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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

AKEEM DAVON HAMPTON,

APPELLANT

APPELLATE CASE NO. 2023-001726

RECORD ON APPEAL

JESSICA M. SAXON
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

MARK FARTHING
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201
(803)734-4117

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

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)
)
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)
)
 Akeem Davon Hampton.)
)
)
)

October 23, 25, 26, 2023
Lexington, South Carolina

B E F O R E:

The Honorable Maite Murphy, Judge, and a jury

A P P E A R A N C E S:

Kyle E. Smith, Assistant Solicitor
Whitney Y. Taylor, Assistant Solicitor
Attorneys for the State

Justin M. Kata, Esquire
Attorney for the Defendant

Elizabeth B. Harris, CVR-M-CM
Circuit Court Reporter
Certified Verbatim Reporter - Master
Certificate of Merit

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1 MONDAY, OCTOBER 23, 2023

2 THE COURT: All right, Solicitor, you may call your
3 next case.

4 MR. SMITH: Thank you, Your Honor. Indictment
5 2022-GS-32-00773, *The State of South Carolina v. Akeem*
6 *Davon Hampton*, indicted for financial identity fraud.

7 THE COURT: Solicitor, do you have the indictment?

8 MR. SMITH: I do, Your Honor. May I approach?

9 THE COURT: Yes, sir.

10 JURY VOIR DIRE

11 Ladies and gentlemen of the jury panel, we're now
12 going to select the second trial -- the second jury for the
13 second trial for this week. Ladies and gentlemen, again
14 the process will be the same as the previous selection
15 process. I'm going to read to you the indictment in this
16 case, and this is *The State of South Carolina v. Akeem*
17 *Davon Hampton*, and it is indictment 2022-GS-32-00773. And
18 the indictment states that:

19 Akeem Davon Hampton did in Lexington County,
20 South Carolina, on or about September the 13th,
21 2021, unlawfully and knowingly without the
22 authorization or permission of John Vitters, and
23 with the intent to unlawfully appropriate the
24 financial resources of John Vitters to his own
25 use or for the use of a third person did access

1 or attempt to access the financial resources of
2 John Vitters. To wit, the defendant did deposit
3 victim's stolen and forged check into his own
4 bank account by using the victim's identifying
5 information on said check, all in violation of
6 the South Carolina Code of Laws as amended.

7 Again, ladies and gentlemen, I read the indictment to
8 you for the sole purpose of seeing if you know anything
9 about this case, have any information about this case, or
10 have any issues with the type of this case. Again, please
11 remember the indictment is solely the charging document
12 which brings this case into this court, and that
13 allegations contained in the indictment are not evidence of
14 anything in the indictment.

15 Again, I'm going to ask the solicitor to please stand
16 and introduce himself and the members of his office,
17 please.

18 MR. SMITH: Good morning, ladies and gentlemen. My
19 name is Kyle Smith. I'm assistant solicitor here with the
20 Eleventh Judicial Circuit, Lexington County; I'll be the
21 prosecutor for this case. My cocounsel for this case is
22 Ms. Whitney Taylor. She's also with our office here in
23 Lexington County.

24 THE COURT: Thank you.

25 Ladies and gentlemen of the jury panel, same question

1 applies as previously. Anyone related by blood or marriage
2 or have a close personal or social relationship with any
3 members of the solicitor's office, has ever had a case
4 prosecuted by them on -- for, for their capacity, or have a
5 case against them? If so, please stand. Find that there
6 is no one standing.

7 Counsel the defense, please do the same.

8 MR. KATA: Thank you, Your Honor. May it please the
9 court?

10 THE COURT: Yes, sir.

11 MR. KATA: Good morning. My name is Justin Kata. I'm
12 an attorney from the big town of Columbia. Self-employed
13 and solo practitioner, and I represent Mr. Hampton.

14 THE COURT: Thank you, counsel.

15 Same question applies. Is anyone related by blood or
16 marriage, or has a close personal or social relationship
17 with defense counsel, or ever had case a represented by him
18 or against them? If so, please stand. Find that there is
19 no one standing.

20 Ladies and gentlemen of the jury panel, I'm going to
21 read to you a list of potential witnesses in this case, and
22 I'll ask you the same question after: if you're related by
23 blood or marriage, or have a personal or social
24 relationship with any of the potential witnesses. And they
25 are Joseph Andaloro with Lexington County Sheriff's

1 Department, Brian Burrell with Lexington County Sheriff's
2 Department, David Hellman with Lexington County Sheriff's
3 Department, Kyle Kovalchek with Richland County Sheriff's
4 Department, and John Vitters. Anyone related by blood or
5 marriage, or have a close potential or social relationship
6 with any of the potential witnesses? If so, please stand.
7 Find that there is no one standing.

8 Ladies and gentlemen, the defendant in this case is
9 named Akeem Davon Hampton. Anyone related by blood or
10 marriage, or has a close personal or social relationship
11 with Mr. Hampton? If, so please stand. Find that there is
12 no one standing.

13 Ladies and gentlemen of the jury panel, has anybody
14 heard anything about this case, read anything about this
15 case, or has any information about this case whatsoever
16 before your time today or even during the time today here
17 in this courthouse? If so, please stand. Find that there
18 is no one standing.

19 Is there any member of the jury panel who is a member
20 of or a contributor to or has a close affiliation with any
21 group which has as its primary concern the promotion of law
22 enforcement or victim's rights? These groups would include
23 but are not limited to MADD, SADD, or Citizens Against
24 Violent Crime. Or in the alternative, is there any member
25 of the jury panel a member of an organization that opposes

1 law enforcement? If so, please stand. Find that there is
2 no one standing.

3 Ladies and gentlemen of the jury panel, I read to you
4 the allegations contained in the indictment, that this case
5 deals with financial identify fraud. Ladies and gentlemen,
6 anything in your personal experience, of your family's
7 experience, social acquaintances, business experience,
8 anything whatsoever with your previous experiences that
9 would cause you to hesitate in your ability to be fully
10 fair and impartial in a -- as being a juror in this type of
11 case? If so, please stand.

12 Yes, sir, would you come forward?

13 Yes, ma'am.

14 (THE FOLLOWING CONFERENCES ARE HELD AT THE BENCH WITH
15 COUNSEL PRESENT.)

16 BAILIFF: Juror number 94, Your Honor.

17 THE COURT: Good morning, sir. How are you? Let me
18 find you here. Mr. Gill?

19 JUROR: Gillam.

20 THE COURT: Yes, sir. What your circumstance?

21 JUROR: My cousin got arrested about three months ago
22 for the same thing.

23 THE COURT: Okay. Does your cousin live with you?

24 JUROR: Yes, he did, for a few months.

25 THE COURT: Would the fact that he's facing a similar

1 circumstance, do you think in this case you could set that
2 aside and listen to the evidence solely as it comes from
3 the witness stand?

4 JUROR: No, ma'am.

5 THE COURT: No? You think you'd have a problem with
6 that?

7 JUROR: Yes, ma'am.

8 THE COURT: All right, sir. So, what I'm going to do
9 is I'm going to ask you to stay, though, and not serve on
10 this particular jury. We may be selecting another jury in
11 a civil case. So, just hang tight.

12 JUROR: Okay.

13 (JUROR WITHDRAWS.)

14 BAILIFF: 233, Your Honor.

15 THE COURT: Good morning, ma'am. Hold on. Let me
16 find you here.

17 (A PAUSE.)

18 THE COURT: Yes, Ms. Shelton.

19 JUROR: I'm actually undergoing a case of where
20 somebody ---

21 THE COURT: Can you speak up a little?

22 JUROR: Oh, sorry.

23 THE COURT: She's got to take the record.

24 JUROR: Somebody has actually stolen my identity
25 currently, and I'm currently fighting against it to get it

1 fixed, so I don't think I can be truly objective in this
2 case.

3 THE COURT: It would be difficult for you to set that
4 aside?

5 JUROR: Yes.

6 THE COURT: All right.

7 JUROR: It's very frustrating. It's been going on for
8 over two months now.

9 THE COURT: Yeah. It's a difficult process. What I'm
10 going to ask you to do, I'm going to ask you -- we're not
11 going to put you on this jury but ---

12 JUROR: Stick around.

13 THE COURT: --- stick around because there's another
14 civil case that may be selecting a jury this morning as
15 well. So, just stay with us, okay? Thank you.

16 (JUROR WITHDRAWS.)

17 (END OF CONFERENCES AT THE BENCH.)

18 THE COURT: Has any member of the jury panel formed
19 any opinion about any potential issue or matter in this
20 case? If so, please stand. Find there is no one standing.

21 Any member the jury panel aware of any bias or
22 prejudice towards either the state or to the defense in
23 this case? If so, please stand. Find that there is no one
24 standing.

25 Is there any member of the jury panel that was a

1 member of the grand jury which issued the indictment in
2 this case? If so, please stand. Find that there is no one
3 standing.

4 Does any member of the jury panel know of any reason
5 whatsoever why he or she should not serve as a juror in
6 this case, with a particular emphasis being placed on your
7 ability to be fully fair and impartial to both the state
8 and to the defense? If so, please stand. Find that there
9 is no one standing. I

10 Ladies and gentlemen, that will conclude the list of
11 questions for the selection of this jury. Just bear with
12 us one minute. The clerk of court will put your names into
13 the hopper.

14 (A PAUSE.)

15 BAILIFF: All the jurors are back, Your Honor.

16 THE COURT: Thank you, sir.

17 All right, Madame Clerk, you may proceed.

18 JURY SELECTION

19 CLERK: Again, when I call your name or your juror
20 number, please bring all of your belongings with you. Come
21 forward to the podium and turn around and face back out
22 into the gallery until you receive further instructions.
23 Thank you.

24 Juror number 64. What say you for the state?

25 MR. SMITH: Please present Ms. Dee.

1 CLERK: For the defense?

2 MR. KATA: Please seat the juror.

3 CLERK: Please have a seat in the jury box.

4 Juror number 47. What say you for the state?

5 MR. SMITH: Please present Ms. Caudill.

6 CLERK: For the defense?

7 MR. KATA: Please seat the juror.

8 CLERK: Please have a seat in the jury box.

9 Juror number 204. What say you for the state?

10 MR. SMITH: Please present Ms. Reamer.

11 CLERK: For the defense?

12 MR. KATA: Please strike this juror.

13 CLERK: Please return back to your seat.

14 Juror number 150. What say you for the state?

15 MR. SMITH: Please present Ms. Lesesne.

16 CLERK: For the defense?

17 MR. KATA: Please seat the juror.

18 CLERK: Please have a seat in the jury box.

19 Juror number 48.. What say you for the state?

20 MR. SMITH: Please present Ms. Caughman.

21 CLERK: For the defense?

22 MR. KATA: Please seat the juror.

23 CLERK: Please have a seat on -- in the jury box.

24 Juror number 17. What say you for the state?

25 MR. SMITH: Please present Mr. Beier.

1 CLERK: For the defense?

2 MR. KATA: Please strike this juror.

3 CLERK: Please return back to your seat.

4 Juror number 35.

5 MR. SMITH: Could you repeat that juror number,
6 please?

7 CLERK: 35.

8 MR. SMITH: Thank you.

9 CLERK: What say you for the state?

10 MR. SMITH: Please present Mr. Burkett.

11 CLERK: For the defense?

12 MR. KATA: Please strike the juror.

13 CLERK: Please return back to your seat.

14 Juror number 11. What say you for the state?

15 MR. SMITH: Please present Ms. Bateman.

16 CLERK: For the defense?

17 MR. KATA: Please seat the juror.

18 CLERK: Please have a seat in the jury box.

19 Juror number 240. What say you for the state?

20 MR. SMITH: Please present Mr. Skelton.

21 CLERK: For the defense?

22 MR. KATA: Please strike the juror.

23 CLERK: Please return back to your seat.

24 Juror number 6. What say you for the state?

25 MR. SMITH: Please present Mr. Arrigo.

1 CLERK: For the defense?

2 MR. KATA: Please strike the juror.

3 CLERK: Please return back to your seat.

4 Juror number 119. What say you for the state?

5 MR. SMITH: Please present Ms. Holland.

6 CLERK: For the defense?

7 MR. KATA: Please seat the juror.

8 CLERK: Please have a seat in the jury box.

9 Juror 228. What say you for the state?

10 MR. SMITH: Please excuse Ms. Sharber from the trial
11 of this case.

12 CLERK: Please return back to your seat.

13 Juror number 226. What say you for the state?

14 MR. SMITH: Please present Ms. Sears.

15 CLERK: For the defense?

16 MR. KATA: Please seat the juror.

17 CLERK: Please have a seat in the jury box.

18 Juror number 25. What say you for the state?

19 MR. SMITH: Please present Ms. Bonham.

20 CLERK: For the defense?

21 MR. KATA: Please seat the juror.

22 CLERK: Please have a seat in the jury box.

23 Juror number 42. What say you for the state?

24 MR. SMITH: Please present Ms. Callaham.

25 CLERK: For the defense?

1 MR. KATA: Please seat the juror.

2 CLERK: Please have a seat in the jury box.

3 Juror number 41. What say you for the state?

4 MR. SMITH: Please present Ms. Cagle.

5 CLERK: For the defense?

6 MR. KATA: Please seat the juror.

7 CLERK: Please have a seat in the jury box.

8 Juror number 83. What say you for the state?

9 MR. SMITH: Please present Mr. Fogel.

10 CLERK: For the defense?

11 MR. KATA: Please seat the juror.

12 CLERK: Please have a seat in the jury box.

13 Juror number 95. What say you for the state?

14 MR. SMITH: Please present Ms. Gilpin.

15 CLERK: For the defense?

16 MR. KATA: Please seat this juror.

17 CLERK: Please have a seat in the jury box.

18 Your Honor, would you like two alternates?

19 THE COURT: Yes, please.

20 CLERK: Juror number 227. What say you for the state?

21 MR. SMITH: Please present Ms. Seymour.

22 CLERK: For the defense?

23 MR. KATA: Please seat the juror.

24 CLERK: Please have a seat in the jury box.

25 Juror number 189. What say you for the state?

1 MR. SMITH: Please excuse Mr. Pagan.

2 CLERK: Please return back to your seat.

3 Juror number 257. What say you for the state?

4 MR. SMITH: Please present Ms. Swann.

5 CLERK: For the defense?

6 MR. KATA: Please strike the juror.

7 CLERK: Please return back to your seat.

8 Juror number 73. What say you for the state?

9 MR. SMITH: Please present Mr. Ellisor.

10 CLERK: For the defense?

11 MR. KATA: Please seat the juror.

12 CLERK: Please have a seat in the jury box.

13 THE COURT: Are there any exceptions or objections to
14 this jury from either the state or the defense?

15 MR. SMITH: Nothing from the state, Your Honor.

16 MR. KATA: No, Your Honor.

17 (A PAUSE.)

18 THE COURT: Thank you. Ladies and gentlemen of the
19 jury panel, it turns out that when you saw Judge Keesley
20 poke his head in here a few minutes ago, it turns out we
21 also have a civil trial for which we are going to select a
22 jury. So, if y'all would hang tight with us. So, your
23 lucky day.

24 Ladies and gentlemen of the jury that was selected for
25 the trial of this particular case, I'm going to ask that

1 you ---

2 Hold on, everybody, please.

3 BAILIFF: Order.

4 THE COURT: Please maintain order.

5 I'm going to ask those of you selected for the trial
6 of this case if you would please call the clerk of court's
7 office tomorrow afternoon. There will be a message for you
8 as to when you are to report. I'm anticipating that you
9 will start your trial probably on Wednesday, depending on
10 how long the first one goes, but if you would call the
11 clerk of court's office, you'll receive further information
12 as to when you are to report for your -- for your trial.

13 Again, please remember previous instruction that you
14 are not to discuss this case with anyone, allow anyone to
15 discuss the case with you, or do any type of independent
16 research on the case. Have a nice afternoon, and we will
17 see you later in the week.

18 (THE JURY EXITS AT 11:29 A.M.)

19 (WHEREUPON, THE CASE IS AT EASE.)

20 WEDNESDAY, OCTOBER 25, 2023

21 (COURT RESUMES AT 9:09 AM.)

22 THE COURT: All right, the parties ready to proceed?

23 MR. SMITH: We are, Your Honor. As a brief
24 housekeeping before we begin the *Jackson vs. Denno*, we
25 mentioned in chambers with Your Honor the state intends to

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

20

1 introduce some bank records into the record as part of our
2 evidence. We do not have a records custodian. However,
3 pursuant to Code Section 19-5-520, we have filed a written
4 notice of intent to use those records, as is filed with the
5 clerk. Mr. Kata has received a copy, and we would like to
6 make a copy of that notice and the relevant code section a
7 court's exhibit, Your Honor. May I approach?

8 THE COURT: Yes, sir, you may.

9 MR. SMITH: And at the appropriate time, we will be
10 introducing the original documents received in response to
11 that search warrant.

12 (INDICTMENT MARKED AS COURT'S EXHIBIT NUMBER 1
13 RECEIVED INTO EVIDENCE.)

14 (SOUTH CAROLINA CODE MARKED AS COURT'S EXHIBIT NUMBER
15 2 RECEIVED INTO EVIDENCE.)

16 MR. SMITH: And if it pleases the court, we are ready
17 to proceed with the *Jackson vs. Denno*.

18 THE COURT: All right, and before we do that, Mr. Kata
19 -- and am I pronouncing that correctly?

20 MR. KATA: It's pronounced Kata.

21 THE COURT: Kata? Kata?

22 MR. KATA: Kah-ta.

23 THE COURT: Got it.

24 MR. KATA: K-a-y-t-h would be phonetic, but Kata.

25 THE COURT: All right. So, I do want to place on the

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

21

1 record the fact that your client did receive notice of this
2 week's proceedings, that he was on the trial roster for
3 this week, and you actually communicated with him. Is that
4 correct?

5 MR. KATA: Yes, Your Honor, that's correct.

6 THE COURT: And he had failed, failed to appear.

7 MR. KATA: He is not here.

8 THE COURT: All right. Let's proceed with the *Jackson*
9 *vs. Denno*.

10 MR. SMITH: Thank you, Your Honor. Your Honor, the
11 state calls Investigator Joseph Andaloro.

12 JOSEPH ANDALORO, BEING DULY SWORN,
13 TESTIFIES AS FOLLOWS:

14 CLERK: Would you please have a seat in the witness
15 box? State your full name and spell your last for the
16 record.

17 WITNESS: Joseph, Joseph Andaloro.

18 THE COURT: Your witness.

19 WITNESS: A-n-d-a-l-o-r-o.

20 DIRECT EXAMINATION BY MR. SMITH:

21 Q. All right, Investigator Andaloro, who is your current
22 employer?

23 A. Lexington County Sheriff's Department.

24 Q. And your title with them, your, your job?

25 A. I'm a property crimes investigator.

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

22

1 Q. How long have you been with Lexington County Sheriff's
2 Department?

3 A. I've been with the Lexington County Sheriff's
4 Department since 2011.

5 Q. And how long have you been investigating,
6 investigating property crimes?

7 A. Property crimes, about four years.

8 Q. Were you a property crimes investigator on or about
9 mid October to November of 2021?

10 A. Yes, sir, I was.

11 Q. And I'm probably going to back up. Around, on or
12 about September 13th of 2021, were you a property crimes
13 investigator?

14 A. Yes, sir.

15 Q. Around that time, did you have any involvement with a
16 financial identity fraud investigation?

17 A. Yes, sir, I did.

18 Q. Where did that incident occur?

19 A. Well, the report was at [REDACTED] Archers Court in Columbia,
20 South Carolina; that's where the victim resided.

21 Q. Is that address in Lexington County?

22 A. Yes, sir, it is.

23 Q. Okay, and how did you become involved in this
24 investigation?

25 A. That case was assigned to me. Like any case, the

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

23

1 cases are reviewed and they are determined whether to
2 assign to an investigator, admin close look no further, and
3 it was assigned to me for follow up.

4 Q. And at some point during this investigation, did you
5 speak with the defendant, Mr. Akeem Hampton?

6 A. Yes, sir, I did.

7 Q. Okay. How did that -- when -- on or about -- when did
8 you speak with him?

9 A. Yes, sir. If I can refer to my notes?

10 Q. Sure.

11 A. We played phone tag back and forth from November 8,
12 2021, to November 15th, where we finally spoke on the
13 phone. So, it was around November 15th of '21.

14 Q. So, who initiated this contact?

15 A. He did.

16 Q. Had you left any sort of contact information for him
17 to reach out to you?

18 A. I did. I left my business card at his residence with
19 his sister.

20 Q. Where was that residence?

21 A. Hold one sec. It was [REDACTED] Fontaine Place in Columbia,
22 South Carolina, 29223, in Richland County.

23 Q. Do you recall about how long you spoke with the
24 defendant?

25 A. Maybe fifteen minutes tops.

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

24

1 Q. During this conversation, did you advise him of --
2 about the ongoing investigation?

3 A. I advised him that I wanted to speak with him in
4 reference to an investigation, yes, sir.

5 Q. Did you have any contact with Mr. Hampton other than
6 by telephone?

7 A. No, sir, I did not.

8 Q. At any point, did -- at any point while you were
9 speaking with Mr. Hampton, did he ask to stop speaking with
10 you?

11 A. No.

12 Q. Other than your conversation with him on, on or about
13 November the 15th, did you have any other contact with him?

14 A. No, sir, I did not.

15 Q. And correct me. You may have already stated this,
16 detective, but I know you stated you left your contact
17 information. Did, did you initiate this phone call or did
18 the defendant initiate the phone call?

19 A. He initiated the first phone call, and we played phone
20 tag back and forth for about two voicemails.

21 Q. At any point during this phone call, could he have
22 stopped speaking with you if he had wished to?

23 A. Absolutely.

24 Q. Could he have hung up?

25 A. Yes.

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

25

1 Q. And if he had told -- if he had told you that he
2 didn't want to speak to you, would you have ended the
3 conversation?

4 A. Yes, sir, I would have.

5 Q. Did you made any threats or promises to him in
6 exchange for his statements?

7 A. No, sir.

8 Q. And to reiterate or ask, did you have any in-person
9 contact with Akeem Hampton?

10 A. No, sir, I did not.

11 Q. During this phone call you had with him, was he under
12 arrest?

13 A. He was not.

14 Q. Was he under arrest at any time that you have contact
15 with him?

16 A. No, sir, he was not.

17 Q. Was he detained at any point in time?

18 A. No.

19 Q. Did you advise him of his Miranda rights pursuant to
20 -- while you're on this phone conversation?

21 A. No, sir, I did not.

22 Q. Why didn't you?

23 A. Because he could hang up, or he was free to leave and
24 not in custody.

25 Q. Did he ever ask to stop questioning?

1 A. No.

2 Q. Did he ask to speak with an attorney at any point
3 during his conversation with you?

4 A. No, sir, he did not.

5 Q. Did you write any sort of report regarding what he
6 told you?

7 A. Yes, sir, I did.

8 Q. What did he say to you during that phone conversation?

9 A. He said that his sister told him that I wanted to talk
10 with him about a check, and he told me that he got a big
11 check six months ago from a guy named Johnny that he was
12 helping with, and he held the check. He told me the check
13 cleared and it was good, and that pretty much was the
14 extent of what he told me.

15 Q. Did you attempt to set up any further meetings with
16 Mr. Hampton or any further conversations?

17 A. I did. I attempted -- I, I attempted to set up a
18 meeting on the 16th the next day at 11 AM at the North
19 Region headquarters located at 111 Lincreek Drive so we
20 could do it there in a safe environment in our conference
21 room, and he advised me that he was going to show up there.

22 Q. Did he ever show up?

23 A. No, sir, he did not.

24 Q. Did you have any further contact with the defendant
25 after this phone call?

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 A. I spoke with him when he didn't show up on the 16th,
2 and he advised me that he was at a hotel and he didn't --
3 he didn't have a ride, and wanted me to either meet him
4 there or at an alternate location.

5 Q. Okay. Any, any contact after that?

6 A. No, sir.

7 Q. To the best of your knowledge, were defendant's
8 statements to you during this phone call freely and
9 voluntarily given?

10 A. Absolutely.

11 MR. SMITH: I don't have any further questions for
12 you, Investigator Andaloro. Please answer defense
13 counsel's questions.

14 THE COURT: Cross-examination?

15 MR. KATA: I don't have any questions for this
16 witness.

17 THE COURT: All right. You may step down.

18 WITNESS: Thank you, Your Honor.

19 (THE WITNESS EXITS THE STAND.)

20 THE COURT: Anything further.

21 MS. TAYLOR: Your Honor, the state calls Investigator
22 Burrell.

23 BRIAN BURRELL, BEING DULY SWORN,
24 TESTIFIES AS FOLLOWS:

25 CLERK: Would you please have a seat on the witness

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 stand? State your full name and spell your last for the
2 record.

3 WITNESS: It's Brian Burrell, B-u-r-r-e-l-l.

4 THE COURT: Your witness.

5 DIRECT EXAMINATION BY MS. TAYLOR:

6 Q. Good morning. Where do you currently work?

7 A. Work for Lexington County Sheriff's Department.

8 Q. And what is your current position there?

9 A. I'm a sergeant over property crimes investigations.

10 Q. And what types of duties and responsibilities do you
11 have as a sergeant over property crimes?

12 A. As a sergeant over property crimes investigations, I
13 typically come in in the mornings and I review reports that
14 are written by road units, and upon reviewing those
15 reports, I make the decision if report needs to be
16 assigned, if there's any solveability factors for those
17 reports. And upon that decision, then I assign those cases
18 to investigators. I also review any reports or
19 supplemental reports that investigators provide.

20 Q. Okay. Where were you working around September,
21 October of 2021?

22 A. I was a sergeant over property crimes investigations.

23 Q. Did you have the same type duties and responsibilities
24 at that time as well?

25 A. Yes, ma'am, I did.

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

29

1 Q. Okay. In 2021, do you remember any involvement in the
2 investigation of a financial identity fraud case for
3 defendant Akeem Hampton?

4 A. Yes, ma'am, I do.

5 Q. Okay, and where did the crime occur?

6 A. As far as the incident location? I'd have to...

7 Q. Was it in Lexington County?

8 A. It was Lexington County, yes, ma'am.

9 Q. Okay, and how did you become involved in this
10 investigation?

11 A. I had received a couple of voice messages from the
12 defendant, and upon trying to return those phone calls -- I
13 never made contact with him until later in December.

