls up in front of 51 Cumberland Street facing south. Based on the tail lights it appears that it is a Toyota Camry, which is Cherry's vehicle. A female then walks down the driveway of 51 Cumberland Street toward the passenger's side of the Toyota Camry. At approximately 1951 hours, the female walks away from the vehicle with what appears to be a bag in her right hand. This female then places the bag into the rear passenger's seat of an Audi sedan, which is parked in front of 51 Cumberland Street. At approximately 1955 hours, the female walks away from the Audi and back up to 51 Cumberland Street. At approximately 2000 hours, (IT#1) pulls up just north of 51 Cumberland Street and gets out of (IT#1's) vehicle. (IT#1) then reaches in the rear drivers side of the Audi and removes what appears to be a bag and puts it over (IT#1's) shoulder. (IT#1) then walks back to (IT#1's) vehicle and leaves the area. The surveillance video is consistent with what (IT#1) explained happened. According to Google Maps, the drive time from 51

Cumberland Street in Manchester to the intersection of Pine Street and Springer Road in Hooksett is approximately 15 minutes.

24. Later on that day, Detective DeJoy spoke with (IT#1), who stated that (IT#1) had some more information to provide regarding Cherry. (IT#1) explained that (IT#1) has seen Cherry's bank account on the computer which read over 1 million dollars. (IT#1) explained that this was in a regular checking account at Citizens Bank. (IT#1) stated that (IT#1) also saw Cherry with approximately \$20,000-\$30,000 in cash about two weeks ago in Cherry's vehicle. Cherry will usually drive around during the 1st to the 5th and pick up money from his customers. (IT#1) explained that all of this money is usually brought back to his house on Cumberland Street and his wife, Rebecca Cherry, will take care of the money. (IT#1) also explained that about a week ago, Rebecca Cherry went to USPS and brought a package of money that was shipped to Arizona. (IT#1) stated that (IT#1) believed there was about \$30,000 cash inside of the box. (IT#1) further explained that sometimes when Cherry is at DraftKings, he will ask Rebecca to bring him cash and believes that Rebecca is bringing that cash from 51 Cumberland Street.

25. On 10/13/2021 at approximately 1532 hours, Ofc. Irwin and Ofc. Clark of the Manchester Police Department conducted a voluntary interview on Solomon Sanchez DOB 06/02/1977. Sanchez wanted to provide any information he thought would be helpful in reference to his recent arrest, which resulted in a Burglary charge, Simple Assault, Stalking and Breach of Bail.

26. Sanchez agreed to voluntarily speak to MPD officers in the interview room located in booking. Sanchez expressed his desire to speak with MPD in consideration for his recent arrest. Sanchez stated he has worked with the police before, specifically the Nashua Police Department. Sanchez is an active drug user and says that he purchases drugs daily from multiple people in Manchester. Sanchez has expressed his desire to potentially work off his charge and

potentially make some money on the side. Sanchez stated that he uses around one gram of heroin a day and also uses 1-2 40's of crack daily.

27. Sanchez spoke about Marcus Cherry DOB 07/04/1978, 51 Cumberland Street, Manchester, NH, 603-265-5666. Sanchez said he met Cherry sometime in 1995 when they were both incarcerated in Concord State Prison. Sanchez stated that they were in prison together for three years and became close friends. Sanchez stated since he was released from prison he has kept in contact with Cherry on a routine basis. Sanchez stated that he last saw Cherry the previous night (10/12/2021) around 1900 hours in the area of Dollar Deluxe by Union and Auburn Street. Sanchez originally stated his intent was to see a male named "Pedro" who runs the barbershop north of Dollar Deluxe and south of Cedar Street south back. Sanchez stated that this barbershop is known to sell drugs and has heavy foot traffic throughout the day. Sanchez stated that the routine is to enter the barbershop and go into the bathroom which is where the transactions occur. Sanchez stated that he was unable to make the transaction last night and left the barbershop. Sanchez stated as he left the barbershop a dark colored sedan drove past him on Auburn Street, and saw he that it was Cherry. Sanchez stated that Cherry pulled over to the side of the road, and he was the only occupant in the vehicle. Sanchez stated that Cherry asked him if he needed anything and stated he could get him anything. Sanchez stated that Cherry told him he currently had a kilogram of cocaine and wanted to sell it whole without cutting it.

