

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

PROSE BRIEF OF APPELLANT

AKEEM HAMPTON
APPELLANT

200 PRISON Rd
ENOREE SC 29335

316 FONTAINE Place
COLUMBIA SC 29223

Jessica M. Saxon
(Attorney) for Appellant

RECEIVED

DEC 13 2024

SC Court of Appeals

TABLE OF CONTENTS

Table of Contents	<u>i</u>	
Table of Authorities	<u>ii</u>	
Statement of ISSUE ON APPEAL		<u>1</u>
Statement of the CASE		<u>2</u>
ARGUMENT	<u>3</u>	
DISCUSSION	<u>12</u>	
CONCLUSION	<u>14</u>	

TABLE OF AUTHORITIES

State v Northcott 372 SC 207, 222 641 (2007)

Edmond v State 341 SC 340, 534 SE (2000)

RULES OF COURT:

Rule 603

STATEMENT OF ISSUE ON APPEAL

1. Whether the Trial COURT ERRED IN DENYING Appellant motion for Directed Verdict ON Financial Identity fraud at the Close of State Evidence. STATE Failed specifically on the issue Intent to UNlawfully appropriate the funds.
2. Whether the Trial COURT Erred IN Denying Appellant motion for Directed Verdict again at the Close of Defense Evidence. Explaining there HAS BEEN additional Testimony in this case that showed NO CIRCUMSTANTIAL COMPONENT in the case.

STATEMENT OF THE CASE

IN MARCH 2022, APPELLANT WAS INDICTED BY LEXINGTON COUNTY GRAND JURY FOR ONE COUNT OF FINANCIAL IDENTITY FRAUD. THE STATE REPRESENTED BY KYLE E SMITH AND WHITNEY TAYLOR. CALLED THE CASE TO TRIAL ON OCTOBER 23, 2023 BEFORE HONORABLE MAITE MURPHY AND A JURY. APPELLANT WAS REPRESENTED BY JUSTIN KATA. APPELLANT WAS FOUND GUILTY AS INDICTED. JUDGE MURPHY SENTENCED APPELLANT TO TEN YEARS OF INCARCERATION.

ARGUMENT

The trial COURT erred in Denying Appellant motion for Directed Verdict of NOT guilty on Financial Identity fraud. There is a lack of evidence that would have allow this case to go to the JURY Specifically on the issue with the Intent to unlawfully appropriate the financial Resources of the Other individual to the person own use.

Relevant Facts

On September 13, 2021, John Vitters Placed a Check in the MailBox to pay His estimated quarterly taxes. The Check was made out to the United State Treasury for \$10,000 and included Vitters SOCIAL Security number in the memo line (R. 49, 1-17) (R-51, 1-23) MR Vitters expected the Check to clear three days after he placed it in the mail. R. 53 11-1-7. Someone stole the check out of His mail Box. The following morning MR Vitters received an EMAIL from His Bank that the check had been Deposit. and discovered the information on the check had been altered. The check was now made out to Akeem Hampton and on the memo line reference a Dodge Challenger R. 53 11-8-16 R. 55, 11-10-18

Investigator Joseph Andoloro with Lexington County Sheriff's Department spoke with Appellant. Appellant reported to Andoloro that "This guy name John was helping the Appellant out here and there over the past 6 months gave the Appellant the check. Appellant told him the check had cleared and it was good."

When Investigator Andoloro testify for the State as a witness he stated "Appellant said he gotten the check 6 months prior to depositing it from a guy name Johnny that he be helping out R. 76 15-20 which was untruthful testimony. Investigator Andoloro testified after that conversation with the Appellant

He obtained an Arrest Warrant for the Appellant (R. 76 21-24) (R. 77 5-14) but fail to investigate Appellant claim of the guy who gave Appellant the check. Appellant then reach out to Investigator Andoloro

Supervisor Brian Burrell with is a Sergeant over Property Crimes with Lexington County. R. 84 16-25 Appellant initiated contact with him R. 85 6-25

Burrell sent Appellant his work email so Appellant could send him the email. That email included

A screen shot of a picture Appellant holding a check.