14 Q. Okay, and when you did make contact with the
15 defendant, did you initiate contact or did he?

16 A. I had returned a call in reference to a voicemail that
17 he had left.

18 Q. About how long did you speak with him?

19 A. It was probably fifteen, twenty minutes maybe.

20 Q. And was the defendant advised of the nature of this
21 investigation?

22 A. He was aware of the investigation, and he wanted to
23 speak with me about it.

24 Q. And was the entirety of your contact over the phone,
25 or was there any type of in-person contact?

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

30

1 A. It was all over the phone.

2 Q. All right, and did -- if the defendant had expressed a
3 desire to end the conversation with you, would you have
4 done so?

5 A. Yes, ma'am, I would have.

6 Q. And at any point, did he stop speaking with you?

7 A. No, ma'am, he did not.

8 Q. Other than your conversation over the phone with the
9 defendant -- and what, what date was this, by the way?

10 A. It was on the December 22nd of 2021.

11 Q. Okay. Other than December 22nd, was there any further
12 contact with the defendant?

13 A. Just on that day. No, ma'am.

14 Q. Okay. Did he send you anything after that date?

15 A. Yes, ma'am.

16 Q. Any other manner?

17 A. In reference to his wanting to speak with me, he
18 advised that he had some information that he wanted to
19 provide me, and then I provided him with my county email
20 address, and he had sent me some emails or screenshots of
21 some information he wanted to provide.

22 Q. Okay. What type of information was that?

23 A. It was a -- some of the information he sent me were
24 screenshots of his banking records. It was also a
25 screenshot of it appears him to be holding a check. Also a

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 Richland County letter that he had received and some --
2 another screenshot of -- I believe it was the Federal Trade
3 Commission where he had filed a report with them.

4 Q. Okay, and was, was there a second or subsequent phone
5 call with the defendant?

6 A. Yes, ma'am, after I had received those emails.

7 Q. Okay, and did you initiate this, or was the defendant
8 initiating contact again?

9 A. He called me back.

10 Q. Okay, and again if he had expressed an -- expressed a
11 desire to end the conversation, would you have done so?

12 A. Yes, ma'am, I would have.

13 Q. Were there any threats or promises, you know, in
14 exchange for his statements for that, any of those
15 interviews?

16 A. No, ma'am.

17 Q. All right, and then after the second call, was there
18 any in-person contact with the defendant?

19 A. No, ma'am.

20 Q. And at any time that he spoke with you, was he under
21 arrest?

22 A. No, ma'am.

23 Q. Was at any point that he spoke with you, was he
24 detained?

25 A. No, ma'am.

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 Q. Was the defendant advised of any -- of his Miranda
2 rights prior to any of these conversations?

3 A. No, ma'am, he was not.

4 Q. And why was that?

5 A. He -- it was a phone call conversation where he wasn't
6 detained or under arrest.

7 Q. Okay.

8 A. He could have hung up at any point in time.

9 Q. Okay, and did you threaten or coerce him to provide
10 any of this information to you?

11 A. No, ma'am, I did not.

12 Q. Did the defendant ever cease to ask -- cease the
13 conversation or questioning?

14 A. No, ma'am.

15 Q. Did he ever ask to speak with an attorney?

16 A. No, ma'am.

17 Q. Did you write a report regarding the substance of your
18 conversations with the defendant?

19 A. Yes, ma'am, I did.

20 Q. Okay, and what, in substance, did he say?

21 A. It was just, he called wanting to advise me that,
22 again, he had some information that he wanted to provide
23 me. He told me that he was also trying to find the old
24 messages from a lost phone that he had from the Cloud in
25 reference to a guy he had met on a gay website.

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 Q. And to the best of your knowledge, there -- were the,
2 the defendant's statements freely and voluntarily given?

3 A. Yes, ma'am, they were.

4 Q. In both of these conversations?

5 A. Yes, ma'am.

6 MS. TAYLOR: Nothing further. Please answer any
7 questions the defense may have for you.

8 THE COURT: Cross-examination?

9 MR. KATA: No questions of this witness.

10 THE COURT: You may step down. Thank you.

11 (THE WITNESS EXITS THE STAND.)

12 MR. SMITH: Your Honor, we would, at this time, we
13 would move that all the statements made by defendant Akeem
14 Hampton to Investigators Andaloro and Burrell are
15 admissible. They were made voluntarily while he was under
16 investigation. He did reach out to both investigators to
17 speak with them via telephone. He could have -- they
18 testified he could have ended the conversation at any point
19 that he wished.

20 He was not advised of his Miranda rights. However, in
21 this situation those warnings weren't necessary because at
22 no point was Mr. Hampton in custody. He was not detained;
23 he was not under arrest when he gave any of these
24 statements. They were voluntary, voluntary and given in
25 noncustodial setting, and we believe the statements are

1 admissible, Your Honor.

2 THE COURT: Any response?

3 MR. KATA: Your Honor, I have no objection to the
4 statements.

5 THE COURT: All right, sir. I do find that they are
6 voluntary. They were not given in a custodial
7 interrogation and were -- some -- the contact was initiated
8 by the defendant, providing the information. So, they will
9 be admissible.

10 MR. SMITH: Thank you, Your Honor.

11 THE COURT: The jury is reporting at 9:30. I don't
12 know that we have quite everybody here, so once everybody
13 is ready to go, we can bring them in and get started unless
14 you have something else.

15 MR. KATA: No, Judge. I was just going to ask if I
16 can go downstairs.

17 THE COURT: Yes. Of course.

18 MR. KATA: I think they scheduled some pleas today,
19 and I think I have clients waiting on me. So, if I can
20 just go tell them they can leave?

21 THE COURT: Sure. Absolutely. So, once the jury is
22 here, we'll get rolling.

23 MR. KATA: Great. Thank you.

24 (OFF THE RECORD.)

25 (COLLECTION OF EMAILS MARKED AS STATE'S EXHIBIT NUMBER

1 1 FOR IDENTIFICATION.)

2 (COPY OF DEPOSIT SLIP MARKED AS STATE'S EXHIBIT NUMBER
3 2 FOR IDENTIFICATION.)

4 (SEARCH WARRANT AND DOCUMENTS MARKED AS STATE'S
5 EXHIBIT NUMBER 3 FOR IDENTIFICATION.)

6 (SEARCH WARRANT AND DOCUMENTS MARKED AS STATE'S
7 EXHIBIT NUMBER 4 FOR IDENTIFICATION.)

8 (PHOTOGRAPH OF CHECK MARKED AS STATE'S EXHIBIT NUMBER
9 5 FOR IDENTIFICATION.)

10 (LETTER MARKED AS STATE'S EXHIBIT NUMBER 6 FOR
11 IDENTIFICATION.)

12 THE COURT: All parties ready to proceed?

13 MS. TAYLOR: Your Honor, it appears that the defendant
14 has brought a witness that my understanding is he wants to
15 call to the stand. This witness was not on -- no fault of
16 Mr. Kata's -- but this witness was not on their witness
17 list. We just would need to ask the jury if they know this
18 person. And we also, in light of that, will be making a
19 motion to sequester all the witnesses.

20 THE COURT: All right, counsel, what is the witness's
21 name?

22 MR. KATA: Carla Labrador.

23 THE COURT: Carla?

24 MR. KATA: Labrador.

25 THE COURT: All right, I'll question the jury

1 regarding their ---

2 MR. KATA: We would make a reciprocal motion to
3 sequester.

4 MS. TAYLOR: Right, and it -- with the exception of
5 our lead investigator, Detective Andaloro, and our victim,
6 Mr. Vitters, and we would just request just a few minutes.
7 We're running information on this witness since this is new
8 information to us just so we can prepare for any testimony.

9 THE COURT: You mean just running a rap sheet?

10 MS. TAYLOR: That's correct.

11 THE COURT: Okay.

12 MS. TAYLOR: I still haven't -- our investigator
13 hasn't come back with a rap sheet yet.

14 THE COURT: Sure. We can get started. I assume you
15 won't be calling ---

16 MR. KATA: Right.

17 THE COURT: --- her until ---

18 MS. TAYLOR: Correct.

19 THE COURT: --- you've rested your case.

20 MR. KATA: We can ---

21 MS. TAYLOR: We can -- we're ready to proceed.

22 THE COURT: All right. All right. Let's have our --
23 and just for the record, the defendant is here.

24 MR. KATA: Yes, Your Honor, he's here.

25 THE COURT: Let's have our jury, please.

1 (THE JURY ENTERS AT 10:01 AM.)

2 THE COURT: Good morning, ladies and gentlemen of the
3 jury. Welcome back. Ladies and gentlemen of the jury, I'm
4 going to ask Madame Clerk to please swear you in.

5 CLERK: Would you please stand and raise your right
6 hand?

7 (WHEREUPON, THE JURY IS SWORN.)

8 CLERK: Is there anyone who was not able to take this
9 oath?

10 (NO ONE RESPONDS.)

11 CLERK: Thank you. You may be seated.

12 THE COURT: Good morning, ladies and gentlemen of the
13 jury. Before we get started, I do have additional
14 questions for you regarding a potential witness that may
15 testify that was not -- that you were previously not asked
16 about. So, I will ask you if any member of the jury has a
17 personal or social or any type of relationship with a Carla
18 Labrador. If so, please stand. There are no jurors
19 standing.

20 Ladies and gentlemen, thank you for accepting the
21 important responsibility of jury service and for your
22 contribution today to our system of justice. What I will
23 now say to you is intended to serve as an introduction to
24 the trial of this case. These remarks are not a charge on
25 the law in this case. I will instruct you on the law

1 applicable to this case at the end of the trial before you
2 retire to consider your verdict. This is merely an
3 explanation of the procedure that we will follow so that
4 you may better understand what is happening during the
5 trial of this case.

6 You may not take notes during the trial of this case.

7 The defendant in this case is charged by an indictment
8 filed in this court with the crime of financial identity
9 fraud, the elements which will be explained to you later.
10 The indictment is simply the charge by which the case is
11 brought into court, and it is not in any sense evidence of
12 any of the allegations that it contains.

13 The defendant has pled not guilty to this indictment.
14 The state, therefore, has the burden of proving each of the
15 elements of the indictment beyond a reasonable doubt. It
16 will be your duty, ladies and gentlemen, to decide whether
17 the state has met that burden.

18 Your purpose as jurors is to find and determine the
19 facts. You are the sole judges of the facts. If at any
20 time I make any comment regarding the facts, you must
21 disregard that. You are to determine the facts from the
22 testimony that you hear and any other evidence that is
23 introduced into court. It is up to you to determine the
24 inferences which you feel may be properly drawn from the
25 evidence.

1 It is especially important that you perform your duty
2 of determining the facts diligently and conscientiously
3 because ordinarily there is no way to correct an erroneous
4 determination of the facts by a jury.

5 On the other hand and with equal emphasis, the same
6 law that makes you the judges of the facts make me the
7 judge of the law. The law as given by the court is the
8 only law that you may consider. You must accept it and
9 follow it even though you may disagree with it. I cannot
10 tell you what the facts are, and you cannot disagree with
11 me about what the law is or should be. Your job is to take
12 the law as I give it to you and apply it to the facts as
13 you find them from the testimony of the witnesses and any
14 other evidence that is properly introduced during the
15 trial. After that, you will render your verdict under the
16 solemn oath that you just took as jurors.

17 Until I advise you to begin your deliberations, you
18 must not discuss this case with anyone. This would include
19 your fellow jurors, your friends, your family members, and
20 anyone involved in this case. This would include any
21 discussions which are face to face, anything by telephone,
22 email, text, blog or any other method of communication.
23 You may not use a computer, a cell phone, or any other
24 electronic device with communication capabilities at any
25 time while you're in the courtroom or during your

1 deliberations.

2 During the breaks or overnight, if necessary, you may
3 use these devices. However, you may not use these devices
4 at any time to get or send information about this case.
5 This would include anything -- any information about a
6 party, a witness, attorney, any court officer, any
7 potential news accounts about this case, or any topics that
8 may be raised, or any topics that you think would be
9 helpful in deciding this case.

10 During the trial, please do not read, listen to, or
11 watch any potential news reports about this case; this
12 would include anything that would be in the newspaper, TV,
13 radio, internet. You must not consider anything that you
14 may have read or heard about this case outside of this
15 courtroom whether before or during the trial of this case.
16 After the case is submitted to you, you must discuss it
17 only in your jury room with your fellow jurors.

18 The attorneys and parties in this case have been
19 advised not to talk to you. So, if you see them coming in
20 and out of the courthouse during breaks and they don't
21 speak to you, they're not being unfriendly. They're just
22 following court's instructions.

23 It is important that you keep an open mind and not
24 decide any issue in the case until all of the evidence has
25 been presented, the parties have made their closing

1 arguments, and you have been instructed on the law in this
2 case.

3 It is your solemn responsibility to determine the
4 guilt or innocence of the defendant, and your verdict must
5 be based solely on the evidence that is presented to you
6 during the trial and the law as I instruct you during and
7 at the close of the trial.

8 In just a moment, the solicitor will make what is
9 called an opening statement in which the solicitor will
10 explain to you what the issues are in this case, or at
11 least what the solicitor thinks the issues in this case
12 are. The attorney for the defense may also make an opening
13 statement, although they're not required to do so.

14 What the attorneys tell you during their opening
15 statements is not evidence in this case; it's only their
16 contention as to what the issues are. The evidence in this
17 case will be presented to you by the testimony of the sworn
18 witnesses and any exhibits which are properly introduced
19 during the trial of this case.

20 From time to time during the trial, you may hear one
21 of the lawyers say something like we have a matter of law.
22 May we approach the bench? Or sometimes I might myself
23 find it necessary to excuse you from the courtroom for a
24 short while so the attorneys and I can discuss a matter of
25 law. The reason for this is because you are the judges of

1 the facts in this case, and sometimes when I'm discussing
2 matters of law with the attorneys, it may be necessary for
3 me to make some comment as to the facts in connection with
4 ruling as to whether or not the particular law applies.
5 I'm not supposed to tell you what I think the facts are, so
6 I will excuse you from the courtroom for a short while
7 while these discussions take place so that you in no way
8 will be influenced by anything that I might say or do in
9 connection with the facts of this case.

10 In determining what the true facts are in this case,
11 you must decide whether or not the testimony of witnesses
12 is believable. It will be my responsibility to rule as a
13 matter of law as to whether or not certain testimony is
14 admissible at all or not, but once that testimony is
15 admitted, whether or not you believe it is solely for you
16 to determine.

17 In deciding whether to believe a witness, you have the
18 right to consider the interest of any witness, the bias of
19 any witness, the prejudice of any witness, the opportunity
20 for the witness to testify about things they may have seen,
21 or things that -- and also the way that the witness may act
22 on the witness stand.

23 You have the right to consider anything that is in the
24 record that will help you evaluate the testimony of the
25 witnesses. That means it is your duty to pay close

1 attention to the witnesses, to observe the witnesses, to
2 listen to the witnesses, and please pay close attention to
3 the attorneys and to the court. Please don't let your
4 thoughts wander, but give strict attention to the testimony
5 in the case so at the end of the trial, after the closing
6 arguments of counsel and the charge on the law, you will
7 then be in a position to render your verdict under the
8 solemn oath that you just took as jurors.

9 Are there any exceptions or objections to the opening
10 remarks from either the state or the defense?

11 MR. SMITH: Nothing from the state, Your Honor.

12 MR. KATA: No, Your Honor.

13 THE COURT: All right, Solicitor, you may proceed.

14 MS. TAYLOR: Your Honor, before we proceed, I just
15 wanted to bring the matter of the sequestration up.

16 THE COURT: Yes, ma'am. All witnesses other than the
17 case officer and the victim are to leave the courtroom.

18 MS. TAYLOR: Other than that, the state is ready to
19 proceed.

20 May it please the court?

21 THE COURT: Yes, ma'am.

22 MS. TAYLOR: Good morning, ladies and gentlemen. Mr.
23 John Vitters started out his day on September 15th of 2021
24 just like any other hard-working American does. He was
25 just trying to pay his taxes. He wrote a check in the sum

1 of \$10,000, addressed the envelope and the check out to the
2 IRS to be mailed to the IRS office in Charlotte, North
3 Carolina. Placed this check in this envelope in his
4 mailbox and expected it to be picked up by the mail carrier
5 the next -- that day or the next day, mailed off to the IRS
6 office.

7 But what he didn't expect was a notification the very
8 next morning, the crack of dawn, that there was fraudulent
9 activity on his account, alerting him that this check had
10 been cashed that very morning. Did he cash it? No. Is
11 there any way that the check had been picked up from the
12 mail carrier, much less arrived at the IRS office in North
13 Carolina? No.

14 Today we'll hear from Mr. Vitters himself. He will
15 tell you how he later met with his bank and let them know
16 that this was fraudulent, was not him or any other
17 authorized person. He will tell you that he provided
18 copies of the check that was cashed, and what do you know
19 that was on the paid to the order of line on that check?
20 Akeem Davon Hampton. Mr. Vitters will testify and show
21 that his deposit slip for this check was made out to the
22 United States Treasury, not Akeem Hampton, and that the
23 check number on the deposit slip was identical to the check
24 number on that check that he wrote to the treasury.

25 Now, you will hear from the lead detective in this

1 case, Detective Andaloro, and he is going to tell you the
2 -- what steps he took during this investigation, and he'll
3 let you know that this check for \$10,000 went into none
4 other than the defendant's account.

5 And you'll also hear from Detective Burrell, who spoke
6 with the defendant himself as well. He will tell you that
7 the defendant tried to paint himself as a victim, even
8 going so far as to file a report with the Richland County
9 Sheriff's Department. But what you will see from Detective
10 Kovalchek with the Richland County Sheriff's Department,
11 the defendant never responded to his attempts to contact
12 him during that investigation at all, and that case was
13 effectively closed.

14 Now, the defendant is charged with one count of
15 financial identity fraud, and now the judge will instruct
16 you on the law at the end of today's trial, but I will try
17 to explain it a little bit here today. A person is guilty
18 of financial identity fraud when the person -- in this case
19 Akeem Hampton -- without authorization or permission from
20 any individual with the intent of unlawfully appropriating
21 financial resources of that individual -- being Mr. Vitters
22 -- to his own use or use of somebody else. And as you will
23 see from the testimony that you hear from these witnesses
24 on the stand and the evidence that we submit to you for
25 your own eyes and ears, you will see that the defendant

1 unlawfully took possession of Mr. Vitters's check, he
2 forged his own name, and he cashed it. That right there is
3 appropriating Mr. Vitters's financial resources for Akeem
4 Hampton's own use.

5 And Mr. Vitters will tell you on that stand today that
6 he doesn't know Akeem Hampton from Adam. Never met him.
7 Never seen him before in his life, much less give him a
8 check for \$10,000. This is plain and simple financial
9 identity fraud.

10 Now, the state carries the burden of proof in this
11 case. Something I know you probably all heard before is
12 that we have to prove the elements of financial identity
13 fraud by what we call beyond a reasonable doubt, and this
14 simply means if at the end of today's trial there's
15 something that causes you to hesitate to act, that is
16 reasonable doubt. But this is a high burden, but it's a
17 burden that we embrace, and it's a burden that we know and
18 are confident in that at the end of today's trial with the
19 witnesses that you hear from today and the evidence,
20 evidence that you see, it's our position that we will
21 easily overcome this burden. So, at the end of today's
22 trial, we ask you to do what the law and justice requires
23 and find the defendant, Akeem Hampton, guilty of financial
24 identity fraud. Thank you.

25 THE COURT: Counsel.

1 MR. KATA: Thank you, Your Honor. May it please the
2 court?

3 Good morning.

4 JURY: (EN MASSE) Good morning.

5 MR. KATA: Ladies and gentlemen, what happened to Mr.
6 Vitters is horrible, okay? Check stolen out of his
7 mailbox. It's cashed by somebody that he didn't write it
8 to. Yeah, it's infuriating, okay, and it's probably
9 happened to a lot of people. It's quite common, okay, but
10 I submit today Mr. Hampton's not the person that took that
11 out of that mailbox, okay? He's not the person that stole
12 the check, okay? Yes, he's the person that deposited it.
13 You're going to see that. We're going to tell you that
14 right now, okay, but Mr. Hampton, okay, was given that
15 check by somebody purporting to be Mr. Vitters. He didn't
16 get the check from him, okay? He was given that check by
17 somebody that he was in a relationship with, and you're
18 going to hear that evidence. He reported it to law
19 enforcement, okay? He didn't steal that check.

20 The judge instructed you at the beginning just a few
21 minutes ago that the government has to prove every element
22 of the offense beyond a reasonable doubt, okay, and that is
23 the standard that we are asking you to uphold, okay, every
24 element beyond a reasonable doubt. And in order to secure
25 a conviction, the government as to prove for a person to be

1 guilty of financial identity fraud is when the person
2 without authorization or permission of another individual
3 and with the intent to unlawfully appropriate the money
4 deposits essentially a check into their account, okay?

5 Just listen to the facts, okay? Listen to the
6 testimony, and we submit that sometimes life is a little
7 more complicated than what you can put on the back page of
8 an indictment, and there's more to this situation than what
9 is on the face of the indictment.

10 So, thank you for your time. We'll try to be
11 respectful of your time. I know this is not everybody's
12 first choice of where you have to be on a Wednesday in
13 October, and please just listen and hear, hear the facts.
14 Thank you.

15 THE COURT: You may call your first witness.

16 MR. SMITH: State calls John Vitters.

17 JOHN VITTERS, BEING DULY SWORN,
18 TESTIFIES AS FOLLOWS:

19 CLERK: Would you please have a seat in the witness
20 box? State your full name and spell your last for the
21 record.

22 WITNESS: My full name is John Vitters, spelled V as
23 in victory, i-t-t-e-r-s.

24 THE COURT: Your witness.

25 DIRECT EXAMINATION BY MR. SMITH:

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 Q. Good morning, Mr. Vitters. I'm going to start. I
2 want you to tell -- I want you to tell the jury a little
3 bit about yourself. Where are you from, sir?

4 A. I'm from, from Columbia, Columbia, South Carolina.

5 Q. Whole life or?

6 A. Thirty-five years, thirty-four years.

7 Q. And what you do for a living, Mr. Vitters?

8 A. I design commercial playgrounds.

9 Q. Is that -- you've done that for your whole career or
10 your whole working life?

11 A. No. I've been doing it for the last twenty-three
12 years.

13 Q. And what did you do before you designed playgrounds?

14 A. I was in the computer business for twenty-seven and a
15 half years.

16 Q. All right. Let's go around about to the time of this
17 incident, Mr. Vitters. Can you tell us what you were doing
18 September the 13th, 2021?

19 A. Yes. I was on the way to my daughter's place, who has
20 three children, and we were on the way to babysit, or I was
21 on the way to babysit, and it was twins that were ten
22 months old, and I put that check in the mailbox, put the
23 flag up, which I've asked the post office should we not do
24 that? Can we not do that? Said oh, no. They want you to
25 put that flag up. So, I had the flag up, and I put that

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 check in the mailbox, and I thought, oh, the postman's
2 going to be here in about an hour, two hours. They
3 normally come at a certain time.

4 Q. Well, actually let's, let's back up a little, Mr.
5 Vitters. I forgot to ask you. Where do you live?

6 A. I live at [REDACTED] Archers Court, Columbia, South Carolina,
7 29202.

8 Q. And is your house, is that in Lexington County?

9 A. It is in Lexington County.

10 Q. Okay, and you told us you're going on the way to
11 babysit your grand -- your grandchildren, I believe?

12 A. That's correct.

13 Q. What was this check that you put in the mail?

14 A. It was my quarterly estimated taxes, and I pay them
15 four times a year.

16 Q. Well, why do -- well, most of us only have to pay our
17 taxes once a year. Why do you have to file your taxes
18 quarterly?

19 A. I'm self-employed, so I'm a 1099 employee.

20 Q. Uh-huh.

21 A. Which means that I have to pay estimated taxes every
22 quarter.

23 Q. Okay, and how much was this check for?

24 A. \$10,000.

25 Q. Who was it made out to?

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 A. United States Treasury.

2 Q. Do you recall the number of that check?

3 A. I, I don't. The check number itself?

4 Q. Yes, sir.

5 A. No.

6 Q. Do you recall what, what, what information, your
7 personal identifying information, what sort of information
8 is on your checks?

9 A. Yeah, that's an interesting one, and that's what got
10 me so worked up when I got up the next morning and found
11 out the check had been deposited.

12 Q. But, but just ---

13 A. On the memo line.

14 Q. Right, but what -- but your information, what of your
15 information is on those checks?

16 A. Oh. It's, of course, my wife and I's name and address
17 and phone number, check amount, the date, and then in the
18 memo line when you do 10 -- 1099s, you do estimated taxes,
19 they ask for your Social Security number, 1099-ES, and
20 that's what was on the, the memo line.

21 Q. Do your checks also -- do your checks have your bank
22 account number as ---

23 A. Oh, yeah, absolutely. Absolutely.

24 Q. Now, do you normally put checks in your mailbox to be
25 sent off?

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 A. I don't anymore.

2 Q. Why? Okay, so in this ---

3 A. Normally I did, but I don't anymore, no.

4 Q. In this instance, why would you put -- why would you
5 put such a large check in the mailbox?

6 A. It's been there for thirty-four years. This was two
7 years ago. Been there thirty-two years. Nothing's ever
8 happened. I've used the mailbox numerous times. Put the
9 flag up, put it in, and don't worry about it. I live on --
10 it's called Archers Courts, and there's twenty-two
11 cul-de-sacs. The only people that come in our development
12 are people that might be using Archers Lane to get through
13 the area because every single road in Archers Courts is a
14 cul-de-sac. You go down, you come back out, and so you
15 don't expect -- and, of course, been there so long. We
16 have neighbors to know each other. Didn't have any --
17 yeah, didn't have any concern when I did that, and I
18 expected the postman to be there, postperson, within 3 to
19 5, within an hour and a half, two hours. So, I thought,
20 ah.

21 Q. Okay.

22 A. I've got good neighbors that watch out for me.

23 Q. And you'd sent -- had you sent your tax checks this
24 way before, put it in the mail ---

25 A. Absolutely. Absolutely.

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 Q. When you did that on prior occasions, Mr. Vitters,
2 approximately how long in your experience did it take for
3 you to put the check in the mailbox and then for you to be
4 notified by your bank that it had cleared?

5 A. Yeah, I'd say normally it would clear in three days.
6 That's kind of what I expected to see, two or three days
7 going to Charlotte.