28. Sanchez stated that Cherry lives on Cumberland Street on the west side of the city, he stated he lives in a white house on the first floor and there is a pool in the rear of the house. (Note: 51 Cumberland Street is actually light blue in color; however, according to Google Maps satellite view, there does appear to be a pool on the rear of the property which does not appear to be visible from the street.) Sanchez states that Cherry lives in the house with his wife, his five children and his wife's parents who own the building. Sanchez stated that there are no

dogs at the residence and he believes that there is both internal and external cameras at the residence. Sanchez stated that Cherry has access to multiple vehicles, to include a 2004-05 black Volkswagen Jetta, 2017 Silver Dodge Caravan, and 2021 Black Jeep Grand Cherokee. According to internal Manchester Police Department records, Cherry was issued a citation on 4/3/2018 while driving a 2006 Volkswagen Jetta, and he was stopped driving a black Jeep Grand Cherokee on 8/12/2018.

29. Sanchez stated that Cherry owns multiple firearms and always has one on his person. Sanchez stated that Cherry always keeps a firearm in whatever vehicle he is driving. Sanchez stated he has seen Cherry with a revolver and a Glock. Sanchez stated that Cherry has made comments in the past that he would not hesitate to shoot someone if they burned him.

30. Sanchez stated that Cherry has access to heroin, crack/cocaine and meth. Sanchez stated that he has seen Cherry with over ten fingers (packages weighing approximately 10 grams) of heroin, but he prefers to sell heroin by the gram. Sanchez stated that he has had some transactions with Cherry where he has purchased a couple fingers of heroin. Sanchez stated that he is a close friend of Cherry and can get a gram of heroin for \$50 and a finger for \$180. Sanchez stated that he has also seen Cherry with more than ten ounces of crack cocaine. Sanchez stated that he has purchased over seven grams of crack cocaine from a single transaction with Cherry. Sanchez stated that he is able to get a gram of crack from Cherry for \$60-70 and he can get an 8ball of crack for \$240. Sanchez stated that he doesn't personally use meth so he doesn't know the details regarding Cherry selling meth, but he states Cherry also does sell meth. Sanchez stated that he has seen Cherry with over \$20-30k in cash.

31. Sanchez stated that Cherry isn't involved in transactions himself anymore, besides with people who are well known to him. Sanchez stated that Cherry considers him family and he can buy from him at any time.

32. On 10/19/2021 Detective DeJoy applied for and was granted a search warrant for all accounts in the name of Marcus Cherry DOB 07/04/1978 at Citizens Bank. This search warrant was signed by the Honorable Judge David Anderson of the Hillsborough County Superior Court-North. As a result of the search warrant Detective DeJoy received the following account in Marcus Cherry's name: One Deposit Checking #331588-539-9. There was no other name on the account, and the only signature card was solely in Cherry's name. When reviewing Cherry's statements from January 2021 to present, it was immediately apparent that Cherry has been depositing and withdrawing large amounts of U.S. currency. As of 10/22/2021, Cherry had an account balance of \$285,948.81. Many of these deposits are coming in check form from "Granite State Poker Alliance Sports Book Operating." Granite State Poker Alliance, LLC, is the legal entity that is the licensed game operator for Filotimo Casino, 1279 S Willow Street, Manchester, NH. On 10/12/2021, Cherry deposited a check from Granite State Poker Alliance Sports Book Operating in the amount of \$140,000; there are many other deposits and withdrawals in the amounts of thousands and tens of thousands of dollars. Through Detective DeJoy's training and experience, he knows that individuals who are distributing large amounts of illegal drugs and are accumulating large amount of money, will launder their money through casinos. These individuals will place bets using the drug money or "dirty" money and then any winnings will be cashed out in cash or check form, which will then make the money "clean."