Also Appellant Bank records a copy of the Police Report he filed with Richland County Police and a copy of the report he filed with the FTC

R. 86 1-10

Appellant told Burrell if you look at my Bank Records September 9th there is a transaction for a cash app from John Daddy that who gave Appellant the check. And also told Burrell R. 90 6-12 but Burrell fail to act on Appellant claim of being a victim as well. Investigator testified he review Appellant Bank records but over look to see the cash app transaction on the 9th of September 3 Day before Appellant deposit the check. That transaction shows that there is a John because the transaction happen before he gave Appellant the check on the 13th of September. (R. 89-1-25) Appellant Attorney Mr KATA cross examination for Investigator Burrell he ask did he see any marking around "PAY to the order of" on the check he testify he cannot see any marking. R. 91-1-25 also R. 92-1-25 Burrell testified that Appellant reported he was involved with a John, he met on a gay website, he also stated that Appellant reported to him that, that person is who gave him the check to deposit and in fact sent you a copy of the check that he received (R. 93-1-25) The State Redirect Investigator Burrell about exhibit 1 which is the same photo of the check that Appellant deposit where he just testify he didnt see any marking also Mr Vitter testify he didnt see any marking as well R. 64-1-25.

Burnell testified that now see visible alteration on the check after he already said he didn't. MR Vitters testified he didn't as well at that moment this trial became fundamentally unfair. R 96-1-25 R 97-1-3. Investigator Kyle KOVALCHECK from Richland County Police Department testified that Appellant filed a report in Richland County and Appellant was listed as the victim in that report. (R 106, 8-25) (R 107-1-10) (R 112, 4-8) Investigator KOVALCHECK testified the narrative was incomplete but went on to explain the narrative of the report. (R 113 ⁸⁻²⁵ 8-25) The narrative Appellant reported he met an individual on a gay dating site. Appellant reported that the guy John he met is who presented him with the check and Appellant reported CARLA Labrador was there and witness this John giving Appellant this check. And Appellant reported that John wife didn't know he was gay and she saw the transaction that's why he canceled the check. And Investigator KOVALCHECK testified he didn't feel that this report was false that's why he didn't file any charges against Appellant. (R 113 22-25) (R 114 1-25) (R 115 1-12) And at that time STATE rested their case (R 117 4-25)

Appellant Feels The Trial COURT Erred in Denying
A MOTION for Directed Verdict Because the
evidence merely raised a suspicion the Appellant
is guilty. The STATE fail to meet all Elements for
the Charge of financial Identity fraud. Appellant HAD
NO Criminal intent TO fraud Mr Vitters. Evidence WAS
NOT sufficient to SUPPORT finding that Appellant
WAS aware the Check WAS Stolen. Appellant
feel Trial COURT Erred and Abuse of Discretion when
Denying Appellant motion for Directed Verdict. A
Trial COURT should NOT Refuse to grant a Directed
Verdict motion when an OPINION as to guilt Based
UPON facts or Circumstances which DO NOT AMOUNT
TO PROOF IN Ruling ON a Directed Verdict motion
when the State Relies ON Circumstantial Evidence
the COURT must Determine whether the Evidence Presented
is sufficient TO ALLOW reasonable Juror TO Find the
Appellant guilty. Unfair Prejudice speak to capacity of
some concededly Relevant Evidence to lure the fact finder
into declaring guilt on a ground different from the
proof specific to the offence Charge. MR KATA Appellant
Reason For the motion of Directed verdict is Because
there is lack of Evidence that would allow this

This case to go to the jury specifically on the issue with the intent to unlawfully appropriate the financial resources of the other individual to the person own use. Mr. Kate explain to the court that there is evidence on the front end and their evidence on the back end. The evidence shows the check left the victim's possession and was not in the same condition as when he wrote it. Then we fast ~~forward~~ forward to we have admittedly that Appellant deposited the check but what is devoid in the record is any of the actions that happened in between those two times. What was Appellant mental state when he deposit was made. NO witnesses have been presented here today to testify as to what his mental state was. (¶ 118 1-25) And that's why Trial Court erred for denying the motion we have beginning evidence and we have ending evidence we have NO evidence in between and that's why Appellant asking for directed verdict of NOT guilty specifically on the requirements for the state wasn't able to prove beyond a reasonable doubt that there was an intent to unlawfully appropriate. There's NOT specific tangible evidence. The state failed Appellant for undermined the defense that he was scam as well. It is improper for the state to violate constitutional right of the Appellant to get a conviction. The case was never investigated correctly from the start. 8

Trial Court erred in Denying A motion for Directed verdict at the close of Defense Evidence.