8 Q. How long did it take this check to clear?

9 A. It -- this actually was deposited the same day I wrote
10 it, and it was that morning when I got up and I looked at
11 my email that my bank had sent me a notice that this check
12 had cleared already, and I'm going that's impossible. So,
13 I hit the panic button and I started -- BB&T, I called
14 their 800 number. I was calling everybody because my
15 stomach was churning. I thought this is impossible. You
16 can't deposit a check ---

17 Q. If I may ask you ---

18 A. --- the same day you write it.

19 Q. So, Mr. Vitters, you say your bank notified you by, by
20 email ---

21 A. Email.

22 Q. --- the check had ---

23 A. Yes, they did.

24 Q. --- gone through?

25 (A PAUSE.)

1 MR. SMITH: Permission to approach the witness, Your
2 Honor?

3 THE COURT: Yes, sir.

4 Q. Mr. Vitters, I'm going to show you a couple documents
5 that are premarked as State's Exhibit Number 1. Could you
6 take a look at those and tell me if you recognize those
7 documents?

8 (A PAUSE.)

9 A. Yeah, I recognize them.

10 Q. Okay. How do you recognize those documents?

11 A. Well, the one that, that -- that's my name and my
12 wife's name and address. It's our account number, but the
13 contents of it is totally different than what I wrote.

14 Q. But again to reiterate, you stated that you got in
15 touch with the bank by email, correct?

16 A. That's correct, but I was on the phone first.

17 Q. Right.

18 A. I kind of panicked because I'm going come on, it's
19 \$10,000, but it even got worse than that because in the
20 memo line, they ask you to put your Social Security number
21 on it, and guess what? I'm a veteran. I'm old and I kind
22 of do what the government asks me to do.

23 Q. But either way, you ---

24 THE COURT: Mr. Vitters, I'm going to caution you. If
25 you would just please answer the question.

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 WITNESS: Oh. I'm sorry.

2 THE COURT: And then you just have to be responsive to
3 what the actual question ---

4 Q. But ---

5 THE COURT: --- is.

6 Q. Have these documents been substan -- since you've seen
7 those documents, they appear to have been tampered with or
8 altered?

9 A. Absolutely.

10 Q. The -- you were in -- you were in email contact with
11 the bank, correct?

12 A. That is correct.

13 Q. And they sent you -- did the bank send you an email of
14 the check as it was deposited?

15 A. No. I actually went online myself.

16 Q. Okay.

17 A. And you can get a copy, go into your account and you
18 can get a copy of the front and back of the check.

19 Q. And does that document appear to match what you
20 pulled, what you were able to find online from BB&T?

21 A. Not at all.

22 MR. SMITH: Beg the court's indulgence for a moment,
23 Your Honor.

24 (A PAUSE.)

25 MR. SMITH: May I approach the witness, Your Honor?

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 THE COURT: Yes, sir.

2 (A PAUSE.)

3 MR. SMITH: Permission to approach the witness, Your
4 Honor?

5 THE COURT: Yes, sir.

6 Q. All right, Mr. Vitters, I'm going to show you what's
7 been premarked as State's Number 2. Do you recognize that
8 document?

9 A. I do. That's a carbon copy, if you will, of exactly
10 what I wrote and put in the mailbox.

11 Q. Okay, and has that -- does that document appear to
12 have been altered with or tampered since you last ---

13 A. Yeah. Absolutely. Does this document appear to be
14 tampered? This document?

15 Q. Yes.

16 A. Oh, no. This document is what I completed and put in
17 the mailbox.

18 MR. SMITH: Your Honor, at this time I would move
19 State's Exhibit Number 2 into evidence.

20 THE COURT: Any objection?

21 MR. KATA: With objection.

22 THE COURT: All right. So admitted.

23 (COPY OF DEPOSIT SLIP MARKED AS STATE'S EXHIBIT NUMBER
24 2 RECEIVED INTO EVIDENCE.)

25 (A PAUSE.)

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 Q. All right, it's a little bit blurry. Again, Mr.
2 Vitters, if you could reiterate. You said this is a carbon
3 copy of your checkbook?

4 A. That's right.

5 Q. What is written on this document?

6 A. Paid to the order of the United States Treasury
7 \$10,000 9/13, John, Judy Vitters, account number.

8 Q. Up here in the upper right corner, what is -- what is
9 that number?

10 A. I think it's 3229. I can't see very well.

11 Q. Would that correspond with a check number from your
12 checkbook?

13 A. Absolutely. Absolutely.

14 Q. All right. Okay. Again, Mr. Vitters, you, you wrote
15 the check out to the United States Treasury. When you were
16 notified by your bank that the check had cleared, did they
17 notify you who the check had been cleared to?

18 A. No. They just said it had been cleared, and when I
19 went online and was able to get a copy of the front and
20 back from my account, that's the documents you had showed
21 me in the first one.

22 Q. So ---

23 A. And all of a sudden I had bought a Dodge Challenger
24 and ---

25 Q. Who -- so, who was that -- when the check cleared, was

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 deposited, once you found out, who was it made out to?

2 A. Made out to Akeem Hampton.

3 Q. Was that who you had originally wrote that check ---

4 A. Absolutely, absolutely not.

5 Q. Have you ever met an Akeem Hampton?

6 A. I've never met Akeem Hampton. Never laid my eyes on
7 him before.

8 Q. Have you ever had any phone conversations with an
9 Akeem Hampton?

10 A. Never.

11 Q. Text?

12 A. Never.

13 Q. Email?

14 A. Never.

15 Q. Okay. So, all right. So, now you found out that the
16 check has cleared. It's gone to an Akeem Hampton. What
17 did you do then, Mr. Vitters?

18 A. Well, I called the -- I called the police. I called,
19 I think, Richland and then Richland -- I called Richland
20 County sheriffs, and then they said, well, you're in
21 Lexington County, so you got to call Lexington. So, I
22 called Lexington County and reported it.

23 Q. Was your money refunded to you in this matter?

24 A. It, it was.

25 MR. SMITH: Beg the court's indulgence for a moment.

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 (A PAUSE.)

2 MR. SMITH: Permission to approach, Your Honor?

3 THE COURT: Yes, sir.

4 Q. Mr. Vitters, real quick I want to go back to what's
5 been premarked State's Number 1. You were in email contact
6 with BB&T, correct?

7 A. That is correct.

8 Q. Does that document match what you received via email
9 from BB&T?

10 A. Absolutely.

11 Q. Does that document appear to be altered from what BB&T
12 sent you?

13 A. Huh?

14 Q. Does, does it -- does that match what BB&T sent you
15 via email?

16 A. Not sure I understand your question. This document
17 here ---

18 Q. But what I'm asking you, Mr. Vitters, is did, did BB&T
19 send you an email with -- and did that email include a
20 picture of the check as it was deposited, cashed,
21 whichever?

22 A. They sent -- I sent the email to the bank ---

23 Q. Correct.

24 A. --- showing the check.

25 Q. Right, and did BB&T email you back?

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 A. Yes.

2 Q. Does the document appear to match what BB&T sent back
3 to you after your email?

4 A. Yes.

5 MR. SMITH: Your Honor, at this time we would move
6 State's Exhibit 1 into evidence.

7 MR. KATA: No objection.

8 THE COURT: All right, sir, it's in.

9 (COLLECTION OF EMAILS MARKED AS STATE'S EXHIBIT NUMBER
10 1 RECEIVED INTO EVIDENCE.)

11 A. Sorry.

12 Q. Mr. Vitters, I just want to go over some of these
13 documents with you, okay?

14 A. Okay.

15 Q. All right. So, so, is this, this the email you sent
16 to -- I believe it looks like Ms. ---

17 A. That's the email I sent to Lisa.

18 Q. Ms. Boozer with BB&T? Well, now it would be Truist
19 bank?

20 A. Yeah.

21 Q. And does that check number match what you wrote down
22 in your deposit slip?

23 A. Yes.

24 Q. And the amount?

25 A. Yes.

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 Q. And the date you wrote it and ---

2 A. Yes.

3 Q. Okay. Is this what BB&T sent back to you as what was
4 deposited?

5 A. Yes.

6 Q. What stands out to you about this, about this
7 document?

8 A. It certainly was quite different than the -- than the
9 one that I signed.

10 Q. Is that your name at the top of this check?

11 A. That is my name.

12 Q. Your address?

13 A. That's our address.

14 Q. Your phone number right here?

15 A. Yeah.

16 Q. Your bank account number is down here at the bottom?

17 A. That's correct.

18 Q. Is that the same check number as what you wrote?

19 A. That's correct.

20 Q. And the amount?

21 A. The amount is the same.

22 Q. Who did you say you had written this check out to?

23 A. I wrote it out to the United States Treasury.

24 Q. Is that your handwriting there where it says Akeem
25 Davon Hampton?

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 A. That is not my handwriting.

2 Q. Do you recognize this? Would this -- I assume this
3 would be the back of the check?

4 A. That's right. That's the -- that would be the back.

5 Q. What does this say over here? Or, I apologize, let
6 me...

7 A. For mobile deposit only at NFCU.

8 Q. Is that your handwriting?

9 A. That is not my handwriting.

10 MR. SMITH: Beg the court's indulgence one moment.

11 (A PAUSE.)

12 Q. So, this -- so, this is your handwriting on the
13 deposit slip, correct?

14 A. That's my handwriting. That's the check that I wrote,
15 put in the mailbox. That's a copy it, of course.

16 MR. SMITH: I apologize, y'all. This is going to be a
17 little been jumbled.

18 Q. But is that your handwriting on the check that was
19 cleared?

20 A. That is not my handwriting at all on the check that
21 cleared.

22 MR. SMITH: Beg the court's indulgence, Your Honor.

23 (A PAUSE.)

24 Q. Mr. Vitters, did -- you were -- about what time of
25 day, if you can recall, were you going to babysit your

J. VITTERS - DIRECT EXAMINATION BY MR. SMITH

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1 granddaughters on the 13th?

2 A. Approximately 1:30 in the afternoon. The mailman
3 usually comes by 3.

4 Q. Is that -- is that around the same time that you
5 deposited this check?

6 A. Yes.

7 Q. Around?

8 A. Well, 1:30 I put it in the mailbox.

9 Q. Do you recall when the bank notified the check
10 cleared?

11 A. Well, I, I don't remember the time of the email, but I
12 know when I got up in the morning and I looked at my email,
13 there was an email and it's one of those automated emails
14 that says this check has cleared. I'm going it's
15 impossible. So, it had been deposited, though, the same
16 day that I put it in the mailbox. That's what just floored
17 me.

18 MR. SMITH: I don't have any further questions for you
19 right now, Mr. Vitters.

20 WITNESS: Okay.

21 MR. SMITH: Answer Mr. Kata's questions.

22 WITNESS: Very good.

23 THE COURT: Cross-examination?

24 MR. KATA: Please the court, Your Honor?

25 CROSS-EXAMINATION BY MR. KATA:

J. VITTERS - CROSS-EXAMINATION BY MR. KATA

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1 Q. Mr. Vitters, let's, let's go straight the State's
2 Exhibit Number 1.

3 (A PAUSE.)

4 Q. All right, Mr. Vitters, you testified that you put the
5 check in the mail that was made out to the U.S. Treasury?

6 A. That's correct.

7 Q. Right, and you've also testified that this is the
8 check that came up on your online account?

9 A. That is correct.

10 Q. Okay, and it is fundamentally different than ---

11 A. Yes, it is.

12 Q. --- what you described? No doubt about it, okay, and,
13 in fact, you testified that your Social Security number was
14 written on the check you had written to the treasury?

15 A. That is correct.

16 Q. Okay, but your Social Security number is not on this
17 check.

18 A. Of course not.

19 Q. It's completely gone.

20 A. Exactly.

21 Q. Okay, not scratched out or marked out. I mean, it's
22 gone; I don't see it. Do you see it up there?

23 A. I certainly don't see it there.

24 Q. No. I don't either, and U.S. Treasury is not up there
25 either.

J. VITTERS - CROSS-EXAMINATION BY MR. KATA

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1 A. Exactly.

2 Q. I mean, it's gone and completely replaced with his
3 name.

4 A. Yeah.

5 Q. Okay, but what's the same is your name is still on it,
6 right?

7 A. That, that is not my signature.

8 Q. No, I'm talking about your name in the corner, John
9 Vitters.

10 A. Well, of course it is, yes.

11 Q. Right?

12 A. Yes.

13 Q. That's there?

14 A. That is absolutely ---

15 Q. And your wife's name is there, okay, your address is
16 there, but nothing on this check is scratched out or, you
17 know, nobody went like this and scratched out your Social
18 Security number.

19 A. I have no idea what they did; I have no idea what
20 process they used to do that.

21 Q. Right. So, you, you didn't watch any of that. You
22 didn't see that, of course.

23 A. I didn't see any of this.

24 Q. Right.

25 A. I didn't do any of this.

J. VITTERS - CROSS-EXAMINATION / REDIRECT EXAMINATION

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1 Q. Right, and you didn't see who took -- who took the
2 check out of the mailbox?

3 A. Did not.

4 Q. You put it in there and went about your business.
5 Okay. Now, you testified that, you know, you reported it
6 quickly, okay, and they were able to refund the money to
7 your account pretty quickly, correct?

8 A. Yes. I had to go to the bank and spend about two or
9 three hours at the bank working with them, and we were able
10 to resolve this.

11 I'm sorry.

12 MR. KATA: Beg the court's indulgence, Your Honor.

13 (A PAUSE.)

14 MR. KATA: No more questions, Your Honor.

15 THE COURT: Any redirect?

16 MR. SMITH: Briefly, Your Honor.

17 REDIRECT EXAMINATION BY MR. SMITH:

18 Q. Mr. Vitters, what did you write in the, the memo line
19 of your check that you wrote to...

20 A. I wrote my Social Security number, and then they say
21 write 1040-ES.

22 Q. Okay.

23 A. In the corner, so that's what's in that.

24 Q. Okay. Let's go back to this is the check. This is
25 what BB&T sent back to you as it was deposited. This check

J. VITTERS - REDIRECT EXAMINATION BY MR. SMITH

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1 still has your name on it, correct?

2 A. Absolutely.

3 Q. Has your address?

4 A. Yeah.

5 Q. Your phone number? Has your bank account number down
6 here?

7 A. That's right.

8 Q. And again, is that your handwriting where it says for
9 mobile deposit?

10 A. Absolutely not.

11 Q. Can you see -- what time -- can you see over here?
12 Does there appear to be a date ---

13 MR. KATA: Objection. Outside the scope of cross.

14 THE COURT: I'll sustain your objection.

15 MR. SMITH: I'll move on, Your Honor.

16 WITNESS: Am I to answer the question?

17 THE COURT: No, sir.

18 MR. SMITH: Nothing further, Mr. Vitters.

19 THE COURT: You may step down, sir. Thank you.

20 WITNESS: Okay. Thank you.

21 (THE WITNESS EXITS THE STAND.)

22 THE COURT: You may call your next witness.

23 MR. SMITH: State calls Investigator Joseph Andaloro.

24 JOSEPH ANDALORO, BEING DULY SWORN,

25 TESTIFIES AS FOLLOWS:

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 CLERK: Would you please have a seat in the witness
2 box? State your full name and spell your last for the
3 record.

4 WITNESS: Joseph Andaloro, A-n-d-a-l-o-r-o.

5 THE COURT: Your witness.

6 DIRECT EXAMINATION BY MR. SMITH:

7 Q. Good morning, Investigator. How long have you been in
8 law enforcement?

9 A. Good morning. About seventeen years.

10 Q. Has all that been with the Lexington County Sheriff's
11 Department?

12 A. No. I started with the Richland County Sheriff's
13 Department in 2005, and I've been with Lexington County
14 Sheriff's Department -- I moved over about 2011.

15 Q. What are your current responsibilities at the
16 Lexington County Sheriff's Department?

17 A. I'm currently a property crimes investigator.

18 Q. And were you an investigator on September 13, 2021?

19 A. Yes, sir, I was.

20 Q. So, tell me. How did you become involved in this
21 specific case?

22 A. This case was assigned to me. A report was written
23 up. A report was made by Mr. Vitters. It was then
24 assigned to me by a sergeant over property crimes to
25 further investigate.

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 Q. Do you handle these sorts of fraud case on a regular
2 basis?

3 A. Yes, sir. That's what we -- we handle financial
4 identify fraud, motor vehicle theft, burglaries, things of
5 that nature, major crimes against property.

6 Q. So if you would, Investigator, why don't, for this
7 particular case, why don't you walk me through your
8 process. Walk, walk us through your investigation, okay?

9 A. Okay. So, I initially review the report, see what was
10 reported by the victim. Make contact with the victim,
11 which is Mr. Vitters in this case, and then start the
12 process.

13 Q. Okay. Who did you speak with first?

14 A. I spoke to Mr. Vitters.

15 Q. And what information did you get from him?

16 A. I got from him that he had put a check in the mailbox
17 the 13th around 1:30, and he was notified via email. He
18 woke up the next morning on the 14th, that there was
19 fraudulent activity related to that check. I then met with
20 him. He provided some information because he had gone to
21 the bank.

22 Q. Did, did you receive any, any correspondence from Mr.
23 Vitters?

24 A. I did via email.

25 Q. Okay, I'm going to show you what's already been

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 admitted into evidence as State's Number 1. Did -- does
2 this match what Mr. Vitters sent to you?

3 A. Yes, sir, it does, and you can see my name, too, at
4 the top, Joseph Andaloro comma Joseph.

5 Q. Okay. Okay, and you recognize this document as well
6 as the check that's at issue?

7 A. Yes, sir. That's a copy of the front of the check.

8 Q. Okay. So, we heard from Mr. Vitters that he had
9 deposited this check at around -- oh, I'm sorry, not
10 deposit. He placed his check in the mail approximately
11 1:30 PM on the 13th?

12 A. Yes, sir.

13 Q. And you reviewed this document. This is what was sent
14 to you, correct?

15 A. That's correct.

16 Q. Based on looking at this document, on the back of the
17 check, around what time does it appear that the check was
18 cleared -- or deposited?

19 A. On 9/13/2021 at 16:37:27, which is military time. It
20 would be 4:37 PM.

21 Q. So, so, you've been in touch with Mr. Vitters.

22 A. Yes.

23 Q. He's forwarded you these documents to let you know
24 that there's fraudulent activity on his account. What did
25 you do then?

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 A. I then took that information, and I presented probable
2 cause to obtain a search warrant to Navy Federal Credit
3 Union for that bank and first deposit to see all the
4 information and where that check went.

5 Q. Okay. Did you receive a response to your search
6 warrant?

7 A. Yes, sir, I did, on October 6th.

8 Q. What, what doc -- what they -- what did they send back
9 to you?

10 A. They sent back to me a twelve-page PDF, and it
11 contained different information related to the information
12 I requested.

13 Q. Okay. Did you send any follow-up request to Navy
14 Federal?

15 A. I did. I sent an additional search warrant request
16 for a longer duration of time of Mr. Akeem Hampton's bank
17 account, his Navy Federal account.

18 Q. And did you receive a response to that search warrant?

19 A. I did, yes, sir.

20 MR. SMITH: All right, permission to approach the
21 witness, Your Honor?

22 THE COURT: Yes, sir.

23 MR. SMITH: And I'm going to staple these to make it a
24 little more organized.

25 THE COURT: You need a stapler?

1 MR. SMITH: Yeah. Right here.

2 Q. Investigator Andaloro, I'm going to show you what's
3 been premarked for identification as State's Exhibits 3 and
4 4. You recognize these documents?

5 A. The one to my left -- the one to my left ---

6 WITNESS: I apologize, ma'am.

7 A. The one to my left is the first search warrant
8 certification statement, and the one to my right would be
9 the second, the additional search warrant I sent for
10 further records. I do recognize them as what I received
11 back from Navy Federal Credit Union in response to ---

12 Q. And do ---

13 A. --- my search warrants.

14 Q. --- those documents appear to be altered or tampered
15 in any way since you looked at them?

16 A. No, sir. These appear to be the ---

17 Q. And ---

18 A. --- exact ones I received.

19 Q. And you said there's a certification statement with
20 both of these documents?

21 A. Yes, sir, that's correct. Navy Federal certifies what
22 they sent me as being true and theirs.

23 Q. Can you, if you would, could you read, just briefly
24 read off one of those certification statements, please?

25 A. Sure. Certification statement:

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1 The undersigned is a duly authorized custodian of
2 records of Navy Federal Credit Union and has the
3 authority to certify said records. Enclosed is a
4 true copy of all the records described in the
5 subpoena customer consent authorization form.
6 Said records were prepared by the custodian or
7 the personnel of Navy Federal Credit Union in the
8 ordinary course of business. They were prepared
9 from records which were themselves prepared at or
10 near the time of the act, condition, or event. I
11 declare under the penalty of perjury that the
12 foregoing is true and correct. Executed on this
13 day October 25, 2021, in the County of Fairfax,
14 State of Virginia, by Richel Duncan. Signature
15 print, subscribed, or sworn to me before on this
16 5th of October.

17 And then it's notarized by a official notary of
18 Virginia.

19 Q. And does the other certification document say
20 substantially the same thing?

21 A. The same thing, just with a different date.

22 Q. What's that second date?

23 A. It's says that it was executed on December 17, 2021.

24 MR. SMITH: Your Honor, at this time we would move
25 State's 3 and 4 into evidence pursuant to Code Section

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 19-5-520. We provided Mr. Kata with written notice of our
2 intent to use the documents and per the statute,
3 certification statement makes those documents
4 self-authenticating, and we would admit them as a record of
5 regularly conducted business activity.

6 THE COURT: Any objection?

7 MR. KATA: No objection.

8 THE COURT: All right. So, they're in.

9 (SEARCH WARRANT AND DOCUMENTS MARKED AS STATE'S
10 EXHIBIT NUMBER 3 RECEIVED INTO EVIDENCE.)

11 (SEARCH WARRANT AND DOCUMENTS MARKED AS STATE'S
12 EXHIBIT NUMBER 4 RECEIVED INTO EVIDENCE.)

13 Q. So, let's talk about this first document received back
14 from Navy Federal, Investigator Andaloro. What's in that
15 document?

16 A. In the first search warrant?

17 Q. Yes, sir.

18 A. It provided me the account information. It provided
19 me a copy of the check which I already had from the victim.
20 It provided me activity on the account for the requested
21 time.

22 Q. Uh-huh.

23 A. And details of the account.

24 Q. Does it tell you who owns that account?

25 A. Yes, sir, it does.

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 Q. Who is the owner of that account?

2 A. It shows the owner as Akeem D. Hampton.

3 Q. And you said it provided -- did, did that search
4 warrant -- are you provided with a check number?

5 A. I was.

6 Q. What's that check number?

7 A. The check number is 3229.

8 Q. And what's the amount?

9 A. The amount was \$10,000.

10 Q. When was that check deposited into Mr. Hampton's
11 account?

12 A. The check was deposited into the account on 9/13/2021.

13 Q. Okay. So, is it fair of me to say that essentially
14 that first document confirms that one transaction?

15 A. That's correct.

16 Q. Let's talk about the second document received in
17 response to search warrant. What is that document?

18 A. That document is bank records showing several months
19 of his, his checking account.

20 Q. Did you review those documents?

21 A. I did.

22 Q. Does that document also confirm a transaction into Mr.
23 Hampton's account on or about September 13, 2021?

24 A. Yes, sir, it does.

25 Q. Okay. From your review of that account, does \$10,000

J. ANDALORO - DIRECT EXAMINATION / CROSS-EXAMINATION

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1 appear to be an abnormal sum of money to go in and out of
2 his bank account?

3 A. Yes, sir, it does. After reviewing it, it looked to
4 be an abnormal pattern; it wasn't similar. It appears that
5 he would typically have a few hundred dollars or less in
6 his account.

7 Q. Now, at any point during this investigation, did you
8 speak with the defendant, Mr. Hampton?

9 A. I did by phone.

10 Q. Okay. Who initiated that conversation?

11 A. He initiated by leaving a voicemail after I had left a
12 business card at his residence.

13 Q. Okay. What, what did you -- what statements did
14 defendant make to you during this phone conversation?

15 A. He told me over the phone that his sister told him
16 that I wanted to talk with him about a check, and he told
17 me that he got a big check about six months ago from a guy
18 named Johnny and he was helping him out, and that he had
19 held that check. And he also told me the check cleared and
20 that it was all good.

21 Q. So, after, after speaking with the defendant and
22 reviewing all of these records, what did you do then?

23 A. After reviewing all the records, I obtained an arrest
24 warrant.

25 Q. Do you -- where -- based on your investigation, where

J. ANDALORO - DIRECT EXAMINATION / CROSS-EXAMINATION

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1 did Mr. Hampton -- where was he when he deposited this
2 check?

3 A. I'm not sure. All I know is that it was a mobile
4 upload, a mobile deposit, like using his phone.

5 Q. Okay. So, so, why, why this charge? Why?

6 A. Because the victim lives and resides in Lexington
7 County. So, that statute of financial identity fraud
8 allows the charge if the victim lives or resides within the
9 county of Lexington.

10 Q. Once you obtain the arrest warrant, what did you do
11 with it?

12 A. I turned it into the Lexington County Sheriff's
13 Department warrant division for service.

14 Q. Okay, and did you, yourself, arrest the defendant?

15 A. I did not.

16 MR. SMITH: Beg the court's indulgence.

17 (A PAUSE.)

18 MR. SMITH: I don't have any ques -- I don't have any
19 further questions for you right this instance,
20 Investigator. Please answer Mr. Kata's questions.

21 THE COURT: Cross-examination?

22 MR. KATA: Yes, Your Honor. Please the court?

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION BY MR. KATA:

25 Q. Investigator, let me turn your attention to exhibits 3

1 and 4 that were just admitted into evidence. Those are the
2 result of your search warrant for the bank, correct?

3 A. Yes, sir, they're part of it.

4 Q. Okay. You requested those, and the bank sent them to
5 you, and you testified in response to the state's question
6 that those records weren't altered in any kind of way,
7 correct?

8 A. That the records they provided me weren't altered?

9 Q. Correct.

10 A. As I received them? That's correct.

11 Q. Right. Okay, as you received them.

12 A. They redact ---

13 Q. They're not ---

14 A. They redact some stuff, so the banks will -- there's
15 blackout, if you looked at Exhibit 4. So.

16 Q. Sure.

17 A. They redacted it, yes, sir.

18 Q. Well, apart from, you know, appropriate redaction.

19 A. Correct.

20 Q. You didn't review them at the bank prior to them
21 sending?

22 A. Correct.

23 Q. Okay. So, I mean, it would be really kind of hard for
24 you to say ---

25 A. Correct.

J. ANDALORO - CROSS-EXAMINATION BY MR. KATA

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1 Q. --- well, these are different than what, what they
2 sent.