33. On 10/20/2021, in response to a request made by Assistant Attorney General Jesse O'Neill of the New Hampshire Attorney General's Office, New Hampshire Employment Security provided records showing that since 1/1/2018, Cherry has made approximately \$4,500 in employee wages. As noted above, the information gained during this investigation is that Cherry is unemployed.

34. On 10/27/2021 at approximately 1400 hours Detective DeJoy was assigned to the Special Enforcement Division/Special Investigations Unit. He was attired in plain clothes, with his badge fully displayed, and operating a Manchester Police Department unmarked vehicle.

35. On the above date and time, Detective DeJoy was conducting surveillance in the area of Kelley Street and Dubuque Street in Manchester. This area has been prone to drug activity and an area in which the Special Enforcement Division has received information regarding drug activity. While Detective DeJoy was in the area, he observed a female exit the first floor, north side door, of 508 Dubuque Street. Detective DeJoy knew this female to be Joy Schofield DOB 01/05/1979.

36. Schofield is a known drug user and has been arrested in the past for drug related offences. Based on Detective DeJoy's knowledge of the area and Schofield, he decided to conduct surveillance on Schofield. Schofield exited 508 Dubuque Street and got into the driver's seat of the following vehicle: CA 8P0G915, MAKE: TOYOTA, COLOR: RED, VIN: 5YFEPRAE4LP115145, HERTZ VEHICLES.

37. Once Schofield got into her vehicle, Schofield proceeded west on Kelley Street and then turned north on Biron Street. As Schofield turned north on Biron Street, Detective DeJoy noticed that a Ford F-150 (NH 4943233) was following behind her. The F-150 was being operated by a person that will herein be referred to as (IT#2) as (IT#2) would fear for (IT#2's) safety if (IT#2's) identity became known to persons being investigated in this or any other police investigation. (IT#2) previously agreed to cooperate with the Manchester Police Department in consideration for pending charges.

38. Both Schofield and (IT#2) turned west on Roosevelt Street and parked on the north side of the street, just west of Biron Street in Manchester. Schofield immediately exited her vehicle and walked toward the passenger seat of (IT#2's) vehicle. Schofield then reached into the

vehicle, through the passenger door, and then quickly walked away. Through Detective DeJoy's training and experience, he knows that individuals who are purchasing/distributing illegal drugs, will meet in public areas, such as parking lots and roadways. These individuals will meet with another individual fairly quickly before separating and going their separate ways. Once Schofield walked away from the vehicle, she got back into the driver's seat of the Toyota and drove out of the area. (IT#2) then pulled away and began traveling south on Edmond Street. Based on the interaction between (IT#2) and Schofield and my knowledge of Schofield criminal history, Detective DeJoy believed a drug transaction just occurred.

39. (IT#2) then turned east on Pinard Street and continued east to Coolidge Ave. (IT#2) later pulled into Mobil Gas Station, 210 Eddy Road, Manchester. (IT#2) parked (IT#2's) vehicle in the north side of the parking lot and exited the vehicle. (IT#2) then leaned her whole body into the back seat and remained in that position for a few minutes. Based on the suspected drug activity that took place between (IT#2) and Schofield, Detective Duchesne and Detective DeJoy approached (IT#2's) vehicle on foot. When Detective DeJoy walked to the passenger's side of the vehicle, he noticed that (IT#2) was weighing a substance on a digital scale, which was on the floorboard of the back seat. Detective DeJoy informed Detective Duchesne of what he observed and he then asked (IT#2) out of the vehicle. When (IT#2) stepped away from the vehicle, (IT#2) was holding a clear plastic bag, containing clear glass like shards, which based on Detective DeJoy's training experience was consistent with methamphetamine.