3 A. Right.

4 Q. Right? Okay. So, when you answered that question and
5 said, you know, that they're not altered, I mean, did you
6 review the documents? Like, what are you looking for? Are
7 you looking for just something that would jump out at you
8 and say, you know, this looks weird? How ---

9 A. As far as Exhibit ---

10 Q. --- it may be crooked?

11 A. Yeah. As far as Exhibit 3 or ---

12 Q. Yeah.

13 A. --- 4 you're referring to?

14 Q. Right.

15 A. Exhibit 3 I was looking for the deposit of the
16 \$10,000, to have that actual record for the bank.

17 Q. Right but, I mean, when you said that they were not
18 altered in any kind of way, I mean, what, what was the
19 basis for you saying that? I mean, did they just not look
20 altered?

21 A. I was answering the questions that counsel asked me.

22 Q. Well, I know that, but the basis of your answer, your
23 answer was no, they don't look altered, correct, or they're
24 not altered.

25 A. If you can rephrase it ---

1 Q. I'm just trying to ---

2 A. Yeah.

3 Q. I'm trying to figure out what was -- what was the
4 basis for your ability to say that those documents haven't
5 been altered in any kind of way?

6 A. My answer was that what I looked at here is what I
7 received in PDF from Navy Federal.

8 Q. Right.

9 A. That's, that's all that was.

10 Q. Right, and they look the same?

11 A. They look the same as what I received.

12 Q. So, in order for you to say -- if you would have
13 answered his question differently, okay, and said they'd
14 been altered, what would you have looked for to determine
15 that they were altered?

16 A. Altered from -- differently than what I had received
17 from them in PDF?

18 Q. Yeah.

19 A. Something different ---

20 Q. Some sort of indicator, correct?

21 A. Right.

22 Q. Yeah. Like, just a hypothetical example, if somebody
23 just handed you something and it was put in there crooked
24 and it just jumped out and you said all right, this looks a
25 little strange.

J. ANDALORO - CROSS-EXAMINATION BY MR. KATA

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1 A. I'm not sure what you're asking, sir.

2 Q. Well, I'm just asking you a hypothetical about what
3 might trigger your answer to have been different after you
4 reviewed this document. Like, what would have been
5 something that jumped out at you that a document may be
6 altered?

7 A. I'm not sure how to answer that. I was -- my answer
8 is that these appear to be the same as what I received by
9 PDF from Navy Federal. Both Exhibit 3 and Exhibit 4 appear
10 to be what I received from Navy Federal in response to my
11 search warrants.

12 Q. Okay, and it appeared to be okay?

13 A. It appeared to be okay.

14 Q. Okay. Now, you also read to the jury a certification?

15 A. That's correct.

16 Q. Okay, that those records are what they are.

17 A. Correct.

18 Q. Okay. Now, you didn't go to the bank wherever it's
19 located where those records were created. You've never
20 been there.

21 A. I haven't been there. That's correct.

22 Q. Right? So, to some degree you have to take that
23 person's word for it that those are actually what they are.

24 A. I have to take their certification to be in good faith
25 and be accurate? Yes, sir, that's correct.

J. ANDALORO - CROSS-EXAMINATION / REDIRECT EXAMINATION 82

1 Q. Even you don't know the person that made this
2 certification, do you?

3 A. No, I don't know Richel Duncan or Mark Scass --
4 Sechler, that's correct.

5 MR. KATA: Beg the court's indulgence.

6 (A PAUSE.)

7 MR. KATA: No more questions, Your Honor.

8 THE COURT: Redirect?

9 MR. SMITH: Brief redirect, Your Honor.

10 REDIRECT EXAMINATION BY MR. SMITH:

11 Q. Investigator Andaloro, you testified that you reviewed
12 those bank records you received prior to your testimony
13 today, correct?

14 A. That's correct.

15 Q. And I believe that your answer to the question was the
16 documents had not been altered from what you received,
17 correct?

18 A. That's correct.

19 Q. And those documents that you've seen again today are
20 the same as what you received back from Navy Federal. Is
21 that correct?

22 A. Yes, sir. They appear to be the same. That's
23 correct.

24 Q. And tell me again, Investigator. How long have you
25 been doing financial crimes, those sort of investigations?

J. ANDALORO - REDIRECT EXAMINATION BY MR. SMITH

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1 A. I'm in investigations ---

2 MR. KATA: Objection. Outside the scope.

3 THE COURT: I'll allow it.

4 A. I've been doing investigations for approximately
5 twelve years now, I believe, and doing financial crimes and
6 property for about four, four and a half.

7 Q. So, you've had many occasions to deal with custodians
8 of records for banks. Is that correct?

9 A. That's correct, a multitude of investigations.

10 Q. And when you do these sort of investigations, do you
11 commonly receive those sort of certification statements
12 with your records?

13 A. Yes, sir. That's correct.

14 Q. And in your experience, it -- that person doing it,
15 it's their responsibility to keep those records and
16 maintain the integrity of those records?

17 A. Yes, sir. It's the entity, whether it be a bank or be
18 a provider, whatever it is, yes, sir.

19 Q. And as printed on -- I believe the certification
20 statement you received back, they testify, they state under
21 penalty of perjury that those documents are true and
22 correct ---

23 A. That is ---

24 Q. --- and accurate?

25 A. Yes, sir, that's correct.

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 MR. SMITH: Nothing further, Detective. Thank you.

2 THE COURT: You may step down.

3 MR. SMITH: Subject to recall, Your Honor.

4 (THE WITNESS EXITS THE STAND.)

5 MS. TAYLOR: State calls Investigator Burrell.

6 BRIAN BURRELL, BEING DULY SWORN,

7 TESTIFIES AS FOLLOWS:

8 CLERK: Would you please have a seat in the witness
9 box?

10 WITNESS: Yes, ma'am.

11 CLERK: State your full name and spell your last name
12 for the record.

13 WITNESS: It's Brian Burrell, and it's B-u-r-r-e-l-l.

14 THE COURT: Your witness.

15 DIRECT EXAMINATION BY MS. TAYLOR:

16 Q. Investigator Burrell, where do you currently work?

17 A. I work for Lexington County Sheriff's Department.

18 Q. And what are your duties and responsibility at the
19 Lexington Sheriff's Department?

20 A. I'm a sergeant over property crimes investigations,
21 and I typically come in in the mornings. I review reports,
22 and based off what the report is, I review it, determine if
23 there's any solveability factors, and then I assign cases.

24 Q. And in September, October of 2021, were you also
25 working at the sheriff's department at that point?

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 A. Yes, ma'am.

2 Q. And what was your rank, your duties, your
3 responsibilities at that point?

4 A. I was sergeant over property crimes investigations at
5 that point.

6 Q. Okay. At any point, did you get involved with the
7 investigation of the financial identity fraud case for
8 defendant Akeem Hampton?

9 A. Yes, ma'am, I did.

10 Q. All right, and how did you become involved with this
11 investigation?

12 A. I had -- I had received a few voice messages from the
13 defendant requesting that I return a phone call, and I
14 subsequently did return that phone call, so.

15 Q. So, you were assisting Detective Andaloro with the
16 investigation of this case?

17 A. That is correct.

18 Q. Okay, and when the defendant initiated contact with
19 you, was that in person? Was that over the phone?

20 A. It was over the phone.

21 Q. Okay, and what, if anything, did he have to say when
22 he called?

23 A. He wanted to call and talk to me about the case. He
24 wanted to let me know that he had some information that he
25 wanted to provide us. In doing so, I provided him with my

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 work email address to where he could send me some email.

2 Q. Okay, and did he send you any email?

3 A. He did send me some emails.

4 Q. What was the substance of those emails?

5 A. One of the emails was a screenshot or a picture of him
6 holding a check. The others were screenshots of his bank
7 records, along with a couple screenshots for one where he
8 filed a report for Richland County Sheriff's Department and
9 the other where he had filed a report for Federal Trade
10 Commission.

11 Q. And let's go back to the picture of him holding this
12 check that he emailed you.

13 A. Yes, ma'am.

14 Q. What was -- whose name was at the top of this check?
15 Who was it made out to?

16 A. Made out to Akeem Hampton.

17 Q. Okay. Do you remember whose name was in the top
18 corner of that check?

19 A. All you could see was the last name, and it said
20 Vitters.

21 Q. Okay.

22 A. The defendant's thumb was covering the first name.

23 Q. And do you remember the amount of this check?

24 A. It was \$10,000.

25 Q. Okay, and would you recognize this picture if I showed

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 it to you today?

2 A. Yes, ma'am, I would.

3 MS. TAYLOR: May I approach the witness, Your Honor?

4 THE COURT: Yes, ma'am.

5 Q. Now, Detective Burrell, I am showing you what's
6 previously been marked for identification purposes as
7 State's Exhibit 5. Do you recognize that?

8 A. Yes, ma'am, I do.

9 Q. And what is that?

10 A. That's the check or picture of the check that I was
11 emailed by defendant.

12 Q. And this is the check in its entirety, the picture
13 that you received in your email from the defendant?

14 A. That is correct.

15 Q. And it hasn't been changed or altered in any way since
16 ---

17 A. No, ma'am, it has not.

18 Q. Okay.

19 MS. TAYLOR: At this time, Your Honor, state moves to
20 admit State's Exhibit 5 into evidence.

21 THE COURT: Any objection?

22 MR. KATA: No objection.

23 THE COURT: It's in.

24 MS. TAYLOR: Permission to publish, Your Honor?

25 THE COURT: Yes, ma'am.

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 (PHOTOGRAPH OF CHECK MARKED AS STATE'S EXHIBIT NUMBER
2 5 RECEIVED INTO EVIDENCE.)

3 Q. And just to reiterate so the jury can see, Detective
4 Burrell, again the name on the top left corner of that
5 check is Mr. Vitters?

6 A. That is correct. Yes, ma'am.

7 Q. And it's made out to the defendant?

8 A. Yes, ma'am.

9 Q. In the sum of \$10,000?

10 A. Yes, ma'am.

11 Q. And what is in the memo line down at the bottom left
12 corner?

13 A. I can't read that from here.

14 Q. That's okay, and the check number in the top right.

15 A. It's 3229.

16 Q. Okay, and the date that this check was ---

17 A. 9/13 ---

18 Q. --- made out?

19 A. --- 2021.

20 Q. Okay. Now, this was -- and the defendant, did he
21 purport to you that this is -- this is him holding this
22 check in this photo, correct?

23 A. Yes, ma'am.

24 Q. Okay, and did he send you any further documentation as
25 far as what he did with the sum of money after he received

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 it?

2 A. Yes, ma'am. He sent me his bank statements or
3 transaction history as far as it being deposited into his
4 account and how it was disbursed from there.

5 Q. Do you remember he claimed it was disbursed from
6 there?

7 A. Well, he had told me over the phone that some guy had
8 deposited the check into his account, and he had given the
9 guy some, some of the money. However, according to the
10 records that he had sent me, the check was deposited to his
11 account on September 13th in the sum of \$10,000. On
12 September 14th, he had transferred \$370 to a Somalia
13 Hampton, and there were other transactions to Somalia
14 Hampton for the amount of \$5000 and another transferred to
15 her for the amount of \$4476.

16 Q. The total amount of these transactions that he
17 transferred to his -- to this Somalia Hampton.

18 A. Uh-huh.

19 Q. Did that equal \$10,000, right about?

20 A. Right about there, yes, ma'am.

21 Q. Okay. Do you know who Somalia Hampton is?

22 A. It's my understanding it's the defendant's sister.

23 Q. Okay. Now, after he sent you this documentation, did
24 you have any further contact with this defendant?

25 A. He did call me back, and I was able to confirm with

B. BURRELL - DIRECT EXAMINATION BY MS. TAYLOR

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1 him that I received the information that he wanted to send
2 me, and just confirmed that information.

3 Q. Did you have any further discussions about -- with the
4 defendant about how he came into this sum of money and what
5 he ---

6 A. Yes, ma'am. He, he told me he was trying to find some
7 old text messages through a phone he had lost, and he was
8 trying to find those message through the Cloud. And those
9 messages, according to him, were from a guy who sent him
10 the check, talk about how the guy had to report the check
11 because his wife found out. And earlier in a conversation,
12 he had told me that he had met a guy on a gay website.

13 Q. Now, did the defendant ever provide you with these
14 text messages that he claimed would have showed what he was
15 talking about?

16 A. No, ma'am.

17 Q. Any other further documentation of how he met this
18 person on this dating site?

19 A. No.

20 Q. Did he ever further initiate contact with you in order
21 to explain this further in any way?

22 A. After this day, no, ma'am.

23 Q. Okay, and again, this was the defendant initiating
24 contact with you, correct?

25 A. That's correct.

B. BURRELL - CROSS-EXAMINATION BY MR. KATA

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1 MS. TAYLOR: Beg the court's indulgence.

2 No further questions at this time. Please answer any
3 questioning Mr. Kata has for you.

4 WITNESS: Yes, ma'am.

5 THE COURT: Cross-examination.

6 MR. KATA: Your Honor, may it please the court?

7 THE COURT: Yes, sir.

8 CROSS-EXAMINATION BY MR. KATA:

9 Q. Investigator, let's start with Exhibit Number 5 you
10 were describing.

11 A. Yes, sir.

12 (A PAUSE.)

13 Q. We can move on. They can look at it. This will be
14 provided to the jury, but you're describing this check,
15 okay, and, and you heard the testimony that what was
16 originally written on here was United States Treasury?

17 A. I did not hear that. I was sequestered, no, sir.

18 Q. All right. Okay, obviously -- do you see any markings
19 around to the pay to the order of?

20 A. Well, I mean ---

21 Q. Apart from the writing?

22 A. From the image, I cannot see it. However, it doesn't
23 mean that it couldn't have happened. I mean, checks get
24 ---

25 Q. Right. Looking ---

B. BURRELL - CROSS-EXAMINATION BY MR. KATA

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1 A. --- washed quite often.

2 Q. --- at that right there, I mean, there's no scratch
3 outs.

4 A. Again, without having the physical check in your hand,
5 you may not be able to tell.

6 Q. Okay. Do you see a Social Security number written in
7 the bottom?

8 A. Again, I can't make out what's in the memo line.

9 Q. Would you like to look at the exhibit?

10 A. Yes. That's fine.

11 MR. KATA: May I approach, Your Honor?

12 THE COURT: Yes, sir.

13 A. Okay.

14 Q. All right. Do you see any written indication on this
15 check of a Social Security number?

16 A. Again, without having a physical check in hand, I
17 can't tell if it's been altered; but according to what's on
18 there, you, you can't see it.

19 Q. It just looks -- it says Dodge Challenger?

20 A. That is correct.

21 Q. In the memo line?

22 A. Yes, sir.

23 Q. Okay. All right, and you testified you received some
24 phone calls from Mr. Hampton?

25 A. That's correct.

B. BURRELL - CROSS-EXAMINATION BY MR. KATA

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1 Q. Okay, and in one of those phone calls, he told you
2 that he was in a relationship with an individual on a, a
3 gay website?

4 A. He, he told me that he had met a guy on a gay site,
5 yes, sir.

6 Q. Okay. He told you that?

7 A. Sir?

8 Q. He reported that to you?

9 A. Yes. He told me that, yes.

10 Q. Okay, and he reported to you that that is who
11 presented him the check, correct?

12 A. He told me that the guy gave him the money to deposit
13 in his account, yes.

14 Q. Okay, and you're with the Lexington County Sheriff's
15 Department?

16 A. That is correct. Yes, sir.

17 Q. And he, in fact, actually sent you -- he sent you a
18 picture of what we're looking at right now is, is the
19 check?

20 A. That is the picture he sent me, yes, sir.

21 Q. And that is his hand?

22 A. I'm, I'm assuming so, yes, sir.

23 Q. And he told you that he deposited it, or that it went
24 into his account?

25 A. Went into his account, yes.

B. BURRELL - REDIRECT EXAMINATION BY MS. TAYLOR

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1 Q. Okay.

2 MR. KATA: Beg the court's indulgence, Your Honor.

3 (A PAUSE.)

4 MR. KATA: No more questions, Your Honor.

5 THE COURT: Any redirect?

6 MS. TAYLOR: Briefly, Your Honor.

7 REDIRECT EXAMINATION BY MS. TAYLOR:

8 Q. Now, Detective Burrell, in your experience as a
9 property crimes investigator, property crimes supervisor,
10 what is -- what is check washing?

11 A. Check washing, so what they typically do, they're able
12 to either obliterate or somehow change who the check is
13 made out to or even change what -- the memo or the amount.
14 In some cases, you see where they actually -- some of more
15 obvious ones, you're able to see Wite-Out and try to pass
16 the checks off that way. Other cases, they may be able to
17 scratch out the names or somehow alter it to where it shows
18 what it is they want it to say, whether it be their name,
19 made out to them, or the amount.

20 Q. Okay, and in cases where there's check washing, are
21 there often times differences in handwriting?

22 A. Yes, ma'am, there is.

23 Q. And when you get records from the bank and there are
24 the carbon copies of the checks, can you sometimes see that
25 there are markings on the check where it could appear it

B. BURRELL - REDIRECT EXAMINATION BY MS. TAYLOR

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1 was altered ---

2 A. Yes, ma'am.

3 Q. --- in some way?

4 A. Uh-huh.

5 Q. Okay. I'm showing you what's already in evidence
6 as...

7 MS. TAYLOR: Beg the court's indulgence. Beg the
8 court's indulgence.

9 (A PAUSE.)

10 MS. TAYLOR: May I approach the witness, Your Honor?

11 THE COURT: Yes, ma'am.

12 Q. I'm showing you what's already in evidence as State's
13 Exhibit 1, the checks that Mr. Vitters received from the
14 bank, and just want to get you to take a look at that
15 before I ask you the next question.

16 A. Okay.

17 Q. Going off of our conversation about check washing and
18 how there can be indications that checks are altered where
19 you can sometimes see markings, do you see any of those
20 indications on what I've just handed to you around any of
21 the handwriting on that check?

22 MR. KATA: Objection, Your Honor. Calls for an
23 opinion.

24 THE COURT: You asked him the same thing, if he saw
25 any visible alteration.

B. BURRELL - REDIRECT EXAMINATION BY MS. TAYLOR

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1 I mean, repeat the question. You asked if there were
2 visible ---

3 MS. TAYLOR: Are there ---

4 THE COURT: --- alterations?

5 MS. TAYLOR: That's correct.

6 Q. Your Honor -- I mean, Detective Burrell, are there any
7 indications on the checks that had been admitted as State's
8 Exhibit 1 that could even in the slightest ---

9 A. Uh-huh.

10 Q. --- that could indicate there could have been
11 alterations made?

12 A. Yes, ma'am.

13 Q. Okay, and can you point out -- can you indicate to me
14 specifically what you see? And if I need to put it on the
15 overhead, I can do that as well.

16 A. Just from, from looking at it, I guess it's right
17 under where the name is, there seems to be some indication
18 that it has been altered, yes.

19 Q. Okay, and I'll put this on the overhead for the jury
20 to see. Were you talking about right here?

21 A. Yes, ma'am.

22 Q. These markings right here, and that what you were
23 pointing ---

24 A. Yes, ma'am.

25 Q. So, anywhere else on these checks that you see

B. BURRELL - REDIRECT EXAMINATION BY MS. TAYLOR

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1 potential alterations that were made?

2 A. Also under the dollar value, yes, ma'am.

3 Q. Okay. Now, you've seen now the handwriting on this
4 check right here, and in your experience as a property
5 crimes investigator -- I'm showing you the deposit slip
6 from Mr. Vitters right here.

7 A. Yes, ma'am.

8 Q. Is there a material difference in the handwriting?

9 A. Yes, ma'am, there is.

10 Q. Now...

11 MS. TAYLOR: Beg the court's indulgence.

12 No further questions, Your Honor.

13 THE COURT: You may step down, sir. Thank you.

14 WITNESS: Thank you.

15 (THE WITNESS EXITS THE STAND.)

16 THE COURT: You may call ---

17 MR. SMITH: Your Honor, the state calls Deputy David
18 Hellman.

19 DAVID HELLMAN, BEING DULY SWORN,

20 TESTIFIES AS FOLLOWS:

21 CLERK: Would you please have a seat in the witness
22 box? State your full name and spell your last for the
23 record.

24 WITNESS: David Hellman, H-e-l-l-m-a-n.

25 THE COURT: Your witness.

D. HELLMAN - DIRECT EXAMINATION BY MR. SMITH

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1 DIRECT EXAMINATION BY MR. SMITH:

2 Q. Good morning, Deputy Hellman. How long have you been
3 in law enforcement?

4 A. Just passed ten years this month in October.

5 Q. Okay. Have all those years been with the Lexington
6 County Sheriff's Department?

7 A. No.

8 Q. Where, where were you prior?

9 A. I started with the Columbia Police Department for
10 about a year and a half prior to coming here. I came to
11 the Lexington County Sheriff's Department in February of
12 2015.

13 Q. So, you -- so, on or about September 13th -- well, on
14 or about late 2021 and 2022, you were with -- here,
15 Lexington County Sheriff's Department, correct?

16 A. Yes, I was, uh-huh.

17 Q. And as part of your job with our sheriff's department,
18 are you required to serve warrants?

19 A. I am.

20 Q. Tell me how that process works, serving an arrest
21 warrant. How does that work?

22 A. Well, typically, you know, we go out and we search for
23 the individual that is wanted on that warrant. Once we
24 locate them, we place them under arrest, bring them back to
25 the sheriff's department for the Lexington County Detention

D. HELLMAN - DIRECT EXAMINATION BY MR. SMITH

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1 Center.

2 Q. If you -- if you could speak up just a little bit,
3 Deputy? Let me back you up a second there. How do you
4 know that someone has an arrest warrant?

5 A. Those warrants are placed into a system that we use
6 that, that shows the person does have an active warrant.
7 That system is available to deputies to view when they're
8 in the field, and we can also call, you know, the people
9 within the sheriff's department that have information
10 available to them, uh-huh.

11 Q. So, what's that system called that you use for
12 warrants?

13 A. It's in a system called RMS.

14 Q. Uh-huh.

15 A. And basically will show anybody within the county that
16 has an active warrant.

17 Q. Do you recall which agency notified you about an Akeem
18 Hampton on or about January the 14th, 2022?

19 A. It was the Columbia Police Department.

20 Q. Okay, and what did -- what information did you get
21 from Columbia Police Department?

22 A. Well, to my knowledge, that day the Columbia Police
23 Department sent a hit over to our agency saying that they
24 have located and detained Mr. Hampton.

25 Q. Okay.

D. HELLMAN - DIRECT EXAMINATION BY MR. SMITH

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1 A. At that point because he had a warrant out of our
2 agency.

3 Q. And what -- all right, once they sent you the
4 information, what did you do?

5 A. Well, we confirmed that the warrant was valid through
6 our warrant division. At that time, we had a place where
7 we would meet up.

8 Q. Uh-huh.

9 A. And that was the Columbia Police Department downtown.

10 Q. If -- when you say we, did you meet up with the
11 Columbia police?

12 A. I did.

13 Q. Okay.

14 A. Uh-huh.

15 Q. And did they bring defendant -- or did they bring your
16 -- the person you get a hit on, your subject, did they
17 bring that person to the meet up place?

18 A. They did, uh-huh.

19 Q. Okay. So, once you're on scene to serve a warrant on
20 an individual, what do you do? Do you -- do you do -- take
21 any steps to verify a person's identity?

22 A. We do, you know.

23 Q. What?

24 A. Typically we look for a, you know, driver's license or
25 identification card, or if they don't have that available,

D. HELLMAN - DIRECT EXAMINATION BY MR. SMITH

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1 you know, we have other resources that we might check, you
2 know, through, you know, South Carolina DMV or look for a
3 photo or see if they have any history, criminal history
4 with us or in the state, and that will provide any type of,
5 you know, identification, whether it's a -- you know, could
6 match Social Security or, or photos that way.

7 Q. Okay. Now, Deputy Hellman, is the man that you
8 arrested on January 14th of 2022 present in this courtroom?

9 A. Yes.

10 Q. Can you point him to the jury?

11 A. Right there.

12 MR. SMITH: Your Honor, I'd like the record to reflect
13 that Deputy Hellman has identified the defendant, Mr.
14 Hampton.

15 Q. And, Deputy Hellman, after you served this warrant on
16 Mr. Hampton, what did you do then? You, you served the
17 warrant on him. What happens then?

18 A. Yes, sir. So, I transported him back to Lexington
19 County Detention Center, served the warrant on Mr. Hampton,
20 and then booked him into the Lexington County Detention
21 Center.

22 Q. And did you have any involvement in this case after
23 his arrest and booking?

24 A. No.

25 MR. SMITH: No further questions, Your Honor.

D. HELLMAN - CROSS-EXAMINATION BY MR. KATA

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1 And please answer any questions that Mr. Kata has,
2 Deputy.

3 THE COURT: Cross-examination?

4 MR. KATA: Just a few, Your Honor. May it please the
5 court?

6 CROSS-EXAMINATION BY MR. KATA:

7 Q. Investigator, Deputy, just let me -- I want to make
8 sure that I know what your role is, correct? I mean,
9 obviously they took out a warrant charging him with this
10 crime. You got notified and you handed him the warrant as
11 a matter of course, which is what's required of you,
12 correct?

13 A. That's correct.

14 Q. Okay. You weren't involved in the investigation in
15 any of this?

16 A. Negative. Not at all. Just a transport officer that
17 got notified they had a warrant.

18 Q. Right, and that's very standard.

19 A. Yes, sir.

20 Q. Across the board.

21 MR. KATA: No more questions.

22 THE COURT: Anything else?

23 MR. SMITH: Nothing on redirect, Your Honor.

24 THE COURT: You may step down, sir. Thank you.

25 WITNESS: Thank you.

1 (THE WITNESS EXITS THE STAND.)

2 MR. SMITH: Your Honor, if I may? At this time, we
3 are waiting on one of our witnesses to make his way here
4 from Richland County with the sheriff's department. If
5 you're inclined, I think now might be a good time to take a
6 brief recess.

7 THE COURT: Sure. We can do that. Do you have an
8 estimated arrival time?

9 MR. SMITH: With -- within a half hour, Your Honor.

10 THE COURT: All right, ladies and gentlemen, we'll
11 take a brief recess. As soon as they're ready to proceed,
12 we will be proceeding.

13 Remember please do not discuss the case amongst
14 yourselves or with anyone else in the jury room. Hopefully
15 they've got some snacks in there for you. Thank you.

16 MR. SMITH: And, Your Honor, this would be the state's
17 -- this would be our last witness for our case in chief.

18 THE COURT: All right, sir. Thank you.

19 (THE JURY EXITS AT 11:22 AM.)