40. During a search incident to arrest, Detective Duchesne located in a pocket of (IT#2's) jeans a green zip lock bag containing a tan powdered substance. Through Detective DeJoy's training and experience, the tan powdered substance appeared consistent with heroin/fentanyl.

41. Once at headquarters, Detective Duchesne searched (IT#2's) purse and located an unidentified blue pill, packaging material, and a calibration weight, which is used when weighing out drugs. Detective Duchesne later weighed the suspected methamphetamine at approximately 30.5 grams and tested it using the Tactic ID, which tested positive for traces of a methamphetamine based substance. Detective Duchesne also weighed the suspected heroin/fentanyl at approximately 1.2 grams.

42. Detective Duchesne and Detective DeJoy, conducted a post-arrest interview of (IT#2). Prior to the interview, (IT#2) was read the State of New Hampshire Uniform Statement Form (i.e., Miranda rights). (IT#2) explained that (IT#2) understood the form and agreed to waive (IT#2's) rights to speak with officers. Detective DeJoy asked (IT#2) what happened today, and (IT#2) explained that (IT#2) came to Manchester to purchase a quantity of Methamphetamine. At approximately 1000–1100 that morning, (IT#2) stated that (IT#2) called one of (IT#2's) friends who (IT#2) knew as "Joy." Through surveillance, we knew "Joy" to be: JOY SCHOFIELD, 01/05/1979, 508 DUBUQUE STREET 1FL, MANCHESTER, NH.

43. (IT#2) explained that (IT#2) called Joy's phone number, which was (603) 852-1330, and ordered an ounce of methamphetamine for \$700.00. An ounce is approximately 28.3 grams. (IT#2) stated that the methamphetamine was not for (IT#2), and that (IT#2) was purchasing it for two other people. (IT#2) stated that at the end of the phone call with Joy, Joy instructed (IT#2) to call her when (IT#2) was ready to meet. (IT#2) went on to explain that when (IT#2) did call her back, Joy instructed (IT#2) to meet at O'Reilly's in Goffstown. (IT#2) stated that (IT#2) arrived on the west side of Manchester, (IT#2) waited on the side of the road for Joy to drive by because (IT#2) wasn't sure where O'Reilly's was. (IT#2) stated that once Joy drove by (IT#2), (IT#2) followed Joy and they both parked on a side street, which is where the

exchange occurred. (IT#2) stated that Joy used to have a Toyota Camry, but today Joy was driving a red sedan, which (IT#2) thought was a rental.

44. (IT#2) stated that (IT#2) has known Joy for the past four years and met her through Joy's ex-husband. (IT#2) explained that (IT#2) has been buying methamphetamine from Joy over the past year, and that the most (IT#2) has bought from her was an ounce. (IT#2) stated that (IT#2) has met Joy in different areas to conduct the drug transaction, but has also been to her house, which (IT#2) identified the address through Google Maps as 508 Dubuque Street 1FL, Manchester. Detective DeJoy asked (IT#2) if Joy had a boyfriend and (IT#2) stated that she does date a black male, but (IT#2) was unsure of his name. (IT#2) stated that (IT#2) believed that Joy's boyfriend was possibly supplying her, but (IT#2) could not explain to why (IT#2) thought that.

45. On or about 11/1/2021, Detectives received information from (IT#1) that Cherry's Toyota Camry (NH 4957549) was no longer in working order. On 11/2/2021, Detective DeJoy and others were conducting surveillance on Marcus Cherry when they observed a grey Honda Passport (NH temporary plate 3040334) parked in the area of Kelley Street and Rimmon Street in Manchester. Officers were able to confirm that Cherry was operating the vehicle.

46. Via a static surveillance camera in the area, Detective DeJoy observed an unknown male exit the driver's seat of a van that was parked directly in front of the Passport. This male appeared to walk up to Cherry's passenger window and then quickly walk away. The unknown male then entered the front passenger seat of the Passport for approximately five minutes, before exiting and getting back into his van. Based on these observations and his training and experience, Detective DeJoy believed a drug transaction had occurred between Cherry and the unknown male.