20 THE COURT: Solicitor, in the future make sure all
21 your witnesses are present when the case starts.

22 MR. SMITH: Yes, Your Honor.

23 DEPUTY: Your Honor, can I ask? What's the status of
24 Mr. Hamptons [sic]?

25 THE COURT: We will keep him in custody until the case

K. KOVALCHEK - DIRECT EXAMINATION BY MS. TAYLOR

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1 is resolved since his bond was extinguished.

2 DEPUTY: Yes.

3 THE COURT: Thank you.

4 (OFF THE RECORD.)

5 THE COURT: All right, counsel, are you ready to
6 proceed?

7 MR. SMITH: We are, Your Honor.

8 MR. KATA: Yes, Your Honor.

9 THE COURT: All right. Let's have our jury, please.

10 (THE JURY ENTERS AT 12:09 PM.)

11 THE COURT: Welcome back, ladies and gentlemen. Thank
12 you for your patience. We are ready to proceed.

13 You may call your next witness.

14 MS. TAYLOR: Thank you, Your Honor. May it please the
15 court? State calls Investigator Kovalchek.

16 KYLE KOVALCHEK, BEING DULY SWORN,
17 TESTIFIES AS FOLLOWS:

18 CLERK: Would you please have a seat in the witness
19 box? State your full name and spell your last for the
20 record.

21 WITNESS: Sergeant Kyle Kovalchek, Richland County
22 Sheriff's Department. Last name K-o-v-a-l-c-h-e-k.

23 THE COURT: Your witness.

24 DIRECT EXAMINATION BY MS. TAYLOR:

25 Q. Thank you, Investigator Kovalchek. Where do you

K. KOVALCHEK - DIRECT EXAMINATION BY MS. TAYLOR

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1 currently work?

2 A. The Richland County Sheriff's Department Financial
3 Crimes Unit.

4 Q. Okay.

5 A. I'm currently over that unit.

6 Q. Okay, and what are your duties and responsibilities as
7 head of that unit?

8 A. As head of that unit, I receive incoming reports,
9 either assign them to my investigators or take them on
10 myself. I respond to white collar and financial crimes
11 that are currently in progress, require response from
12 investigators, and every six weeks I undertake an evening
13 shift where I take all kinds of cases that have urgent need
14 for investigators, and I supervise a team in the department
15 as well.

16 Q. And in September, October of 2021, where were you
17 working at that time?

18 A. At that time, I was an investigator in the Financial
19 Crimes Unit. I was not yet in charge of it.

20 Q. And did you have some of the similar responsibilities
21 in investigating these types of crimes?

22 A. Yes, only there was much less supervision and much
23 more following orders and directions.

24 Q. And would these types of cases include financial
25 identity fraud cases or things of that nature?

K. KOVALCHEK - DIRECT EXAMINATION BY MS. TAYLOR

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1 A. Yes.

2 Q. All right. At any point during that period of time in
3 September, late, you know, 2021, did you make contact with
4 an Akeem Hampton?

5 A. Did I make contact as in did I attempt to make
6 contact? Yes. Was I able to actually speak to Mr.
7 Hampton? No.

8 Q. Did he file any type of report with the Richland
9 County Sheriff's Department?

10 A. He did.

11 Q. What type of report was that?

12 A. He filed an online incident report with the sheriff's
13 department. We offer a self-reporting service for crimes
14 that fall under a certain dollar amount. The reports
15 themselves are fairly bare because the complainants
16 themselves fill out the narrative. So, they're not really
17 asked any of the pertinent questions that a, you know, a
18 uniformed deputy would ask you when you're typically filing
19 a police report.

20 So in this case, he filed a report with us on -- looks
21 like November the 10th of 2021, as you stated earlier.
22 This report was filed under -- that -- we have blanket
23 categories for different types of crimes as dictated by UCR
24 standards. So in this case, this -- the offense that was
25 reported was false pretenses/swindle/scam/fraud/breach of

K. KOVALCHEK - DIRECT EXAMINATION BY MS. TAYLOR

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1 trust. It's a big catch-all for anything that happens
2 where there's money involved and it's been taken away where
3 someone believes that it shouldn't have been.

4 The -- it was reported by our online form, by
5 presumably Mr. Hampton, that a fraudulent check was
6 involved. He did write up a narrative, though I think it
7 would kind of be speculation on my part to say what he
8 meant. It's fairly incomprehensible.

9 Q. Okay, and you said this was filed on November 10,
10 2021?

11 A. It was.

12 Q. Okay, and what, in your experience with investigating
13 these types of cases where presumably the person who files
14 it, has filed it online and there is no in-person contact,
15 what happens next?

16 A. So, online reports are treated in pretty much the same
17 fashion as reports that are made in person. They all go
18 into a queue and they're assigned by a supervisor depending
19 on solveability. And what that means is if there is a
20 named suspect or another very good lead that the supervisor
21 sees, that gets assigned to an investigator as opposed to
22 one of our part-time people who will call for follow-up
23 information before it goes to a certified law enforcement
24 officer. In this case, there was a suspect named. So, I
25 was assigned the report to follow up the -- with the

1 complainant for more information.

2 Q. And who was the suspect named in this report?

3 A. The suspect's name was Johnny Vitters.

4 Q. Okay, and you said presumably this is Akeem Hampton,
5 but you had no way of knowing for sure at this point. Is
6 that correct?

7 A. Correct. It's theoretically possible for anybody to
8 go on our online forum and claim to be whoever they like
9 and, and file a report, though, you know, most people don't
10 because we will find you, and we will find out you made a
11 false report and put you in jail, so.

12 Q. So, when this was filed by presumably Akeem Hampton,
13 was the next step to try to get in contact with Mr.
14 Hampton?

15 A. Yes. As, as a matter of procedure, I typically work
16 all financial crimes by starting with a phone call, and
17 this is almost always because the correct questions have
18 not been asked to begin with, or I require more information
19 to conduct my investigation. Especially when it comes to
20 allegations of fraudulent checks, the most important thing
21 that I need to conduct my investigation is a copy of that
22 fraudulent check, and it's almost never provided at the
23 time that a report is filed with us.

24 So as a result, as a matter of procedure, the way that
25 I do it is I make a phone call to the complainant and try

K. KOVALCHEK - DIRECT EXAMINATION BY MS. TAYLOR

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1 to get in touch with them. I'll typically do that three
2 times spaced out evenly during the week because people have
3 hectic schedules. And if they don't respond at that point,
4 I'll send what's called a ten-day letter to the address
5 that the victim provides us with. And that, you know --
6 sometimes the phone number will get reported wrong and
7 stuff like that. It happens. So, I send a letter out.
8 It's called a ten-day letter. It basically says listen,
9 I've been trying to call you. Your phone number hasn't
10 been working. Could you please get in touch with me?
11 Here's my phone number. If I don't hear from you, I'm
12 going to close your case in ten days. So, I sent one of
13 those out in this case as well because I was not able to
14 get in touch with Mr. Hampton after trying three times.

15 Q. And would you recognize a copy of that ten-day letter
16 if I showed it to you today?

17 A. I certainly would.

18 MS. TAYLOR: May I approach the witness, Your Honor?

19 THE COURT: Yes, ma'am.

20 Q. Investigator Kovalchek, I'm showing you what's been
21 previously marked for identification purposes as State's
22 Exhibit 6. Do you recognize that?

23 A. I do.

24 Q. What is that?

25 A. That is the ten-day letter that I sent in that case.

K. KOVALCHEK - DIRECT EXAMINATION BY MS. TAYLOR

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1 Q. And has this letter been altered or changed in any way
2 since you sent it to the defendant?

3 A. Not at all. It's a form letter. I just type in the
4 case number and the, the complainant's name, which I did
5 there, and send it off.

6 Q. Okay.

7 MS. TAYLOR: At this time, Your Honor, the state moves
8 to admit State's Exhibit 6 into evidence.

9 THE COURT: Any objection?

10 MR. KATA: No objection.

11 THE COURT: All right. It's in.

12 (LETTER MARKED AS STATE'S EXHIBIT NUMBER 6 RECEIVED
13 INTO EVIDENCE.)

14 MS. TAYLOR: Permission to publish, Your Honor?

15 THE COURT: Yes, ma'am.

16 Q. Now, Investigator Kovalchek, when individuals file
17 online reports such as this case, presumably they upload
18 their contact information themselves. Is that correct?

19 A. They are asked to provide it; they're asked to provide
20 their address, their phone number, and an email address.

21 Q. And was that done in this case?

22 A. It was.

23 Q. So, the -- was the contact information, the phone
24 number you attempted contact with and the address that you
25 sent this letter to uploaded or inputted by Akeem Hampton?

K. KOVALCHEK - DIRECT EXAMINATION BY MS. TAYLOR

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1 A. Whoever filed the report was the person who provided
2 that information.

3 Q. Okay, and when you -- how many times do you remember
4 attempting to call the defendant via phone?

5 A. Three times always.

6 Q. Did he respond at all?

7 A. No.

8 Q. And when you mailed this letter out, did he ever
9 respond in the ten-day period that you specified in this
10 letter?

11 A. No, he did not.

12 Q. Did he ever initiate contact with you in any way in
13 regards to follow-up investigation for this report?

14 A. Never.

15 Q. And after the ten-day period when you had not heard
16 from the defendant, was the case effectively closed?

17 A. I closed it, yes.

18 Q. Okay.

19 MS. TAYLOR: Beg the court's indulgence.

20 (A PAUSE.)

21 Q. And again just to -- just to clarify, you sent this
22 letter to the address provided by presumably Akeem Hampton,
23 who filed this report, correct?

24 A. Yes. The address provided was [REDACTED] Archers Court,
25 Columbia, South Carolina. That's where I sent it.

K. KOVALCHEK - DIRECT EXAMINATION / CROSS-EXAMINATION 112

1 Q. Well, and...

2 MS. TAYLOR: Beg the court's indulgence.

3 (A PAUSE.)

4 Q. Going by the, the, the listed victim of Akeem Hampton,
5 can you refer to your report to see what his address is?

6 A. Oh, I apologize. I was incorrect. That was Mr.
7 Vitters's address that was provided.

8 Q. Okay.

9 A. I sent that letter to [REDACTED] Fontaine Place in Columbia,
10 South Carolina.

11 Q. Okay, and the phone number that you attempted to call
12 him at those three times, that was one Akeem Hampton or
13 presumably Akeem Hampton's phone number?

14 A. That was the phone number that was provided in the
15 report, that [REDACTED] 7201.

16 MS. TAYLOR: No further questions, Your Honor.

17 THE COURT: Cross-examination?

18 MR. KATA: Your Honor, may it please the court?

19 THE COURT: Yes, sir.

20 CROSS-EXAMINATION BY MR. KATA:

21 Q. Investigator, did you have a copy of the envelope you
22 used to mail that letter?

23 A. I surely don't.

24 Q. Okay. You didn't -- you didn't keep one of those?

25 A. No, sir.

K. KOVALCHEK - CROSS-EXAMINATION BY MR. KATA

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1 Q. Okay.

2 A. I can tell you what it looked like, though.

3 Q. A normal envelope?

4 A. Well, no. We have envelopes that have the sheriff's
5 department star and return address printed in the top left,
6 and we use those for ten-day letters, so that way people
7 know where it's coming from.

8 Q. All right. You testified that you received an online
9 report, that it was incomprehensible to you.

10 A. That's the long and the short of it.

11 Q. Okay. I mean, incomprehensible. Was it you couldn't
12 read any word, or what, was it?

13 A. I could read it, but I couldn't really tell what was
14 being alleged or who was involved. The narrative is -- I'm
15 trying to think of the politist way to say it. It's not
16 very well worded.

17 Q. Grammatically sound, I guess, would be the...

18 A. Grammatically sound and ideologically sound.

19 Q. Okay.

20 A. I, I, I couldn't really tell what it was trying to
21 say.

22 Q. Okay. So, I mean, was it so incomprehensible that you
23 didn't understand that he said that he met an individual on
24 a gay dating site?

25 A. Got that part.

K. KOVALCHEK - CROSS-EXAMINATION BY MR. KATA

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1 Q. Okay. So, you understood that part?

2 A. Yes.

3 Q. Okay, and did you understand that he reported that
4 that individual -- that that individual had wrote him the
5 check and told him to cash it?

6 A. I don't know about told him to cash it, but definitely
7 that that individual wrote him a check.

8 Q. Would you like to reread the ---

9 A. I have it in front of me.

10 Q. Okay. Would you like to take a minute to reread it
11 and refresh ---

12 A. No. Told ---

13 Q. --- your memory?

14 A. Told me to cash it. It says right there.

15 Q. Says right there. Okay, and did you understand from
16 the report that there was a witness named Carla?

17 A. No. I had no idea what that part meant.

18 Q. Okay. Does the report not say because of the Carla
19 witness?

20 A. The report says:

21 Because the Carla witness up a check from him
22 without him being there for me so I cast it once
23 that happens the check was fraud like bad no
24 good.

25 I, I don't know what that means.

K. KOVALCHEK - CROSS-EXAMINATION / REDIRECT EXAMINATION 115

1 Q. Okay, and, and did he also report that this
2 individual's wife did not know that he was gay?

3 A. Correct.

4 Q. Okay, and that was sent to you, and you sent that
5 letter in response?

6 A. I did.

7 Q. Okay. You also testified that when a false report is
8 filed, you go find the people and charge them for filing a
9 false report?

10 A. Try to.

11 Q. Okay. You didn't do that in this case, did you?

12 A. No.

13 MR. KATA: No more questions, Your Honor.

14 THE COURT: Any redirect?

15 MS. TAYLOR: Briefly, Your Honor.

16 REDIRECT EXAMINATION BY MS. TAYLOR:

17 Q. Detective Kovalchek, is it fair to say that this
18 report was a giant run-on sentence?

19 A. Yeah, that would be fair to say. That's no
20 punctuation.

21 Q. And you would -- you tried to interpret this to the
22 best of your ability?

23 A. I certainly did.

24 Q. And again, did the defendant ever -- or presumably
25 Akeem Hampton -- ever answer the phone so you could even

K. KOVALCHEK - REDIRECT EXAMINATION BY MS. TAYLOR

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1 ask these follow-up questions?

2 A. No. It went to voicemail every time without being
3 picked up.

4 Q. Such as who this Carla person even is?

5 A. I have never ever heard of a Carla. I assumed that
6 was a typo or autocorrect. It's just kind of sticking out
7 there in the report.

8 Q. Was there a last name even after the word Carla to
9 know who this person's full name is?

10 A. Just says: Because the Carla witness up a check from
11 him. I don't know what that means.

12 Q. And was there any contact information for this Carla
13 person?

14 A. Absolutely not.

15 Q. Okay, and again, he just never answered the phone or
16 your letter to even know where to begin investigating this.
17 Is that correct?

18 A. Correct.

19 MS. TAYLOR: No further questions.

20 THE COURT: You may step down, sir. Thank you.

21 WITNESS: Thank you, Your Honor. May I be excused for
22 today?

23 THE COURT: Any objection?

24 MR. KATA: No objection.

25 MR. SMITH: No, Your Honor.

1 THE COURT: Okay. You may be excused.

2 WITNESS: Thank you.

3 (THE WITNESS EXITS THE STAND.)

4 MR. SMITH: Your Honor, at this time the state would
5 rest.

6 THE COURT: All right, ladies and gentlemen of the
7 jury, the state has rested their case. So, it's a good
8 opportunity for us to take our lunch break. If you would
9 be back in your jury room in one hour. It's 12:25 now. If
10 you would be back at 1:25, then we'll resume with the
11 remainder of the trial when we return.

12 Although the state has rested their case, please
13 remember my previous instruction that it's important not to
14 discuss the case amongst yourselves or with anyone else.
15 Have a nice lunch.

16 (THE JURY EXITS AT 12:24 PM.)

17 THE COURT: All right, any motions?

18 MR. KATA: Your Honor, I do have a motion for a
19 directed verdict of not guilty. Your Honor, the state's
20 case has concluded and, Your Honor, our position is there
21 is a lack of evidence sufficient for the case to go to the
22 ---

23 COURT REPORTER: Excuse me. I need you to speak up,
24 please.

25 MR. KATA: Okay. Sorry.

1 Your Honor, this is the defendant's motion for
2 directed verdict. Your Honor, it's the defendant's
3 position there is a lack of evidence that would allow this
4 case to go to the jury, specifically on the issue with the
5 intent to unlawfully appropriate the financial resources of
6 the other individual to the person's own use.

7 Your Honor, the record is -- we have evidence of the
8 front end. We have evidence on the back end, okay? We
9 have evidence that a check left the victim's possession and
10 was not in the same condition as when he wrote it. Then we
11 fast forward to we have admittedly that Mr. Hampton
12 deposited the check. But what is devoid in the record is
13 any of the actions that happened in between those two
14 times, okay? What was his mental state when the deposit
15 was made? No witnesses have been presented here today and
16 called as witnesses to testify as to what his mental state
17 was when that deposit was made, nobody. We have beginning
18 evidence; we have ending evidence. We have no evidence in
19 between. And, Your Honor, that, that is why we are asking
20 for a directed verdict of not guilty, specifically on the
21 requirement for the was state able to prove beyond a
22 reasonable doubt that there was an intent to unlawfully
23 appropriate. There's not specific tangible evidence of
24 what his mental state was at the time that the deposit was
25 made.

1 THE COURT: In looking at the evidence in the light
2 most favorable to the non-moving party, counselor, I'm sure
3 you are aware obviously that intent can be inferred from
4 the circumstances shown to have been existing at the time.
5 There is direct and circumstantial evidence tending to
6 establish the defendant's guilt on each of the elements of
7 the indictment which he is facing, and your motion is
8 respectfully denied.

9 So, counselor, are you intending on calling any
10 witnesses?

11 MR. KATA: Your Honor, I believe we do have one
12 witness that we will call. I will -- I will discuss with
13 my client his position during the lunch break. We'll have
14 an answer on that.

15 THE COURT: Sure. Okay, and then we'll -- so then
16 we'll come back say -- I've told the jury 1:25. We'll come
17 back about 1:20, and I'll place him under oath to go over
18 that with him.

19 MR. KATA: I won't need any more time than that.

20 THE COURT: Okay, and then we will email y'all the
21 proposed jury instructions.

22 MR. KATA: Your Honor, my client has asked me to ask
23 about vacating the bench warrant that was issued on Monday.
24 I have discussed with him that bond comes down when trial
25 starts, but he asked me to make that request since he has

1 appeared for his trial.

2 THE COURT: Yes, sir.

3 Mr. Hampton, what happens is once you show up for your
4 trial, your bond is extinguished and you are no longer out
5 on bond. So, I'm ---

6 DEFENDANT: I understand.

7 THE COURT: --- taking you into custody during the
8 duration of your trial.

9 All right, thank you, counsel. See everyone at 1:20.

10 (OFF THE RECORD.)

11 THE COURT: All right, counsel, before we get started,
12 we've got drafted proposed jury instructions my clerk just
13 emailed to you, but I have a hardcopy here for y'all to
14 review, too.

15 (A PAUSE.)

16 MR. KATA: There's no objections to the proposed
17 charge, the standard charge from the defendant.

18 MR. SMITH: Your Honor, I just have one minor, minor
19 question about specific instruction on financial identity
20 fraud.

21 THE COURT: Okay.

22 MR. SMITH: Of course, we have the checking account
23 numbers in there. We also, we're going to note that he
24 used the victim's name, address, and phone number in
25 conjunc -- in combination with that checking account number

1 as part of allowing him to access the victim's resources.
2 It, it may not be necessary. I think the checking account
3 prop, prop number might cover us, but just wanted to note
4 that for the record.

5 THE COURT: All right, let me look at the statute. I
6 think we went right by the language in the statute.

7 (A PAUSE.)

8 THE COURT: We can add that.

9 MR. SMITH: Okay. Thank you. Other, other than that,
10 everything looks -- no objection from the state.

11 THE COURT: All right. We'll go ahead and email you a
12 copy of the verdict, the verdict form.

13 MR. KATA: Thank you.

14 MR. SMITH: Yes. Thank you, Your Honor.

15 THE COURT: All right, while we make those changes, is
16 your client ready to be questioned regarding his
17 willingness or wish to testify?

18 MR. KATA: He is, Your Honor.

19 THE COURT: All right, Mr. Hampton, if you would
20 please stand?

21 Madame Clerk, if you would please swear the defendant.

22 (WHEREUPON, THE DEFENDANT IS DULY SWORN.)

23 THE COURT: Mr. Hampton, at this time I'm going to
24 explain to you certain of your rights. If you do not
25 understand anything that I say, please let me know. And if

1 you need me to explain in further detail, also please let
2 me know. Do you understand?

3 DEFENDANT: Yes, ma'am.

4 THE COURT: We have now reached the stage of the trial
5 where you may present your defense. You have the right to
6 claim the protections given to you by the Fifth Amendment
7 of the Constitution of the United States, which states in
8 part that no person shall be compelled in any criminal case
9 to be a witness against himself. This means that you
10 cannot be required to testify in this case. You have the
11 right to testify on your own behalf. However, no one can
12 make you testify. This is a personal right, and no one can
13 waive this right except for you.

14 If you decide to testify, you will be subject to the
15 same rules that govern other witnesses, and you may be
16 examined and cross-examined on any relevant issues in this
17 case. In addition, if you have any convictions involving
18 dishonesty or for false statement or for crimes punishable
19 by imprisonment for more than one year and I determine that
20 the probative value of admitting this evidence outweighs
21 the prejudicial effect to you, the solicitor will be able
22 to introduce your record and attack your credibility.

23 If you decide to testify, this decision on your part
24 must be made freely, voluntarily, and intelligently with
25 the knowledge of the protections given to you by the Fifth

1 Amendment of the Constitution and the consequences of your
2 decision to testify.

3 If you decide not to testify, I will instruct the
4 jurors that they cannot give the fact that you did not
5 testify any consideration whatsoever and that there is to
6 be absolutely prejudice to you because you did not testify.
7 It is left entirely up to you as to whether or not you wish
8 to testify.

9 Have you discussed this matter with your attorney?

10 DEFENDANT: Yes, ma'am.

11 THE COURT: Do you need any more time to discuss this
12 matter with your attorney or anyone else?

13 DEFENDANT: No, ma'am.

14 THE COURT: Do you wish to testify?

15 DEFENDANT: No, ma'am.

16 THE COURT: All right, sir. Thank you.

17 Anything further before we bring the jury out?

18 MR. SMITH: Nothing from the state, Your Honor.

19 MR. KATA: Your Honor, we have just one witness.

20 THE COURT: All right. Let's have our jury, please.

21 (A PAUSE.)

22 (THE JURY ENTERS AT 1:39 PM.)

23 THE COURT: Welcome back, ladies and gentlemen of the
24 jury. We're now ready to proceed.

25 Is the defense calling any witnesses?

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1 MR. KATA: Yes, Your Honor.

2 THE COURT: All right. You may call your first
3 witness.

4 MR. KATA: Defense calls Carla Labrador.

5 CARLA LABRADOR, BEING DULY SWORN,
6 TESTIFIES AS FOLLOWS:

7 CLERK: Would you please have a seat in the witness
8 box? State your full name and spell your last for the
9 record.

10 WITNESS: Carla Labrador, L-a-b-r-a-d-o-r.

11 THE COURT: Your witness.

12 MR. KATA: Thank you, Your Honor.

13 DIRECT EXAMINATION BY MR. KATA:

14 Q. Carla, tell the jury a little bit about yourself.
15 Where did you grow up? Who are you?

16 BAILIFF: You need to scoot up.

17 WITNESS: Okay.

18 A. I was born in Columbia, in Rosewood. Grew up between
19 there and a farm in Mississippi.

20 WITNESS: Can you hear? Can you hear me now? Okay.

21 A. I have eight children, thirteen grandchildren, two
22 great-grandchildren? That's me; that's my life.

23 Q. How long have you lived in the Midlands?

24 A. Fifty-eight years.

25 Q. Fifty-eight years, okay. Do you know Mr. Akeem

C. LABRADOR - DIRECT EXAMINATION BY MR. KATA

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1 Hampton?

2 A. I do.

3 Q. Okay. How do you know Mr. Hampton?

4 A. He was a friend of my son, and my son was killed in
5 2017, but, yeah, he was a friend of his, and he'd come over
6 and help him when my son came to help me do projects,
7 because we have rentals. And when we'd do work on the
8 rentals, he'd come help my son.

9 Q. Okay. Did he continue to help you ---

10 A. He did.

11 Q. --- ever since ---

12 A. He said -- you know, he came to me after the funeral.
13 Said, you know, if you ever need help, I'm there for you,
14 and then he kept checking on us and stuff. So, yeah, I've
15 used him lots of times. Actually several, several times.

16 Q. All right. Let me draw your attention to the -- to
17 the case at hand. Of course you know why we're here?

18 A. Uh-huh.

19 Q. Were you with Mr. Hampton?

20 A. When he cut the check? Absolutely was. That was
21 September -- let's see. My anniversary's on the 9th. It
22 was 13th and that was 2001 [sic].

23 Q. And you say you remember that date because it was
24 shortly after your anniversary?

25 A. It was at -- what -- that was the night we were going

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1 to celebrate our anniversary, so yeah.

2 Q. Okay.

3 A. Our anniversary's on the 9th.

4 Q. Going to that day, do you remember Mr. Hampton having
5 an encounter with ---

6 A. I do. He told me when I picked him up. I picked him
7 up around 10 AM that morning, and he said that he was going
8 to have to, you know, meet with him this afternoon, that
9 he'd know more about a time, you know, as the day went on.
10 And then it got to be about 3:30, 4 o'clock, something like
11 that, and he got the text to meet at the -- on Washington
12 Street at the Holiday Inn, and we did that. We left the
13 house, my house, and we left there and went to there to
14 meet him.

15 Q. Did, did you know who he was meeting?

16 A. I met him before. Wasn't one of my favorite people,
17 but I met him before and, yeah, I know we were supposed to
18 be meeting John. That's what I knew him as.

19 Q. His name was John?

20 A. Jean.

21 Q. Okay.

22 A. He was actually -- he had a -- he didn't look African,
23 you know, like you would think, but he was -- had the
24 African accent, that kind of thing.

25 Q. And do you have any knowledge about the relationship

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1 that Mr. Hampton had ---

2 A. Well, I know he was ---

3 Q. --- with John?

4 A. He kind of swept him, swept Keem off his feet, and
5 he's a little bit older than him, but he -- I think Keem
6 was a little star -- starstruck with the cars and the
7 money, you know, because he had a Mercedes D class that he
8 drove around in. And he was always giving him expensive
9 gifts and -- like a Umbolton watch and stuff like that.
10 You know, very expensive gifts, and so I think he was kind
11 of taken back by that until this.