47. On 11/3/2021, Detective DeJoy applied for and was granted arrest warrants for Marcus Cherry and Joy Schofield, as well as search/seizure warrants for 51 Cumberland Street, 2nd Floor, Manchester, NH; 508 Dubuque Street, 1st Floor, Manchester, NH; and Citizens Bank account #331588-539-9.

48. The aforementioned search and arrest warrants were executed on 11/4/2021, and Cherry and Schofield were taken into custody. When officers executed the search warrant at 51 Cumberland Street, 2nd Floor, they located the following (among other things):

- a. \$144,694.00 in U.S. currency, located in a tan colored box under the bed in a bedroom;
- b. \$8,820.00 in U.S. currency located in a dresser in the same bedroom;
- c. \$60.00 in U.S. currency, located in the closet in the same bedroom;
- d. Marcus Cherry's ID, located in the closet in the same bedroom;
- e. \$40,000.00 in U.S. currency, located in a safe inside the closet in the same bedroom;
- f. \$81.00 in U.S. currency, located behind the door of the same bedroom;
- g. money counter, located in the dining room;
- h. six DraftKings receipts, located in the dining room;
- i. EZ Pass paperwork with Marcus Cherry's name on it, located in the dining room.

The U.S. currency, totaling \$193,655.00, was seized.

49. When officers executed the search/seizure warrant on Citizens Bank account #331588-539-9, it resulted in the seizure of \$22,254.21 that was remaining in the account.

50. When officers executed the search warrant at 508 Dubuque Street, 1st Floor, they saw the Honda Passport with NH temporary registration 3040334 parked in the driveway. The Passport was seized pending a search warrant, which was granted on 11/9/2021 and was

executed the following day. When officers executed the search warrant they discovered the following items (among others):

- a. A Citizens Bank receipt showing a withdrawal of \$165,000 at 2:02 p.m. on November 3, 2021, from an account number ending in 5399. The receipt listed the new account balance as \$25,104.43 and the available balance as \$22,029.48. This receipt was found on the front passenger floorboard;
- b. A vacuum-sealed bag containing approximately 1,000 blue pills which bore markings consistent with oxycodone 30mg pills, but which had the appearance of counterfeit pills based on their deterioration and coloring. These pills were sent to the NH State Police Forensic Laboratory for testing, which counted the pills to be 940 blue tablets, 191 similar fragments, and blue powder, weighing a total of approximately 110.7 grams. An analysis of five randomly selected tablets documented the presence of para-fluorofentanyl and fentanyl. This vacuum-sealed bag was located inside of a brown Burger King bag in the center console;
- c. A digital scale, located in the driver's side door compartment;
- d. Marcus Cherry's NH ID, located in the cup holder underneath the radio;
- e. court paperwork belonging to Zoe Murphy; located in the glove compartment;
- f. an NH DMV receipt for temporary plates 3040334 with the apparent signature of Marcus Cherry on the line for "purchaser's signature;" located in the glove compartment;
- g. an NH DMV application for certificate of title form for the Passport, listing the owners' names as "Cherry Marcus or Cherry Rebecca" and indicating that the Passport was purchased on 10/28/2021 from Autofair Honda, 200 Keller Street, Manchester, New Hampshire.

51. On 11/4/2021, Detective DeJoy applied for and was granted a search/seizure warrant for all funds held by Granite State Poker Alliance, LLC, for or on behalf of Marcus Cherry. The warrant was executed on 11/5/2021, and detectives learned that Cherry had two outstanding winning bets that he had yet to claim. Pursuant to the warrant, detectives were given two checks totaling \$58,106.56, which was the total of the unclaimed winnings being held for Cherry.