12 Q. And going back, going to that day, did John ultimately
13 meet with you guys at the ---

14 A. He did. He came in. He gave him the check. They
15 talked for a few minutes. You know, he spoke with me. He
16 said he had to go to a meeting in Charlotte because he was
17 a -- some type, I guess, regional manager, district manager
18 for Costco, and he had to be in a meeting, so he had to
19 leave. So, he left and he -- that was, you know, the end
20 of that.

21 Q. This person named John, I mean, he, he would flaunt?

22 A. Flaunt all the time. I mean, he was flaunting money,
23 flaunting -- you know, always had his cars, nice clothing
24 and he's -- I mean, he's a nice-looking guy but, you know,
25 like I said, he gave him Um -- Umbolton watch. I mean,

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1 it's -- if it wasn't a knock off. I'm not real sure if it
2 wasn't. It's probably -- that's probably a 10,000, \$15,000
3 watch easily.

4 Q. Okay, and of course did, did you know that -- you knew
5 that they were ---

6 A. Oh, yeah.

7 Q. --- having ---

8 A. Yeah. Yes.

9 Q. --- an intimate relationship?

10 A. They were in that, yes. He would meet with him ---

11 Q. To your ---

12 A. --- couple times a week sometimes.

13 Q. To your knowledge, was that relationship out in the
14 open?

15 A. Oh, yeah. Oh, yeah. He likes flaunting him. Who
16 wouldn't, you know, if you got a boyfriend that's got all
17 that stuff, you know? So, yeah, he liked going places
18 and ---

19 Q. So -- with all ---

20 A. --- eating well.

21 Q. --- that history, for him to present a \$10,000 check
22 wouldn't be out of the ordinary? It would be consistent
23 ---

24 A. He ---

25 Q. --- with his lifestyle?

C. LABRADOR - DIRECT EXAMINATION BY MR. KATA

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1 A. Yeah. He -- that was consistent with the gifts that
2 he had given him. I mean, he gave him that, gold chains,
3 gold bracelets, that kind of stuff, but yeah, and he told
4 him -- he turned him down several times. He kept trying to
5 get him to get the -- you know, to let him buy a car, and
6 he didn't want to do it at first, and then he kind of gave
7 in and ---

8 Q. Carla, Carla, you knew him as John?

9 A. Uh-huh.

10 Q. He purported ---

11 A. Jean.

12 Q. Jean?

13 A. Uh-huh.

14 Q. And that was the name that he went with?

15 A. That's exactly.

16 Q. Okay, and on that day when he gave the check to Mr.
17 Hampton, I mean, did he give instructions to deposit it?
18 What was interaction like?

19 A. It was just some ---

20 Q. That you witnessed.

21 A. You know, they talked the -- this Dodge Charger.
22 Talked about maybe a Challenger, and he talked to him about
23 an S8 Audi that one of his family members had and he could
24 look at all these options, you know. You know, you want to
25 look at that car, and he talked to him about that one to

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1 him.

2 Q. Okay. So, what you witnessed was interaction where
3 John wanted him to purchase a car?

4 A. Uh-huh. Oh, yes, that's, that's what it was all
5 about. That was about a car, and he really wanted this
6 Charger and it was -- you know, time was kind of running
7 out on that because this guy said he would hold it until
8 the end of the next day, but he wasn't able to get it.

9 MR. KATA: Beg the court's indulgence, Your Honor.

10 (A PAUSE.)

11 Q. Carla, you took an oath to swear to tell the truth
12 before you ---

13 A. I did.

14 Q. --- took the stand? Is everything that you've said
15 the truth?

16 A. Absolutely.

17 MR. KATA: No more questions, Your Honor.

18 THE COURT: Cross-examination?

19 CROSS-EXAMINATION BY MR. SMITH:

20 Q. Ms. Labrador, it's fair for me to say after your
21 testimony that you and Mr. Hampton have a long-standing
22 relationship, correct?

23 A. Yes.

24 Q. Known each other quite some time?

25 A. About ten years, yes.

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1 Q. And he's, he's stuck around and helped you after your
2 son's tragic passing in 2017?

3 A. Uh-huh.

4 Q. You kept in regular contact with him?

5 A. He does.

6 Q. Do you consider him a good friend?

7 A. I consider him a friend, yes, absolutely.

8 Q. And you've been aware that he's been facing this
9 charge for almost two years now?

10 A. I have. I'm actually the one that told him to call
11 the police when, when everything went awry.

12 Q. And you were with -- you say you were with him the day
13 he received this check?

14 A. Yes, I was.

15 Q. So, you've known this case has been going on two
16 years. You tell me you told him to call the police.

17 A. Uh-huh. We actually called together. I was there
18 when he called.

19 Q. And you've never spoken to law enforcement in the two
20 years between this incident and today, have you?

21 A. No.

22 Q. You never ---

23 A. Did ---

24 Q. --- thought that this information was important to
25 convey to law enforcement?

C. LABRADOR - CROSS-EXAMINATION BY MR. SMITH

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1 A. Well, I thought once he called the police that the
2 police were going to be his advocate. I don't know that it
3 was going to turn around ---

4 Q. But you ---

5 A. --- the way it did.

6 Q. But you didn't think it would be important for them to
7 hear from you, too, you were there to see this?

8 A. I didn't know why it would be. I do understand, but
9 I'm just -- there was no reason to get involved in
10 something. He, you know, he had told them that, that I
11 gave him the ride and that I was there when he got it.

12 Q. But what I'm talking -- Ms. Labrador, I'm talking
13 about you.

14 A. Uh-huh.

15 Q. Today in this courtroom, this is the first time you've
16 ever told anyone your side of what happened. Is that
17 correct?

18 A. It's the first time anybody ever asked me. Yes, sir.

19 MR. SMITH: Beg the court's indulgence a moment.

20 (A PAUSE.)

21 Q. What time did you say you and him picked up the check?

22 A. It, it was -- we left the house in Columbia about --
23 it was after 4 before we left there. So, probably 5-ish,
24 4:30, 5-ish in the afternoon.

25 Q. And you were -- were you with him the entire day

C. LABRADOR - CROSS-EXAMINATION BY MR. SMITH

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1 between 10:30 and 3?

2 A. Absolutely. We were working together at my house in
3 Rosewood on Aralia Drive.

4 Q. Did you -- did you witness him deposit the check?

5 A. I did. He electronically did it with his phone.

6 MR. SMITH: Nothing further, Your Honor.

7 THE COURT: Any redirect?

8 MR. SMITH: No, Your Honor.

9 THE COURT: You may step down, ma'am. Thank you.

10 (THE WITNESS EXITS THE STAND.)

11 THE COURT: Any other witnesses?

12 MR. SMITH: Your Honor, the defense rests.

13 THE COURT: Ladies and gentlemen of the jury, we must
14 take a very brief recess before we go into the closing
15 arguments. Will you please go to your jury room briefly?
16 We'll be right back with you.

17 Again, please remember not to discuss the case amongst
18 yourselves.

19 (THE JURY EXITS AT 1:51 PM.)

20 THE COURT: Any motions?

21 MR. KATA: Your Honor, at this time we would renew our
22 motion for directed verdict. There's been additional
23 testimony in the case, the circumstantial component of
24 this. So, Your Honor, we'd ask for a directed verdict of
25 not guilty.

1 THE COURT: Thank you, and for the same reasons as
2 previously articulated by the court, your motion is
3 respectfully denied.

4 MR. KATA: Thank you, Your Honor.

5 MR. SMITH: Your Honor, the -- would the state have --
6 maybe call Joseph Andaloro for a brief rebuttal, our lead
7 detective?

8 THE COURT: Sure. Yes.

9 MR. SMITH: Don't anticipate it'll take but a few
10 minutes.

11 THE COURT: That's fine. I've revised the jury
12 instructions real quick. So, we can do that and then go
13 straight into closings.

14 MR. KATA: Your Honor, I don't have a whole lot of
15 access to email right now. Could you print off a verdict
16 form if possible?

17 THE COURT: Sure.

18 MR. KATA: I tried to check on my phone.

19 THE COURT: That's okay.

20 MR. KATA: The internet in here isn't...

21 THE COURT: Yeah, we'll do a second copy so you can
22 look at it.

23 (A PAUSE.)

24 MR. SMITH: Your Honor, a matter of housekeeping.
25 I apologize. Did we designate a foreperson for the jury?

1 THE COURT: I always do that after I charge.

2 MR. SMITH: Okay. Thank you.

3 THE COURT: Did you want to look at the language where
4 we added the name, address?

5 MR. KATA: Yes.

6 (A PAUSE.)

7 THE COURT: All right. So, just for the record, both
8 parties have had an opportunity to review the proposed jury
9 charges, along with the jury verdict form, and have no
10 objections.

11 Is that correct?

12 MR. SMITH: That's correct, Your Honor, no objections.

13 THE COURT: Mr. Kata?

14 MR. KATA: No objections, Your Honor.

15 THE COURT: All right, let's have our jury, please.

16 (THE JURY ENTERS AT 1:59 PM.)

17 THE COURT: Welcome back, ladies and gentlemen. We're
18 now ready to proceed. The state going to call one rebuttal
19 witness.

20 You may call your witness.

21 MR. SMITH: State calls Investigator Joseph Andalaro.

22 THE COURT: He can still be under oath.

23 MR. SMITH: Thank you, Your Honor.

24 THE COURT: Your witness.

25 JOSEPH ANDALORO, HAVING PREVIOUSLY

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 BEEN SWORN, TESTIFIES AS FOLLOWS:

2 DIRECT EXAMINATION BY MR. SMITH:

3 Q. Detective Andalaro, you've been in here with us all
4 day. You've heard a lot of testimony. Again, you were the
5 lead -- you're the investigator with this case, correct?

6 A. That's correct.

7 Q. And your -- when you get a case, what do you do during
8 a case if you run into new information or someone offers
9 new information?

10 A. I would look into that information and see if it pans
11 out to be anything to help me as an -- investigative or
12 information.

13 Q. Would that include interviewing new witnesses?

14 A. Anybody, yeah. Involves others, new witnesses, people
15 that can have any information to help assist in figuring
16 out what happened in a case I'm investigating.

17 Q. During the course of this investigation, did you have
18 any communication between yourself and Investigator
19 Kovalchek in Richland?

20 A. I did not.

21 Q. Okay, but you -- were you -- when did you become aware
22 that he had filed a report in Richland County?

23 A. I became aware through Sergeant Burrell when he
24 received the report from the defendant, that he emailed him
25 that report, that he had done that self-initiated incident

J. ANDALORO - DIRECT EXAMINATION BY MR. SMITH

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1 report online.

2 Q. And did you, when you received those documents from
3 Richland, did you incorporate those into your case file?

4 A. Yes, sir, I did.

5 Q. Did you review them?

6 A. I did.

7 Q. Did those documents Rich -- did the documents you
8 received from Richland, did they reference any other
9 potential witnesses in the case?

10 A. Nothing that I saw to -- as far as to -- a witness
11 that I could track down or locate by, like, a phone number
12 or a full name.

13 Q. You weren't -- you weren't provided with any contact
14 information for a witness or?

15 A. No, sir, I was not.

16 Q. Prior to today, have you even spoken with Ms. Carla
17 Labrador?

18 A. No, sir. I've never seen her before. Don't know --
19 first time seeing her.

20 Q. Were you aware that she had -- she might have any
21 relevance to this case prior to today?

22 A. Prior to today? No.

23 Q. Did she ever reach out to you?

24 A. She never reached out to me or to the sheriff's
25 department.

1 Q. To the best ---

2 A. The best of my knowledge, she never reached out to
3 Lexington County Sheriff's Department or to myself.

4 Q. And again, you stated earlier you, yourself, had a
5 phone conversation with defendant?

6 A. That's correct.

7 Q. Did Mr. Hampton ever mention a Carla Labrador to you?

8 A. No, he did not.

9 Q. What do you recall -- how did defendant tell you that
10 he got -- that he came into possession of that check?

11 A. He told me that he got that check and that he held
12 onto it for doing some work for Johnny, and that he held
13 onto it for multiple months.

14 Q. Do you -- could you repeat that, please?

15 A. Yeah. I'll actually go to the notes.

16 (A PAUSE.)

17 A. When I did speak with him, he told me over the phone
18 that his sister told him I wanted to talk with him about a
19 check. And he told me that he got a big check about six
20 months ago from a guy named Johnny that he was helping out,
21 and he held onto the check. He told me the check cleared,
22 and it was all good. And then we tried to set up an
23 interview, which he was a no-show.

24 Q. Okay, and again, so, what contact, if any, did you
25 have with Carla Labrador?

J. ANDALORO - DIRECT EXAMINATION / CROSS-EXAMINATION 139

1 A. None.

2 Q. Did any witness tell you about some sort of romance
3 scam?

4 A. Never.

5 Q. Were you aware of any sort of romantic relationship
6 between a John, John Vitters and defendant?

7 A. No, sir, I was not.

8 MR. SMITH: Beg the court's indulgence for a moment.

9 Q. During your phone conversation with defendant, Mr.
10 Hampton, did he mention if there was anyone present with
11 him during the conver -- while you were on the phone?

12 A. No.

13 Q. To the best of your knowledge, was Carla Labrador
14 mentioned it all in this case prior to today?

15 A. No, sir.

16 MR. SMITH: No further questions, Your Honor.

17 THE COURT: Cross-examination?

18 MR. KATA: Yes, Your Honor. May it please the court?

19 CROSS-EXAMINATION BY MR. KATA:

20 Q. Investigator, you're the lead investigator in this
21 case?

22 A. That's correct.

23 Q. Okay. That means you are at the top?

24 A. I'm just the investigator that was assigned, and
25 definitely not at the top in the department.

J. ANDALORO - CROSS-EXAMINATION BY MR. KATA

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1 Q. You're in charge?

2 A. I'm not in charge either.

3 Q. Not in charge of anybody, okay, but you know who else
4 is working on the case?

5 A. No. I'm in charge of my case and investigating my
6 case alone.

7 Q. Okay. All right. Well, did you receive the report
8 that was sent to Investigator Kovalchek from Richland
9 County Sheriff's Department as part ---

10 A. The ---

11 Q. --- of your investigation?

12 A. The report that was submitted online by Mr. Akeem
13 Hampton?

14 Q. Yes.

15 A. Yes, I received that.

16 Q. Okay. Did you read it?

17 A. I did.

18 Q. Okay. Did you read the part that says: Carla the
19 witness?

20 A. It actually doesn't say that, sir. It says: Because
21 the Carla witness up a check ---

22 Q. The Carla witness?

23 A. It -- it's unintelligible, just as the other
24 investigator testified to earlier. I was in the courtroom.

25 Q. Did you call Investigator Kovalchek to discuss this

J. ANDALORO - CROSS-EXAMINATION BY MR. KATA

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1 report?

2 A. I did not.

3 Q. You didn't call him to talk about it?

4 A. I did not call and talk, talk to him about it. I
5 believe Sergeant Burrell may have on my behalf. I was out
6 of town when this came in.

7 Q. Okay, but you didn't reach out to him? Didn't send an
8 email?

9 A. No.

10 Q. Just tucked it in your file with the ten-day letter,
11 and that was it?

12 A. I believe the ten-day letter came from your defendant,
13 actually.

14 Q. The ten-day letter came from Investigator Kovalchek.
15 That's who ---

16 A. The one that you're holding now.

17 Q. --- sent the ten-day letter.

18 A. The one that you're holding or the one that was ---

19 Q. No. This is the report.

20 A. The one that's in evidence came from your defendant.

21 Q. The narrative that he sent Investigator Kovalchek is
22 the description of what happened. The ten-day letter was
23 issued by the Richland County Sheriff's Department and
24 Investigator Kovalchek.

25 A. Right. Correct.

J. ANDALORO - CROSS-EXAMINATION / REDIRECT EXAMINATION 142

1 Q. Correct?

2 A. Yes. He sent ---

3 Q. But you didn't ---

4 A. --- a letter.

5 Q. --- ever call him to talk about that, did you?

6 A. No, I didn't call ---

7 Q. No conversation ---

8 A. --- to talk to him about ---

9 Q. --- with another investigator in the case that's
10 investigating Mr. Hampton?

11 A. He reported a different case, different incident.

12 Q. But you never talked to him about this?

13 A. I did not talk to him about that.

14 Q. What part ---

15 A. Sergeant, Sergeant Burrell did. He was my supervisor.

16 Q. But Carla's listed in here.

17 A. There is the word Carla, but doesn't mean anything to
18 me, just as it didn't to Sergeant Kovalchek, as he
19 testified, and you heard the same thing.

20 MR. KATA: No more questions, Your Honor.

21 THE COURT: Any redirect?

22 MR. SMITH: Just one, Your Honor.

23 REDIRECT EXAMINATION BY MR. SMITH:

24 Q. Investigator Andaloro, is there any contact

25 information listed on that Richland County narrative for a

J. ANDALORO - REDIRECT EXAMINATION BY MR. SMITH

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1 Carla?

2 A. No, sir, there's not.

3 MR. SMITH: No further questions.

4 THE COURT: You may step down, sir. Thank you.

5 WITNESS: Thank you, Your Honor.

6 (THE WITNESS EXITS THE STAND.)

7 MR. SMITH: That concludes the state's rebuttal, Your
8 Honor.

9 THE COURT: Thank you.

10 Ladies and gentlemen of the jury, it's now time for
11 the parties to present their closing arguments. Please pay
12 close attention.

13 MR. SMITH: Beg the court's indulgence for one moment.

14 (A PAUSE.)

15 MR. SMITH: Please the court, Your Honor?

16 THE COURT: Yes, sir.

17 MR. SMITH: Ladies and gentlemen of the jury, my
18 cocounsel, Whitney, told you at the beginning of this case
19 that this is a pretty simple and straightforward matter,
20 and it is. It is simple and straightforward. On or about
21 September 13, 2021, Akeem Hampton came into possession of a
22 check belonging to our victim, John Vitters, in the amount
23 of \$10,000, and without his permission, his approval, he
24 attempted to appropriate those funds to his own use.

25 Now, this case may not be what you typically think of

1 when you think of identify fraud. I know it wasn't what I
2 -- what I typically thought of as identify fraud. The
3 picture that I always get in my head for identify fraud is
4 someone tapping away at a computer in a dark room with
5 pages upon pages of information just written down
6 somewhere, hacking into bank accounts left and right and
7 robbing people blind. That's not what happened here.

8 What happened here was -- we'll do a hypothetical.
9 You there, ma'am. Let's say, for instance, that I have in
10 my hand a checkbook belonging to you. Say you had -- we're
11 coming up to a holiday season. Maybe you had written this
12 check to a family member as a gift, but now I have this
13 check in my possession. You don't know how I got it, and
14 it doesn't particularly matter, but I have this check now.
15 You didn't give this check to me; it wasn't written to me.
16 I don't have your permission to have this check.

17 But now I have it. I change the numbers. I change
18 the names. I change who it's written to to make it payable
19 to me, and then I take my telephone, I open up my banking
20 app, and I deposit it, and I've just committed identity
21 fraud because this check has everything, all the
22 information I need from you to steal your money from you.
23 Has your name, your address, your phone number. Maybe it
24 has your Social Security number, maybe it doesn't, and your
25 bank account number, and that's all the information that

1 was on Mr. Vitters's check, all the information that was
2 needed for Akeem Hampton to try and take \$10,000 from him.

3 Now, you heard from Mr. Vitters. He told you a little
4 bit about himself. Builds playgrounds for children. He
5 has to file his taxes quarterly because he's an independent
6 contractor. Can't imagine how aggravating that is. It's
7 enough of a pain having to go through the tax process once
8 a year, but he show -- but he testified to that. Told you
9 \$10,000 written to the United States Treasury. He showed
10 you the carbon copy of his check.

11 Now, it's not the best quality picture. I will admit
12 that, but you can see here: United States Treasury, check
13 number 3229, \$10,000. And then you see the check that was
14 deposited: John Vitters, check number 3229, \$10,000. And
15 he testified to you that about 1:30 in the afternoon on
16 September the 13th, he had put this check in the mail
17 expecting it would take about three days for it to reach
18 the tax office and clear.

19 Imagine his surprise when he was notified the next
20 morning that your \$10,000 check has already cleared. Hold
21 on. That can't be right. So, he goes, he does some
22 digging. He checks with his bank because this doesn't
23 sound right. This can't be right; that check cannot have
24 cleared that quickly. And again, the bank sent him back
25 this: 9/13/2021, John Vitters, \$10,000.

1 And you heard the testimony from Investigator Burrell
2 that there appeared to be marks on this check that the paid
3 to line has been tampered with, that the memo line has been
4 tampered with. And again, Mr. Vitters testified that's not
5 his handwriting, and you can see here for mobile deposit
6 only at Navy Federal Credit Union. Again, it's not his
7 handwriting. And we can see here, as you heard from
8 Investigator Andaloro, that this check was deposited a
9 little past 4:30 PM that same day, September 13th.

10 So, Mr. Vitters is rightly concerned. It's a large
11 sum of money that's gone somewhere that it was not supposed
12 to go. He checks with his bank; he alerts them to what's
13 happened. He alerts law enforcement.

14 Case gets assigned to Investigator Andaloro, an
15 experienced property crimes investigator, and he does what
16 he's been trained to do, what he's been doing for years.
17 He does the leg work; he does his investigation.

18 Firstly, he gets the information from Navy Federal
19 Credit Union to confirm, hey, I've got a disputed
20 transaction from a victim to this account with Navy Federal
21 Credit Union. Can you tell me who this account belongs to?
22 And Navy Federal sends back this, a \$10,000 transaction on
23 September the 13th.

24 He does further follow up on defendant's bank records.
25 He receives this document back: six months worth of Akeem

1 Hampton's bank statements. You'll have this in front of
2 you in the jury room with you. You can look through every
3 page if you wish, and again we see September 13th, \$10,000
4 to Akeem D. Hampton.

5 And you heard Investigator Andaloro's testimony that
6 that's quite a large sum of money to be in this account,
7 far more than usual. It's an account that maybe usually
8 only has a couple hundred dollars at a time, not 10,000,
9 but he doesn't just stop there. Investigator Andaloro
10 continues his investigation.

11 He talked to the suspect, gives him a chance to
12 explain his side of the story, try to figure out what's
13 happened. And what do we hear from Investigator Andaloro?
14 Well, you know, I was doing the -- doing the work for this
15 guy named Johnny, and he give me the check about six months
16 ago. He told me to hold onto it, and it finally clears.
17 He told me to go ahead and cash the check, and now all of a
18 sudden it's a bad check. I'm not sure what happened.
19 Tries to meet up with defendant, do some more
20 investigation, and defendant never shows. Never calls
21 back.

22 You heard from Investigator Burrell. Defendant called
23 back a few days later. Spoke to Investigator Burrell and
24 tries to give his, again, his story of what happened. But
25 you'll notice it's not the same story this time. It wasn't

1 a check he was holding for work. That time it's, well, I
2 was in a relationship with this man I'd met on a dating
3 app, and we'd been talking, and he, you know, he wanted to
4 give me this check for a new car. And he told me, you
5 know, here's \$10,000. I want to help you buy a car, but,
6 but, you know, my wife found out about the check, and she
7 doesn't know that I'm gay. So, I got to cancel the check,
8 but I'll...

9 Just a couple -- that's just a couple days apart,
10 ladies and gentlemen. That's two very different stories.
11 That's two stories that don't mesh with each other. They
12 don't mesh with each other at all.

13 And again you heard from Investigator Burrell. Show
14 you this picture again, State's Number 5. He never denied
15 he had the check. Doesn't say that's not me. I didn't do
16 it. You got the wrong guy. He had the check, and now the
17 wheels are spinning. He's trying to cover his tracks.
18 We've already caught him in two different stories.

19 So, then he reaches out to Investigator Kovalchek with
20 Richland County, and he files this report. I, I, I was set
21 up on this dating scam. He tried to give me this check,
22 and he told me it was no good, and he had to cancel the
23 check because his wife found out. So, Investigator
24 Kovalchek is like, well, that's a serious allegation if
25 it's true. I should follow up on this.

1 Tries to call Mr. Hampton three times. No response.
2 Then he sends a letter to Mr. Hampton. If you don't
3 contact me within ten days of receiving this letter, I'm
4 closing the investigation. No response. Nothing.

5 So, at this point the warrant's issued, it's put in
6 the system, and then we wait. And finally on January the
7 14th, 2022, defendant's arrested by Deputy Hellman. He
8 ID'd him for you right here in this courtroom.

9 And then today, today we hear from defense, from Carla
10 Labrador, a witness that we didn't know existed until
11 today. You heard -- you heard her testimony. She's close
12 to defendant. They're friends. Thinks highly of him.
13 He's helped her out in some bad times, and that's
14 commendable. I'll say commendable.

15 But she's known about this investigation, this case
16 for two years, two years, and that story, ladies and
17 gentlemen, that Ms. Labrador told on the stand, I heard it
18 for the first time right along with you. No one has heard
19 that story until today. You give that testimony the weight
20 you think it deserves.

21 Now, ladies and gentlemen, defendant is charged with
22 financial identity fraud, Code Section 16-13-510. And a
23 person is guilty of identity fraud when without the
24 authorization or permission of another individual, and with
25 the intent to unlawfully appropriate the financial resource

1 of the other individual, or obtain money, property, or
2 various other things, obtains or records identifying
3 information which would help them in accessing those
4 resources.

5 Further, personal identifying information includes but
6 is not limited to -- relevant here -- Social Security
7 numbers, checking account numbers, and names and addresses
8 when combined with the numbers up here.

9 We have all of that, ladies and gentlemen. Mr.
10 Hampton has in his possession a check belonging to John
11 Vitters that contained checking account number, contained
12 his address and his phone number, all information that
13 enabled him to attempt to steal \$10,000 from Mr. Vitters.

14 Ladies and gentlemen, in this case you are the judge
15 of the facts. You are the ultimate decider of what the
16 truth is in this case, of what happened. It's up to you to
17 determine what evidence holds the most weight, what
18 evidence holds some of it, what evidence holds no weight.
19 It's up to you to decide the credibility of the witnesses
20 you've heard from on this stand. You can decide -- you can
21 decide to believe all of a witness's testimony, some of a
22 witness's testimony, or none of it. That decision is
23 yours. You are the judge of credibility.

24 Judge Murphy will be the judge of the law. She will
25 give you the law that you are to apply to the facts in this

1 case, and I'm about to try and attempt to explain some of
2 that law to you in my own words, but I tell you this. If I
3 tell you -- in my explanation of the law, if you think
4 anything that I have said conflicts with the instruction
5 that Judge Murphy will give you, you listen to Judge
6 Murphy. You disregard what I've said.

7 Now, representing the State of South Carolina, we have
8 the burden to prove this case to you beyond a reasonable
9 doubt. It's the highest burden in the American legal
10 system. What does beyond a reasonable doubt mean? If we
11 have convince -- reasonable doubt is a doubt that would
12 cause you to hesitate to act. If, when you get back into
13 that jury room, if you are able to make a decision without
14 hesitation, then you've made the decision beyond a
15 reasonable doubt. If we at the end of this trial have left
16 you firmly convinced that the defendant is guilty, we've
17 met our burden; we've proved the case to you beyond a
18 reasonable doubt.

19 Judge Murphy will also instruct you on the difference
20 between real and circumstantial evidence. Now, the law
21 does not make a distinction between the weight you are to
22 give both types of evidence. You can prove a case with a
23 mixture of real evidence, circumstantial evidence, or all
24 one, or all the other.

25 Now, real evidence is evidence that you directly

1 perceive. It's evidence you heard here from the witness
2 stand, something you've seen for yourself, something you've
3 heard for yourself. I don't have to tell you what
4 happened. You saw it; you perceived it yourself.
5 Circumstantial evidence, on the other hand, is like a chain
6 of events that when you take them together, they lead you
7 towards a conclusion.

8 A good example I like to use is one evening you're
9 sitting at your house. You're in your, your living room,
10 and all of a sudden you hear thunder outside. You hear the
11 wind start to pick up. You look outside. You see a
12 thunderstorm has come through. It's raining. You've
13 directly seen it.

14 On the other hand, perhaps you are sitting in your
15 living room one night, and you nod off there. You wake up
16 the next morning and you look outside. You see that the
17 streets are soaked; the streets are soaking wet. Maybe
18 there's a couple limbs down in the roadway, and everything,
19 everything is soaked. Grass is soaked. Gutter's running.
20 You didn't see it rain last night. You don't directly
21 perceive that there was a storm that might have knocked
22 down some of those limbs, but you have enough pieces in
23 front of you that you can come to the logical conclusion
24 that, yes, this happened. Even though I didn't see it, I
25 have enough pieces around me to make the conclusion.

1 Ladies and gentlemen, you've heard all the evidence.
2 You've seen everything you've going to see in this trial,
3 and now the rest is up to you. Ladies and gentlemen, we
4 think that this case is simple. It's straightforward. The
5 evidence is clear. On September 31, [sic] 2021, Akeem
6 Hampton attempted to appropriate \$10,000 of John Vitters's
7 money without his permission, without his authorization,
8 attempted to steal \$10,000 from him, and we ask that you
9 find him guilty of financial identity fraud. Thank you.

10 MR. KATA: May it please the court?

11 THE COURT: Yes, sir.

12 MR. KATA: Ladies and gentlemen, the state just gave a
13 closing argument, and they started off by going through a
14 demonstration of almost a lifecycle of the check. It was
15 written out. He got it. Took you right through the thing,
16 and they made the argument that how I got it doesn't matter
17 and that this was a simple case.

18 Well, how you get it does matter because what's
19 required for them to prove is that Mr. Hampton had the
20 criminal intent, that had the requisite mental state -- and
21 you'll hear the judge instruct you on the law -- a
22 conscious wrongdoing to take money out of the victim's
23 account. A conscious wrongdoing, that's more than it
24 doesn't matter how you got the check, okay? It does matter
25 how you got the check because a conscious wrongdoing is a

1 total disregard, okay, total knowledge. And they have to
2 prove that beyond a reasonable doubt.

3 And he defined reasonable doubt for you accurately.
4 And the judge will read it to you, and she's going to tell
5 you that a reasonable doubt is -- you know, there's going
6 to be firmly convinced language.

7 But the language I want you to focus on is the
8 hesitate to act language because if you're back there and
9 you're looking through the evidence, and there's evidence
10 that you look at and you're hesitating on what you should
11 do, that's not beyond a reasonable doubt. That's not. And
12 I'm going to go over a couple of things of why you should
13 hesitate, okay, and why I believe the evidence should cause
14 you to hesitate.

15 Now, the state don't want you to look at the in
16 between, okay? They don't want you to believe his story
17 okay? He sent in -- he sent in a written report of what
18 happened, okay? Is what he reported to law enforcement
19 something you'd want to come in here and do a deposition on
20 and say hold on, guys. This is my life; this is how I'm
21 living it. I want to put it all out there for everybody.
22 No. He's in a sexual relationship with a guy from Grinder.
23 I'm not surprised that he doesn't just rush in here and say
24 these are all the facts.

25 But, in fact, he did send that email in to Kovalchek

1 in Richland County where he lived. It made sense for him
2 to report it the Richland County Sheriff's Department.
3 They want you just to chalk it up and say you know what?
4 He didn't package it up in a nice enough little box for us
5 to figure out what happened. No, he didn't, okay? Is the
6 report inarticulate? Is it the best English? No, it's
7 not, okay, but that's what he submitted. It's him, okay?

8 But we also came to find out in the rebuttal case that
9 the lead investigator of the case never spoke with
10 Investigator Kovalchek. They never talked about Carla, who
11 was listed in the report to Richland County. Didn't do one
12 phone call. They're talking about him not calling them
13 back. They didn't have a phone call either.

14 He reported it, and Kovalchek said I called three
15 times. It went straight to voicemail. I sent out a
16 ten-day letter. Nobody responded, and they put it on the
17 shelf. He doesn't have to package it up for them
18 perfectly, okay? He reported it. He told them about
19 Carla. They knew about Carla, okay? The fact that nobody
20 went -- you know, was able to find her or interview her or
21 do any of those things based on law enforcement shouldn't
22 discredit her coming in and testifying under oath today.
23 He talked about Carla. He submitted information indicating
24 that there was a Carla that watched what happened.

25 Conscious wrongdoing. Her testimony was that he was

1 in a relationship with a man that was purported to be Mr.
2 Vitters. Mr. Vitters's name was on the check. That's
3 easy. His address was on the check. His phone number was
4 on the check.

5 And, ladies and gentlemen, you're going to have the
6 check back there. It's a pretty clean check. I mean,
7 whoever switched that out, I mean, they cleaned it, okay?
8 There's no scratches; there's no X's out. There's no,
9 like, Akeem Hampton crooked. It looks like a pretty clean
10 check. He indicated that to them, okay, and if there's
11 somebody out there that's passing a check purporting to be
12 somebody else and he deposits it, where's the criminal
13 intent in that? Where's the criminal intent to appropriate
14 the money of the individual that was sitting on the bench
15 over there? Because there isn't any, not under that
16 scenario.

17 There was no conscious wrongdoing to take his money.
18 It ended up happening because in hind -- in hindsight, he
19 realizes it's a bad check. Money got taken out right away.
20 They reversed the transaction. It was refunded to him.
21 That's why there's no criminal intent. That's why you
22 can't convict. The gap between presentation and deposit
23 matters. They have to prove that just as much as the
24 beginning and the end, and our position is that that gap is
25 void of the required mental state of conscious wrongdoing

1 to commit the crime that they've charged, and we're asking
2 you to vote not guilty.

3 THE COURT: Solicitor.

4 MR. SMITH: I'll be brief, ladies and gentlemen.
5 Something I did forget to mention my first go-round up
6 here, we have to prove the case to you beyond a reasonable
7 doubt, and that's true. We do not have to prove this case
8 to you beyond all doubt, beyond a shadow of a doubt to an
9 absolute certainty. The judge will instruct you on that.
10 There's very few things in life we can know with absolute
11 certainly. We have to give you enough evidence to leave
12 you firmly convinced of defendant's guilt.

13 And, no, I'll -- and no, we never had a statement from
14 defendant saying ah, you caught me. I did it. I intended
15 to take his money. That's not the only way to establish
16 intent. We can look at defendant's actions in this case as
17 a whole and infer his intent.

18 What do we know? He was asked about the check. He
19 gives one story about how he got the check to Investigator
20 Andaloro. Someone gave it to me for work. I've been
21 holding this check for six months, and he told me it was
22 fine. Go ahead and cash it. Investigator Burrell. Well,
23 this guy and I were chatting on a dating app, and he wanted
24 to help me buy a car. So, now he gave me this check.

25 Different stories. Why is he telling a different --

1 different stories, different explanations for the same
2 event? And we can -- can we infer? We can infer he's not
3 being truthful about how he got that check, and why would
4 he not want to be truthful about how he got that check?
5 Because he had the mindset, the intent of conscious
6 wrongdoing.

7 Ladies and gentlemen, again this is a financial
8 identity fraud case. We do not have to prove to you that
9 defendant is the one that stole the check. I'll be frank
10 with you: I don't know who stole the check. Investigators
11 don't know who stole the check. That's not what he's
12 charged with. He's charged with financial identity fraud.
13 He's charged with possessing information which allows him
14 to access the victim's financial resources, and we know he
15 had that, and we know he attempted to.

16 The fact that the money was refunded to Mr. Vitters
17 because he was vigilant in checking his bank account
18 doesn't, doesn't take away from that. It doesn't take away
19 from what, what the defendant attempted to do.

20 You heard from Mr. Vitters that he deposited the check
21 at 1:30 in the afternoon, and he put it in the mailbox.
22 You saw on that exhibit the check was deposited after 4:30.
23 You heard from Ms. Labrador that she was with the defendant
24 all day between 10 and 3:30. The time -- those timeframes
25 don't match up.

1 Tell, tell me what's more likely, ladies and
2 gentlemen. That defendant managed to run into a fellow
3 posing as John Vitters, who just happened around 1:30 that
4 afternoon to grab a check out of his mailbox, make all the
5 necessary alterations to the check, and then hand it to the
6 defendant, or that defendant is not telling you the truth,
7 that Ms. Labrador is not telling you the truth?

8 And we brought it up. We talked about it. Defendant
9 was given a chance to tell his side of the story to police.
10 His sides of the story are inconsistent; they're
11 incomplete.

12 MR. KATA: Objection, Your Honor. Burden shifting.

13 THE COURT: Sustained. Don't ---

14 MR. SMITH: Yes. yes, Your Honor.

15 THE COURT: --- comment on it.

16 MR. SMITH: Yes, Your Honor.

17 The Richland County report, there's no -- how, tell me
18 how an officer is supposed to follow up and find a witness
19 they don't know. They don't know her full name. They
20 don't know her address. They don't know her phone number.
21 They're just supposed to look around the Columbia area for
22 every person named Carla and play -- and knock on the doors
23 until they find the right one?

24 Ladies and gentlemen, the evidence is here. You have
25 enough direct evidence; you have enough circumstantial

1 evidence. When defendant's own actions after, after law
2 enforcement got wise to what had happened, after law
3 enforcement figured out the money's gone into his account,
4 that same check that came out of Mr. Vitters's bank
5 account, the same one that you have the carbon copy that he
6 wrote the United States Treasury, you have enough
7 circumstantial evidence you can infer his intent from his
8 actions after he got found out. Find him guilty.

9 THE COURT: Thank you, counsel.

10 Ladies and gentlemen of the jury, we're going to take
11 a very brief recess before I charge you on the law. Will
12 you please go to your jury room for about five minutes, and
13 we'll return for the charge on the law.

14 (THE JURY EXITS AT 2:37 PM.)

15 MR. KATA: Your Honor, I do have a motion for a
16 mistrial based on argument of the state as far as the
17 defendant had the chance to tell law enforcement. Your
18 Honor, he has no burden of proof. Your Honor, I think that
19 puts ---

20 THE COURT: Speak up.

21 MR. KATA: Sorry. Your Honor, I, I have a motion for
22 a mistrial based on burden shifting. Your Honor, the
23 argument of the state was the defendant had the chance to
24 tell law enforcement. Your Honor, that directly conflicts
25 with his right to remain silent, and now I believe the

1 burden has been unfairly pushed to us. They'll be back
2 there questioning, well, why didn't he say something? Why
3 didn't he talk? Why didn't he do this? I mean, any
4 language of the defendant had the chance to tell, I mean,
5 it's problematic. For that reason, I'm moving for a
6 mistrial.

7 THE COURT: Solicitor.

8 MR. SMITH: Your Honor, Mr. Kata brought up in his own
9 closing Mr. Hampton's attempts to contact law enforcement,
10 tell them his side of the story. He, he -- in fact, Mr.
11 Hampton, as far -- the evidence in this case shows Mr.
12 Hampton initiated all contact with law enforcement. He, he
13 would -- he reached out to investigators by telephone, via
14 internet.

15 THE COURT: Counsel, certainly I understand your
16 argument, and the closing argument of the solicitor did
17 start going into those bounds where he had the opportunity.
18 Your objection was sustained. However, the jury
19 instructions to the -- to the jury will, of course, clear
20 that up, and I can even put something else in there more
21 direct that they are not to consider that. But certainly
22 it discusses the fact that the jury is not to consider at
23 all the fact the defendant did not testify.

24 There is information in there that he gave statements,
25 that he called law enforcement. It would be more so that

1 -- as far as the statement that the solicitor did,
2 obviously the jury will be instructed that what y'all say
3 is not evidence in this case. That they are only to
4 consider their determination of the facts from the evidence
5 that was presented in the case.

6 As far as that being -- his statements going to the
7 point that would warrant a mistrial, I don't believe that
8 they do because of the fact that it was brought out by both
9 sides the defendant contacted law enforcement. He did have
10 an opportunity. During your cross-examination, you asked
11 -- you asked the officers as far as their responses and if
12 they spoke to him or not. So, I don't believe that would
13 warrant a mistrial at this point.

14 MR. KATA: Your Honor, if I could just say a couple
15 more things for the record?

16 THE COURT: Sure.

17 MR. KATA: Your Honor, I understand your ruling. And
18 attacking his statements and the credibility of those
19 statements is one thing, Your Honor. But I think using the
20 language of defendant had the chance to tell I think is the
21 part that becomes the problem because it says, well, you
22 know -- and that's the problem with burden shifting is that
23 comment is not attacking credibility of the statement. I
24 have no problem with attacking whether -- the credibility
25 of that, the statement that's been given to law

1 enforcement. But making an argument that he had the chance
2 to do it, you can only infer that he had the chance to do
3 it, and I think that that's the problem and part of my
4 motion.

5 THE COURT: Yes, sir, and I understand. I think what
6 -- we could also clarify that by giving a direct jury
7 instruction that that was an improper argument by the
8 solicitor. That they are not to infer from anything that
9 he said that he had a chance to do anything, and he does
10 not have the burden of proving anything in this case. I'll
11 be happy to add that specific instruction to the jury
12 charge.

13 MR. KATA: Thank you, Your Honor.

14 MR. SMITH: And no objection to the curative
15 instruction, Your Honor. Thank you.

16 THE COURT: So, we'll take a very brief recess. I'll
17 write it in here, then I'll show it to you.

18 MR. KATA: Yes, Your Honor.

19 (OFF THE RECORD.)

20 THE COURT: All right, counsel, I've had an
21 opportunity to draft the instruction for the jury regarding
22 the improper argument. What I propose to charge the jury
23 before I go into the full charge on the law is I will
24 state:

25 Ladies and gentlemen of the jury, during the

1 state's closing argument, the solicitor started
2 that the defendant had the opportunity to give
3 statements to law enforcement. I charge you that
4 is an improper argument as the defendant has the
5 absolute right to remain silent. The state has
6 the burden of proof, and the comment by the state
7 was improper. You are to disregard that
8 statement in its entirety.

9 Any objection to that?

10 MR. KATA: No, Your Honor.

11 MR. SMITH: No, Your Honor.

12 THE COURT: We ready to proceed?

13 MR. SMITH: Yes, Your Honor.

14 THE COURT: All right. Let's have our jury, please.

15 (THE JURY ENTERS AT 2:54 PM.)

16 THE COURT: Welcome back, ladies and gentlemen.

17 Ladies and gentlemen of the jury, during the state's
18 closing argument, the solicitor stated the defendant had
19 the opportunity to give statements to law enforcement. I
20 charge you that it is an improper argument as the defendant
21 has the absolute right to remain silent. The state has the
22 burden of proof, and that comment by the state was
23 improper. You are to regard that statement in its
24 entirety.

25 JURY CHARGE

1 THE COURT: Ladies and gentlemen of the jury, it's now
2 time for me to charge you the law in this case. An
3 indictment charges the defendant with financial identity
4 fraud. I remind you that the fact the defendant was
5 arrested, charged, and indicted ---

6 MR. KATA: Your Honor, I don't mean to interrupt, but
7 may we approach?

8 THE COURT: Yes, sir.

9 (OFF-THE-RECORD BENCH CONFERENCE.)

10 THE COURT: I'm sorry, ladies and gentlemen. I meant
11 to say disregard the statement in its entirety. So, if I
12 misspoke, the fine attorneys here have corrected me. So, I
13 certainly -- you are to disregard that statement in its
14 entirety.

15 All right, ladies and gentlemen, the indictment
16 charges, charges the defendant with financial identity
17 fraud. I remind you that the fact that the defendant was
18 arrested, charged, and indicted is not evidence and cannot
19 be considered by you as evidence of guilt, nor does it
20 create a presumption or inference of guilt. This document
21 is simply the formal written instrument which contains the
22 charge against the defendant, the formal document by which
23 this case is brought into this court.

24 The defendant has pled not guilty to this indictment,
25 and that plea puts the burden on the state to prove the

1 defendant guilty.

2 A person charged with committing a criminal offense in
3 South Carolina is never required to prove himself innocent.
4 I charge you that is an important rule of the law that a
5 defendant in a criminal trial, no matter what the
6 seriousness of the charge may be, will always be presumed
7 innocent of the crime for which the indictment was issued
8 unless guilt has been proven by evidence satisfying you of
9 that guilt beyond a reasonable doubt.

10 The presumption of innocence does not end when you
11 begin your deliberations, but it accompanies the defendant
12 throughout the trial until you reach a verdict of guilt
13 based on the evidence satisfying you of that guilt beyond a
14 reasonable doubt. The presumption of innocence is like a
15 robe of righteousness placed about the shoulders of the
16 defendant which remains with the defendant until it has
17 been stripped from the defendant by evidence satisfying you
18 of the defendant's guilt beyond a reasonable doubt.

19 The presumption of innocence is not a mere legal
20 theory; it's not just a legal phrase. It's a substantial
21 right to which every defendant is entitled unless you, the
22 jury, are satisfied of the evidence of the defendant's
23 guilt beyond a reasonable doubt.

24 The state has the burden of proving the defendant
25 guilty beyond a reasonable doubt. Some of you may have

1 served as jurors in civil cases where you were told it is
2 only necessary to prove that a fact is more likely to be
3 true than not true, such as by the greater weight or the
4 preponderance of the evidence. In criminal cases, the
5 state's proof must be more powerful than that. It must be
6 beyond a reasonable doubt.

7 Proof beyond a reasonable doubt is proof that leaves
8 you firmly convinced of the defendant's guilt, or
9 reasonable doubt is also described as doubt that causes a
10 reasonable person to hesitate to act.

11 There are very few things in this world we know with
12 absolute certainty, and in criminal cases the law does not
13 require proof that overcomes every possible doubt. If
14 based on your consideration of the evidence you are firmly
15 convinced the defendant is guilty of the crime charged, you
16 must find the defendant guilty. If, on the other hand, you
17 think there is a real possibility the defendant is not
18 guilty, you must give the defendant the benefit of the
19 doubt and find him not guilty.

20 I remind you that during this trial, you and I have
21 certain duties to perform. As the trial judge, it's my
22 responsibility to preside over the trial. I also have the
23 duty rule on the admissibility of the evidence. You are to
24 consider only the competent evidence before you. You are
25 to consider only the testimony which has been presented

1 from the witness stand, any exhibits which are made part of
2 the record, and any stipulations of counsel.

3 I have the additional duty to charge you the law
4 applicable to this case. As the presiding judge, I am to
5 sole judge of the law, and it is your duty as jurors to
6 accept and apply the law as I now state it to you. If you
7 already have an idea as to what the law is or what the law
8 ought to be and it does not agree with what I now tell you
9 the law is, you must abandon this idea because you are
10 sworn to accept the law and apply the law exactly as I
11 state it to you.

12 In every case tried before a jury, the jury becomes
13 the sole and exclusive judge of the facts. A trial judge
14 cannot intimate, state, comment on, or make any statement
15 to the trial jury about the facts. Since you, the jury,
16 are the sole judges of the facts, you are not to infer from
17 what I have said during the progress of this trial, in
18 ruling upon the admissibility of the evidence or otherwise,
19 or anything that I say now during the course of this
20 instruction to you that I have any opinion about the facts.
21 The law does not allow me to have an opinion about the
22 facts. This is a matter solely for you, the jury, to
23 determine.

24 As jurors, it is your duty to determine the effect,
25 value, weight, and the truth of the evidence. There are

1 two types of evidence generally presented during a trial:
2 direct evidence and circumstantial evidence. Direct
3 evidence is the testimony of a person who claims to have
4 actual knowledge of a fact, such as an eyewitness.
5 Circumstantial evidence is proof of a chain of facts and
6 circumstances indicating the existence of a fact. The law
7 makes absolutely no distinction between the weight or to
8 the value to be given to either direct or circumstantial
9 evidence, nor is a greater degree of certainty required of
10 circumstantial evidence than of direct evidence.

11 You should weigh all of the evidence in the case.
12 After weighing all of the evidence, if you are not
13 convinced of the guilt of the defendant beyond a reasonable
14 doubt, you must find the defendant not guilty.

15 Crimes may be proven by circumstantial evidence. The
16 law makes no distinction between the weight or the value to
17 be given to either direct or circumstantial evidence.
18 However, to the extent the state relies on circumstantial
19 evidence, the circumstances must be consistent with each
20 other and, when taken together, point conclusively to the
21 guilt of the accused beyond a reasonable doubt. If these
22 circumstances merely portray the defendant's behavior as
23 suspicious, the proof has failed.

24 The state has the burden of proving the defendant
25 guilty beyond a reasonable doubt. This burden rests with

1 the state regardless of whether the state relies on direct
2 evidence, circumstantial evidence, or some combination of
3 the two.

4 Necessarily, you must determine the credibility of
5 witnesses who have testified in this case. Credibility
6 simply means believability. It becomes your duty as jurors
7 to analyze and to evaluate the evidence and determine which
8 evidence convinces you of its truth. In determining the
9 believability of witnesses who have testified, you may
10 believe one witness over several witnesses or several
11 witnesses over one witness. You may believe a part of the
12 testimony of a witness and reject the remaining part of the
13 testimony of that same witness. You may believe the
14 testimony of a witness in its entirety or reject the
15 testimony of a witness in its entirety. You may consider
16 whether the witness has exhibited to you any interest,
17 bias, prejudice, or other motive. You may also consider
18 the appearance and the manner of a witness while on the
19 witness stand.

20 A statement alleged to have been made by the defendant
21 has been admitted into evidence upon the court's
22 determination that the statement was voluntary and is
23 admissible. However, you must decide what weight, if any,
24 should be given to the alleged statement based on its
25 reliability. You may consider both the characteristics of

1 the defendant and the details of the questioning.

2 Some of the factors of credibility may include the age
3 of the defendant, the defendant's education or lack of
4 education, the defendant's mental ability or capacity, the
5 defendant's IQ or intelligence, the defendant's background
6 and environment, the place and length of detention, the
7 nature of the questioning, and the advice or lack thereof
8 to the defendant of his constitutional rights, including
9 but not limited to the right to remain silent, that any
10 statement could be used against him in a court of law, the
11 right to have a lawyer present, that if he could not afford
12 a lawyer a lawyer would be appointed to represent him
13 without any cost, and that he could stop making a statement
14 at any time.

15 I instruct you and emphasize that the fact that the
16 defendant did not testify is not a factor to be considered
17 by you in any way in your deliberation and in your
18 consideration on the question of guilt or innocence of the
19 defendant. It must not be considered by you in any manner
20 whatsoever. A defendant has a constitutional right to
21 remain silent, and the assertion of this right must not be
22 considered by you in your deliberations.

23 I repeat. Under you oath, you are to draw no
24 conclusion whatsoever from the fact that the defendant in
25 this case did not testify. The fact that the defendant did

1 not testify should not even be discussed in the jury room.
2 The burden of proof, as I have stated to you, is on the
3 state. The defendant is not required to prove his
4 innocence. The burden of proof remains on the state to
5 prove guilt beyond a reasonable doubt.

6 In order to establish criminal liability, criminal
7 intent is required. For example, the mental state required
8 to be proven by the state for a particular crime might be
9 purpose, intent, knowledge, recklessness, or criminal
10 negligence. Criminal intent must be proven by the state
11 beyond a reasonable doubt.

12 Criminal intent is always a matter that must be
13 determined by the jury from the circumstances surrounding
14 the situation. There is no way to prove intent to a
15 mathematical certainty. There is no way medical science
16 can dissect a person's brain and determine what the person
17 had in mind. So, the law says that criminal intent may be
18 inferred from the circumstances shown to have existed.

19 This is how you make a determination of whether or not
20 the element requiring intent was present. It is not
21 necessary to establish intent by direct and positive
22 evidence, but intent may be established by inference in the
23 same way as any other fact: by taking into consideration
24 the acts of the party and all of those facts and
25 circumstances of the case.

1 Criminal intent is a mental state, a conscious
2 wrongdoing. It is up to you to determine what the
3 defendant intended to do based upon the circumstances shown
4 to have existed.

5 Criminal intent can arise from action or failure to
6 act. It may arise from negligence, recklessness, or an
7 indifference to duty or to consequences. That is
8 considered by the law to be the equivalent of criminal
9 intent.

10 The defendant is charged with financial identity
11 fraud. The state must first prove beyond a reasonable
12 doubt the defendant did not have the authorization or
13 permission of Mr. Vitters. Second, the state must prove
14 beyond a reasonable doubt that the defendant intended to
15 unlawfully appropriate the financial resources of Mr.
16 Vitters to the defendant's own use or the use of a third
17 party; or that he intended to unlawfully devise a scheme or
18 artifice to defraud; or that he intended to unlawfully
19 obtain money, property, or services by means of false or
20 fraudulent pretenses, representations, or promises obtains
21 or records identifying information which would assist in
22 accessing the financial records of Mr. Vitters; or access
23 or attempt to access the financial resources of Mr. Vitters
24 through the use of identifying information.