52. Cherry's criminal history shows the following convictions on these approximate dates:

- a. 2/24/2021: conspiracy to commit delivery of articles to prisoners (class B felony) (Merrimack Superior, NH)
- b. 11/20/2007: "hindering-oneself-hide" (Ocean Township Municipal Court, NJ)
- c. 7/19/1999: bail jumping (felony) (Hillsborough-North Superior, NH)
- d. 7/19/1999: possession of drug with intent to sell (felony) (Hillsborough-North Superior, NH)

In addition, research shows Cherry has two drug convictions out of the United States District Court for the District of New Hampshire. The first was on or about 4/2/1999 for two counts of distribution of cocaine & cocaine base ("crack"), and it resulted in concurrent sentences of 72 months imprisonment on each count, followed by supervised release of four years. The second was on or about 12/7/2009 for one count of distribution of cocaine base "crack," and it resulted in a sentence of 88 months imprisonment followed by supervised release of four years.

53. On 11/4/2021, Cherry was given written notification of the potential forfeiture of the \$193,655.00 seized from his 51 Cumberland Street residence. On 11/5/2021, Cherry was given written notification of the potential forfeiture of funds from Granite State Poker Alliance

and Citizens Bank account #331588-539-9, as well as the silver 2020 Honda Passport VIN# 5FNYP8H24LB014611.

ANALYSIS

54. RSA 318-B:17-b, I(c), provides, in pertinent part, that “any moneys ... [or] currency ... knowingly used or intended for use in the procurement, manufacture, compounding, processing, concealing, trafficking, delivery, or distribution of a controlled drug in felonious violation of this chapter and all proceeds, including moneys [or] ... currency traceable thereto,” “shall be subject to forfeiture to the state.”

55. “All moneys ... found in proximity to controlled substances is presumed to be forfeitable ... and the claimant of the property shall bear the burden of rebutting this presumption.” RSA 318-B: 17-b, I(c).

56. The absence of a legitimate sources of income that can account for the possession of large amounts of cash supports an inference that the cash is the proceeds of drug trafficking. Cf. State v. Sonthikoummane, 145 N.H. 316, 324 (2000).

57. In light of the foregoing, there is reason to believe that the Two Hundred Seventy-Four Thousand Fifteen Dollars and Seventy-Seven Cents (\$274,015.77) in U.S. currency, as well as the silver 2020 Honda Passport VIN# 5FNYP8H24LB014611, seized from the Respondent, was used or intended for use in the procurement, trafficking, delivery, or distribution of a controlled drug in felonious violation of the provisions of RSA 318-B, or was proceeds traceable thereto. Therefore, the currency and vehicle should be forfeited to the State of New Hampshire to be disposed of pursuant to the provisions of RSA 318-B: 17-b, V.

WHEREFORE, the Attorney General respectfully requests that this Honorable Court:

(A) Issue Orders of Notice to Marcus Cherry c/o the Hillsborough County House of Corrections;

(B) Schedule a hearing on the merits of this Petition within 90 days of the date specified by the Court on the summons;

(C) After notice and hearing, ORDER that the Two Hundred Seventy-Four Thousand Fifteen Dollars and Seventy-Seven Cents (\$274,015.77) in U.S. currency, as well as a silver 2020 Honda Passport VIN# 5FNYF8H24LB014611, seized from the Respondent, be disbursed pursuant to the provisions of RSA 318-B: 17-b, V, with reimbursement to the Office of the Attorney General for expenses incurred in connection with the forfeiture proceeding; and

(D) Grant such other and further relief as justice may require.

Respectfully submitted,
THE STATE OF NEW HAMPSHIRE

By its attorneys,
John M. Formella
Attorney General

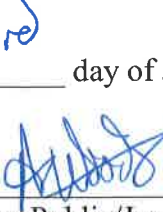
/s/ Jesse O'Neill

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33 Capitol Street
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Date: January 3, 2022

THE STATE OF NEW HAMPSHIRE
MERRIMACK, SS.

Subscribed and sworn to before me this 3rd day of January, 2022.



Notary Public/Justice of the Peace