25 Identifying information includes but is not limited to

1 Social Security numbers, driver's license numbers, checking
2 account numbers, savings accounts numbers, credit card
3 numbers, debit card numbers, PIN numbers, electronic
4 identification numbers, digital signatures, current or
5 former names, but only when used in combination with and
6 linked to other identifying information that I've already
7 listed; current or former addresses but only when used in
8 combination with and linked to other identifying
9 information; other numbers, passwords, or information which
10 may be used to access a person's financial resources,
11 numbers; or information issued by a governmental or
12 regulatory entity that uniquely will identify an individual
13 or an individual's financial resources.

14 Ladies and gentlemen of the jury, your verdict must be
15 a unanimous verdict, which of course means that all twelve
16 of you must agree on the verdict.

17 And, sir, on the front row on the end here, what is
18 your name, sir?

19 JUROR: Dustin.

20 THE COURT: Dustin?

21 JUROR: Dustin Fogle.

22 THE COURT: Dustin Fogle. Mr. Fogle, since you're
23 sitting in that chair, I'm going to appoint you as the
24 foreperson, and it will be -- it's a very scientific
25 process. It will be your duty, Mr. Fogle, to write the

1 verdict on the jury verdict form.

2 You will have the verdict form in the jury room with
3 you, and it's very self-explanatory. It says: As to the
4 charge financial identify fraud, we, the jury, unanimously
5 find the defendant. You select the appropriate verdict.
6 Either not guilty or guilty. Then you sign it and date it.
7 You will also have the indictment in the jury room with
8 you. And you see on the front of the indictment, there's a
9 section on here that says verdict. If you would write the
10 appropriate verdict and sign and date it as well.

11 I'm going to ask that you return to your jury room.
12 Please do not begin your deliberations until you receive
13 the verdict form, the indictment, all of the exhibits.
14 Once you receive that, then you may begin your
15 deliberations.

16 When you come to a verdict, if you would please knock
17 on the door. We'll bring you in here to receive your
18 verdict.

19 Please return to your jury room.

20 (THE JURY EXITS AT 3:09 PM.)

21 THE COURT: Any exceptions or objections to the law by
22 the state or the defense?

23 MR. SMITH: None from the state, Your Honor.

24 MR. KATA: No, Your Honor.

25 THE COURT: All right, if y'all would get together,

1 make sure you have all the exhibits. Don't go too far in
2 case we have a verdict.

3 (WHEREUPON, COURT REPORTER REVIEWS EXHIBITS WITH
4 COUNSEL.)

5 (OFF THE RECORD AS JURY DELIBERATIONS BEGIN AT 3:10
6 PM.)

7 (DELIBERATIONS HALTED DURING AN EMERGENCY EVACUATION
8 OF THE COURTHOUSE AT 3:20 PM.)

9 (WHEREUPON, THE CASE IS AT EASE.)

10 *THURSDAY, OCTOBER 26, 2023*

11 (COURT RESUMES AT 9:30 AM. JURY DELIBERATIONS
12 CONTINUE AT THIS TIME.)

13 THE COURT: Good morning, everyone. It's my
14 understanding we have a verdict. Before we bring the jury
15 out, though, I do want to place on the record what
16 transpired yesterday afternoon. The courthouse was
17 evacuated due to some safety concerns regarding some
18 natural gas. The jury was escorted outside together and
19 kept separate from the other people outside. And with the
20 consent of counsel and the presence of counsel and the
21 court reporter, we decided to let the jury go home due to
22 the time constraints and the fact that the courthouse was
23 not going to be cleared for several hours, and we didn't
24 want the jury standing outside. There was no objection
25 from either side.

1 Is that correct?

2 MR. SMITH: That's correct, Your Honor.

3 MR. KATA: That's correct.

4 THE COURT: Anything further before we bring the jury
5 out?

6 MR. SMITH: Nothing from the state.

7 MR. KATA: No, Your Honor.

8 THE COURT: Let's have the jury.

9 BAILIFF: Yes, ma'am.

10 (THE JURY ENTERS AT 10:14 AM.)

11 THE COURT: Good morning, ladies and gentlemen of the
12 jury. Welcome back.

13 Mr. Foreman, had the jury reached a verdict?

14 FOREPERSON: Yes, ma'am.

15 THE COURT: Would you please hand it to the bailiff?

16 (A PAUSE.)

17 THE COURT: Madame Clerk, would you please publish?

18 VERDICT

19 CLERK: Your Honor, on indictment 2022-GS-32-0073
20 [sic], *The State v. Akeem Davon Hampton*, we, the jury,
21 unanimously find the defendant guilty on the charge of
22 financial identity fraud.

23 Mr. Foreman and ladies and gentlemen of the jury, was
24 that your verdict and is that still your verdict?

25 JURY: (EN MASSE) Yes.

1 THE COURT: Does either party require polling?

2 MR. KATA: Yes, Your Honor.

3 THE COURT: Madame Clerk.

4 CLERK: When I call your juror number, please raise
5 your hand whenever I call your juror number. I'm going to
6 ask you was that your verdict and is that still your
7 verdict, and if you would please just respond by saying yes
8 or no.

9 POLLING OF THE JURY

10 CLERK: Juror number 64, was that your verdict, and is
11 that still your verdict?

12 JUROR: It is.

13 CLERK: Juror number 47, was that your verdict, and is
14 that still your verdict?

15 JUROR: Yes.

16 CLERK: Juror number 150, was that your verdict, and
17 is that still your verdict?

18 JUROR: Yes.

19 CLERK: Juror number 48, was that your verdict, and is
20 that still your verdict?

21 JUROR: Yes.

22 CLERK: Juror number 11, was that your verdict, and is
23 that still your verdict?

24 JUROR: Yes.

25 CLERK: Juror number 119, was that your verdict, and

1 is that still your verdict?

2 JUROR: Yes.

3 CLERK: Juror number 226, was that your verdict, and
4 is that still your verdict?

5 JUROR: Yes.

6 CLERK: Juror number 25, was that your verdict, and is
7 that still your verdict?

8 JUROR: Yes.

9 CLERK: Juror number 42, was that your verdict, and is
10 that still your verdict?

11 JUROR: Yes.

12 CLERK: Juror number 41, was that your verdict, and is
13 that still your verdict?

14 JUROR: Yes.

15 CLERK: Juror number 83, was that your verdict, and is
16 that still your verdict?

17 JUROR: Yes.

18 CLERK: And juror number 95, was that your verdict,
19 and is that still your verdict?

20 JUROR: Yes.

21 CLERK: Was there anybody's number I did not call?

22 (THERE IS NO RESPONSE.)

23 CLERK: Jury's been polled, Your Honor.

24 THE COURT: Thank you, ma'am.

25 Thank you, ladies and gentlemen of the jury. If you

1 would return to your jury room one last time? I'll be in
2 there momentarily to release you.

3 (THE JURY EXITS AT 10:17 AM.)

4 THE COURT: Anything further before I release the
5 jury?

6 MR. KATA: I'd just renew all prior motions throughout
7 the trial.

8 THE COURT: Yes, sir, and for the same reasons as
9 previously articulated, the same rulings apply.

10 MR. SMITH: Nothing from the state, Your Honor. We
11 prepared a sentencing sheet; we're ready for sentencing at
12 the court's discretion.

13 THE COURT: Yes, sir. I'll just go release the jury.
14 I'll be right back on the bench.

15 (OFF THE RECORD.)

16 THE COURT: Yes, sir, you may proceed.

17 MR. SMITH: Your Honor, I'll start with some victim
18 impact. Discussing this case with Mr. Vitters prior, there
19 was scheduling issues. He's not -- he's not here today,
20 but he did express to me that, you know, despite the fact
21 that his money was refunded due to his diligence in
22 checking on what had happened and staying on top of his
23 bank, that still doesn't take away from just kind of the
24 stress and anxiety this incident has caused him because he
25 had his Social Security number on his check. He had no way

1 of knowing if his accounts were further compromised, if his
2 -- if his identity was further compromised, and the hassle
3 and the aggravation of having to go through that and fix
4 it, you know. It's more than just, well, I got my money
5 back. No harm, no foul. This has caused a lot of
6 aggravation, a lot of frustration for the victim.

7 And, Your Honor, as Mr. -- Mr. Hampton's record is
8 fairly extensive. We have from the State of Georgia 2014
9 giving false name, address, or birth dates to law
10 enforcement, a forgery in the first degree, several counts
11 of forgery in the first degree.

12 THE COURT: How many?

13 MR. SMITH: From the year 2014, Your Honor, I am
14 counting -- I'm counting five counts of forgery in the
15 first degree. In 2016, also in the State of Georgia, a
16 probation violation. A probation revocation in 2019. We
17 now move to State of South Carolina. Got 2002 shoplifting
18 less than 2000, a failure to comply with direction of
19 police or fireman, and a reckless driving in 2003. In 2004
20 two counts of financial transaction card theft and three
21 counts of financial transaction card fraud. 2004 simple
22 possession of marijuana. 2004 forgery between 1000 and
23 \$5000. In 2005 forgery less than \$5000. 2012 forgery less
24 than \$5000, FTC theft, financial transaction card fraud.
25 In 2021 possession of stolen vehicle greater than \$10,000

1 and furnishing contraband into a county prison or -- county
2 jail or prison. In 2020 giving false information.

3 Your Honor, Mr. Hampton has a history of defrauding
4 people, forging documents. Tried to take money from other
5 people. Has a history of giving false statements to law
6 enforcement, Your Honor, in addition to the fact that he's
7 currently on probation for offense out of Richland County.

8 Your Honor, this is zero to ten year offense. We
9 leave the ultimate number to your discretion, but we
10 certainly believe that given the circumstance of this case
11 and Mr. Hampton's record, we believe a prison sentence is
12 absolutely warranted. Thank you.

13 THE COURT: Thank you, Solicitor, and what was the
14 probation sentence? What is he currently on probation for?

15 MR. SMITH: Yes, Your Honor. Beg the court's
16 indulgence.

17 PROBATION AGENT: I, I don't have those records. It's
18 a Richland County case.

19 MR. SMITH: I have -- I have it right here, Your
20 Honor.

21 PROBATION AGENT: My computer's down.

22 MR. SMITH: That conviction date was on August the
23 23rd of 2021. It was five years, credit for time served,
24 suspended to three years' probation. Same sentence for
25 both charges, Your Honor.

1 THE COURT: All right. Thank you.

2 All right, from the defense.

3 MR. KATA: Thank you, Your Honor. May it please the
4 court? Mr. Hampton would like to address Your Honor.

5 THE COURT: Okay.

6 Mr. Hampton.

7 DEFENDANT: How you doing, Your Honor? I would like
8 to apologize for wasting -- I mean, I ain't going to say I
9 wasted the court's time but, I mean, I, I felt like -- and
10 I'm -- I know I'm guilty now, so I'm not going to sit here
11 and try to prove I'm innocent, you know what I'm saying?
12 But at the end of the day, I would like to apologize to Mr.
13 Vitters and for his check being deposited in my account.

14 I received the check on the -- on intentions of me, me
15 getting the check and I -- and, and, and I did what I felt
16 was best, Your Honor, by coming here to say I didn't steal
17 the check out the mailbox, Your Honor. I didn't. The man
18 gave me the check.

19 I didn't testify because of my prior record; my lawyer
20 told me it would make me not win. I wanted to get up there
21 so bad, to sit here and say my side.

22 But with my record, my forgeries are not financial
23 base. I went to jail for driving a car. I gave the police
24 my cousin name. His name was -- we switched the names.
25 They charged me for signing out of jail, signing the bond

1 document. Signing, that's what my forgeries are for, okay?
2 That was when I -- in Georgia.

3 But when I was eighteen, Your Honor, I worked at IHOP.
4 We were just writing extra tips on the receipts and we did
5 it, like, eight, nine times, and that's what all those
6 charges are back to back. Like, we added extra \$5 on it,
7 me and the older female that worked there.

8 I haven't been in trouble like that with the law.
9 Like, like, I, I have -- I'm a decent citizen. I live
10 right, Your Honor. I mean, I know standing here before you
11 today I, I look weird, you know what I'm saying? I mean,
12 you have a job to do, but I don't live like that, and I
13 don't. I have a family.

14 My -- can I -- I have a medical condition, Your Honor,
15 that's not doing well right now. That's why the case has
16 been prolonged so long, you know, and I got on probation in
17 September. The check was deposited September. So, this
18 was the reason of my violation.

19 And, and, and I do apologize to Your Honor. I hope
20 that you have it in you to see on me -- I have a family
21 that really loves me. I have a property that I just
22 inherited that's in my name and, and, you know, I've been
23 trying to do my best, you know? And I'm not going to sit
24 here and try and act like I'm all innocent because now I'm
25 here, standing here asking something. Nobody else but me.

1 And when that money -- I wasn't given the money to fucking
2 spend -- excuse me -- spending no money. So, now that,
3 it's, it's, it's me standing there trying to plead for my
4 life with you, and I know -- I'm not trying to defraud you.
5 I don't live like -- I told you what the basis of my
6 charges was, signing to get out of jail. That's what my
7 forgeries were when I were eight -- I'm thirty-eight years
8 old now. Like, I, I don't live like that.

9 Now with my record, with the possession of stolen
10 vehicle, I was in the car riding. Police stopped us.
11 Everybody jumped out. I didn't because my luggage was in
12 the car. They charged me. I plead to it, but I felt since
13 I didn't take that check out that mailbox -- he didn't
14 offer me a plea. I would have took a better plea, but he
15 wanted me to say I signed that check, and I didn't sign the
16 check. That's what the plea was, forgery, because that's
17 what's on my prior.

18 I'm not going to sit here and say that I signed
19 something if I didn't do it, Your Honor. So, he didn't
20 give me a plea to actually do what I said I did, what I
21 actually would have done in this case. Like, I didn't take
22 the check out the mailbox. When Mr. Vitters gave me the
23 check, I deposit it. I gave him some of the money back,
24 and I cashed the -- and I, I went towards getting a car.

25 The bank, I still have my account at Navy Federal.

1 They didn't close my account. They got the money back.
2 Mr. Vitters got his money back. I still have my account.
3 Like, I do apologize and, like, I would like to say the
4 money has been paid back. I still have my account with
5 Navy Federal and Navy Federal and my credit card and all,
6 Your Honor.

7 I have a family that love me. My medical condition
8 which is -- it has declined real bad. Like, I'm under 200
9 right now, if you know what I'm saying.

10 Can I say that for the record? I don't want to put it
11 on the record.

12 (COUNSEL CONFERS WITH DEFENDANT.)

13 DEFENDANT: It's not going to do well with prison,
14 Your Honor. Like, I know you got to send me because they
15 found me guilty, but I'm under 200, like, it's one fucking
16 -- I don't live that, Your Honor. I don't. I really
17 don't. Like, I don't. I don't, but I ain't begging for
18 you, none of that. I give money to bums. I try to do
19 right by the people. Like, I don't live like that. I
20 don't.

21 I ain't never been to prison a day in my life. Like,
22 I've never been and, and if you feel like I got to go, I
23 mean, it's up to Your Honor, but I just want you to know I
24 really don't live like that.

25 I just inherited a property; I did remodeling and all

1 that. I have a family that love me. I'm not going to be
2 here much longer. My health is declining anyway. I'm
3 under 200 today. I mean, I may die in prison if you send
4 me there. I'm being real, just being real with you because
5 I'm under 200, so my time is limited here, and I know it
6 looks good on the outside, but it's really -- it's, it's
7 declined tremendously. I had the monkeypox. That's --
8 they knew it. That's why I couldn't make it to court.
9 That's why they, they -- you know what I'm saying? The
10 court pretty much hold off on the case.

11 And if he would have gave me a plea that made me feel
12 that I was guilty of doing it, I -- maybe I would have took
13 it, but he didn't offer any plea bargain for forgery, and I
14 didn't sign the check. Not one other plea did I receive
15 other than forgery, and why would you want me to stand here
16 and say I signed something if I didn't do it?

17 I was given the check. I deposited it. So, deposit
18 something in my account. That's what I would have plead to
19 if I was guilty, but he didn't even offer it because I
20 deposit it in my account, and if the check wasn't legit, I
21 was wrong in doing it. But he tried to charge me with
22 something I didn't do, and now that I'm guilty of it, I'm
23 not sitting here and saying that I'm innocent. I mean, I'm
24 guilty and I do apologize for the court's time and Mr.
25 Vitters, but the money has been paid back to the bank, and

1 Mr. Vitters got his money back, and my account is still in
2 good standing, Your Honor, and I do apologize to you, and I
3 just wish you have some leniency on me even though it's me
4 standing here by myself when it all said and done and when
5 the money was here, it was more people than me.

6 THE COURT: Thank you, Mr. Hampton.

7 Anything further from anyone?

8 MR. SMITH: Your Honor, for the record, Mr. Hampton
9 was made a plea offer from the state to -- for -- by the
10 state for forgery less than \$10,000. That's a zero to five
11 year charge. Mr. Hampton rejected that offer, which is his
12 right he exercised. He said he wanted a trial, which is
13 his right, but he was made a plea offer.

14 DEFENDANT: Forgery.

15 THE COURT: Well, Mr. Hampton, it sounds like the
16 state did give you a plea offer. Quite frankly, I don't
17 see why they should have considering your prior record, the
18 fact that you were on probation for the same thing. You
19 absconded from probation. You say you haven't lived like
20 that. You've lived like that since 2002, constantly
21 getting in trouble and convicted. You've been given
22 multiple ---

23 DEFENDANT: Well, all my charges on the same day.

24 THE COURT: You want to keep interrupting me?

25 DEFENDANT: No, ma'am.

1 THE COURT: All right. You've been given multiple
2 opportunities to be on probation. So, to show you can turn
3 it around and be a productive member of society, you
4 completely ignored that and continue to get arrested and
5 get convicted.

6 DEFENDANT: Can I say something, Your Honor? I didn't
7 mean to cut you off. My convictions are all in one day.
8 The signing of the forgeries, if you look, they're all in
9 one day. They're not -- I mean, yeah, I been arrested, but
10 they're not, like, I got arrested for back to back to back
11 to back. No, ma'am. All my charges fall on one day. All
12 five of those forgeries, one day.

13 THE COURT: You've got convictions starting from 2002,
14 2003 ---

15 DEFENDANT: I was sixteen.

16 THE COURT: --- 2004 ---

17 DEFENDANT: Seventeen.

18 THE COURT: --- 2004, 2005, 2012, '21, '20, '14, '16,
19 '19. That's not one day, Mr. Hampton.

20 DEFENDANT: My other forgeries, financial charges.
21 I'm sorry.

22 SENTENCE OF THE COURT

23 THE COURT: Mr. Hampton, on indictment
24 2022-GS-32-00773, you are hereby committed to the state
25 Department of Corrections for a period of ten years. You

1 get credit for any time that you have served.

2 DEFENDANT: Damn.

3 MR. KATA: Thank you, Your Honor.

4 MS. TAYLOR: Thank you, Your Honor.

5 --- END OF TRANSCRIPT OF RECORD ---

CERTIFICATE

I, THE UNDERSIGNED ELIZABETH B. HARRIS, CERTIFIED
VERBATIM OFFICIAL COURT REPORTER FOR THE FIFTH
JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO
HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE
AND COMPLETE TRANSCRIPT OF RECORD OF ALL THE
PROCEEDINGS HAD AND EVIDENCE INTRODUCED IN THE HEARING
OF THE CAPTIONED CAUSE, RELATIVE TO APPEAL, IN THE
CIRCUIT COURT FOR LEXINGTON COUNTY, SOUTH CAROLINA, ON
THE 23RD, 25TH, AND 26TH DAYS OF OCTOBER, 2023.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST IN ANY PARTY HERETO.

/S/Elizabeth B. Harris, CVR-M-CM

COLUMBIA, SOUTH CAROLINA

JUNE 7TH, 2024

WITNESSES

Lexington County Sheriffs Department

Joseph M Andoloro

Law Enforcement Case #: 21017697

DOCKET NO. 2022GS3200773

F1A

The State of South CarolinaCounty of Lexington

KES

ARREST WARRANT NUMBER

2021A3210700462

COURT OF GENERAL SESSIONSMARCH TERM 2022THE STATEACTION OF GRAND JURY**TRUE BILL***Jonathan*
Foreperson of Grand Jury
3/7/2022

VERDICT

Guilty

CDR #: 2813

Indictment for

Financial identity fraud

§ 16-13-0510

Justin R. Felt 10/26/23
Foreperson of Petit Jury

Date:

S.R. Hubbard III, SOLICITOR**I DO HEREBY WAIVE MY RIGHT
TO GRAND JURY PRESENTMENT**

DEFENDANT

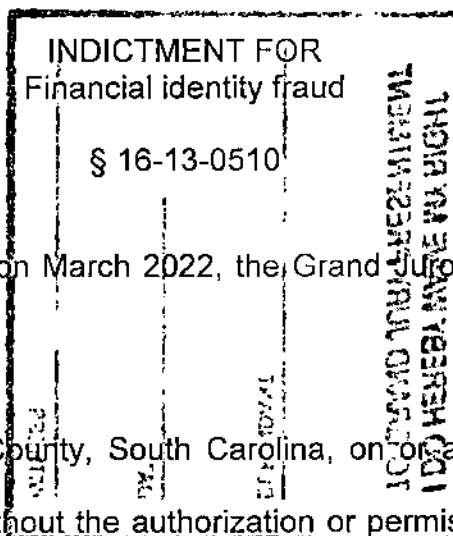
DATE

WITNESS

*pleading to

Forgery, < \$10,000

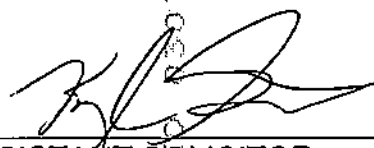
STATE OF SOUTH CAROLINA)
)
 COUNTY OF LEXINGTON)
)



At a Court of General Sessions, convened on March 2022, the Grand Jurors of Lexington County present upon their oath:

That **Akeem Davon Hampton** did in Lexington County, South Carolina, on or about September 13, 2021, unlawfully and knowingly, without the authorization or permission of John Vitters and with the intent to unlawfully appropriate the financial resources of John Vitters to his own use or the use of a third person, did access or attempt to access the financial resources of John Vitters to wit; the defendant did deposit victim's stolen and forged check into his own bank account by using the victim's identifying information on said check. All in violation of Section 16-13-510, Code of Laws of South Carolina, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

SCANNED 3/30/22

0-10 years and/or a fine

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Lexington

STATE

VS.

INDICTMENT/CASE#: 2022 - GS - 32 - 00773

Akeem Davon Hampton

AW#: 2021A3210700462

AKA:

Date of Offense: 9/13/2021Race: Black Sex: M Age: 38S.C. Code §: 16-13-0510DOB: 1985 SS#: [REDACTED]CDR Code #: 2813Address: Fontaine PlCity, State, Zip: Columbia, SC 29223-4525

DL#*

SID#

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the above indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADSTO: FinanTC / Financial identity fraud or identity fraudIn violation of § 16-13-0510 of the S.C. Code of Laws, bearing CDR Code # 2813
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS ☐ § 17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def.'s initials)

 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
 ATTEST:

[Signature] 103281
 Solicitor SC Bar # Defendant Attorney for Defendant SC Bar #

WHEREFORE, the Defendant is committed to the ☒ State Department of Correction ☐ County Detention Center,for a determinate term of 0 days/months/years/Time Served ☐ Youthful Offender Act not to exceed years
 and/or to pay a fine of \$; provided that upon the service of days/months/years/Time Served and or payment
 of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

 months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

The sentence shall run

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by SCDOC.
 days/months
☐ To include time spent on monitored house arrest prior to trial and sentencing.☐ The Defendant Shall be Released from County Detention Center.
 Pursuant to 18 U.S.C. § 922 and § 16-25-30 it is unlawful for a person convicted of a violation of § 16-25-20 or § 16-25-65
 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

Vacate Bench Warrant

STATE VS. Akeem Davon Hampton INDICTMENT/CASE#: 2022 - GS - 32 - 00773

SPECIAL CONDITIONS:

☐ PTUP after _____ months/years

And Other Terms Listed Below:

- ☐ Substance Abuse Counseling ☐ Completion of GED ☐ Random Drug/Alcohol Testing
☐ Attend Voc. Rehab. Or Job Corp ☐ No Contact with Victim ☐ Domestic Violence Intervention Program
☐ Mental Health Counseling ☐ May serve W/E beginning: _____
☐ Sex Offender Registry pursuant to S.C. Code § 23-3-430 ☐ Public Service Employment _____ days/hours
☐ Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.
☐ Other: _____

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total \$ _____ plus 20% fee: _____ \$ _____

Payment Terms: _____ ☐ Set by SCDPPPS

Recipient: _____

*Fine:

Fine may be pd. in equal consecutive weekly/monthly pmts. of \$ _____ Beginning _____

		\$
§14-1-206 (Assessments 107.5%)		\$
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$100
§14-1-211 (A)(2)(DUI Surcharge)	\$100	\$
§56-5-2995 (DUI Assessment)	\$12	\$
§56-1-286 (DUI Breath Test)	\$25	\$
§14-1-212 (Law Enforce. Funding)	\$25	\$75
§14-1-213 (Drug Court Surcharge)	\$150	\$
§34-11-70(b)and(c), and 34-11-90(c)and(d) (Admin Fraud Check Court Costs)	\$41	\$
§50-21-114 (BUI Breath Test Fee)	\$50	\$
§56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	TBD	\$
☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees	\$500	\$
☐ § 17-3-30(B) Unpaid Application Fee to be paid to the Public Defender Fund	TBD	\$
TOTAL		\$175.00

 Clerk of Court/Deputy Clerk: Elizabeth Harris
 Court Reporter:

 Presiding Judge: Narti Murphy
 Judge Code: 2146
 Sentence Date: 10/26/23

Nov 06 2024

SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT

This 6th day of November, 2024.

RECEIVED

Nov 06 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Lexington County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

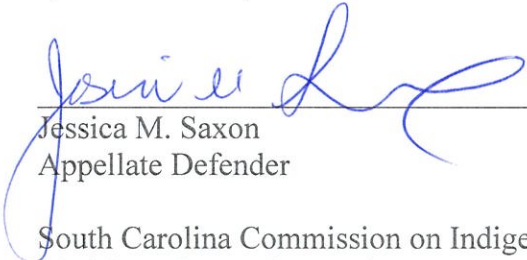
AKEEM DAVON HAMPTON,

APPELLANT

APPELLATE CASE NO. 2023-001726

CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Akeem Davon Hampton, #353416, at Tyger River Correctional Institution, 200 Prison Road, Upper Yard, Enoree, SC 29335, this 6th day of November, 2024.



Jessica M. Saxon
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589

ATTORNEY FOR APPELLANT