Explaining there Has Been additional Testimony In the case that showed NO Circumstantial Component in the Case.

Carla Labrador Testify under Oath that she WAS Present when Appellant Recieved the Check from John, she also testify what John was giving Appellant the money for A Dodge Challenger. She Explained Appellant and John ~~was~~ Relationship. And How He wanted Appellant to purchase a car. She also testify when Appellant found out the Check was no good CARLA Testify she Help Appellant Report this crime (R 124-1-25) R 125-1-25 (R 126 1-25) (R 127, 1-25) (R 128 1-25) (R 129- 1-25) (R 130 1-25) (R 131- 1-25) And The defense Rested Appellant Attorney Ask for a Renew of motion for Directed verdict. And again TRIAL COURT ERRED. IN DENYING motion

Investigator testify He Did not Reach out to Richland county about Report Appellant filed (R 136 21-25) He testify He reviewed the Report Appellant file and nothing in the Report refence CARLA witness up A check (R 137 1-25) R 138-1-25 He testify That He WAS NOT AWARE of a Romantic Relationship Between Appellant and a John R 139 1-25 And Testify A completely Different story about what I Reported to Him (R-138 11-25) He testify Appellant NEVER mention CARLA Labradon, But then testify He read the Report that was unintelligible But say He read in the Report CARLA witness the check. And that CARLA witness up a check mean Nothing to Him (R 141-1-25) (R 142-1-25)

Appellant feels His trial wasnt fair, the Jury WAS TRICKED with the State lies the State WAS VERY IMPROPER in this TRIAL They Evidence WAS BASE UPON NOTHING But lies And Suspicion of guilt that showed NO PROOF.

LAST Thing even After STATE Tricked
the jury with untruthful testimony and
lies They found me guilty. The STATE
Went on under OATH while Im getting
Sentence telling the Judge more lies I
got 10 year Becaus the state told the
Judge that Im on Probation for the same
Charge witch WAS untruthful R 182 17-25
APPELLANT WAS ON Probation for poss of
Stolen Vech (HAD A Rental car a few days longer
then I should Have) R 188-15-25 and
the fact Im on Probation for the same
thing, made my Sentence UNFAIR

PLEASE HELP ME

Im A Victim as well I Report this over
w over why no one cares what Im saying
look a my Bank Statements ^{↓ sept 9"} JOHN DADDY IS
who gave me the Check !!

DISCUSSION

While the Solicitor should prosecute vigorously, his duty is not to convict a defendant but see justice done. "State v. Northcutt, 372 S.C. 207, 222, 641 S.E. 2d 873 (2007). The Solicitor's opening and closing arguments must be based upon this principle. Our Courts held that it is improper for the state to refer to or comment upon a defendant's exercise of a constitutional right, Edmond v. State 341 S.C. 340, 534 S.E. 682 (2000) such comments shouldn't be made either directly or indirectly. In particular the state may neither comment upon nor present evidence at a trial of a defendant's decision to exercise his rights to remain silent or be represented by an attorney. The prohibition on this practice is rooted in due process and the belief that justice is best served when a trial is fundamentally fair." The obvious purpose is to try to prevent jurors from improperly inferring the accused is guilty simply because he exercised a right guaranteed him by the state and federal constitution, such an inference is constitutionally impermissible because the burden at all times remains upon the state to prove beyond a reasonable doubt every element of a crime with which the accused is charged. While appellants did not overcome the prejudice suffered by direct comments by the state, conflicting testimony from the state witness. These comments on appellants' exercise of his constitutional right to remain silent.

DISCUSSION

Appellant through his statement to law enforcement and the testimony of CARLA LABRODAR defense witness who was present when Appellant received the check asserted that he been the victim of a scam as well Appellant reported this to both of state witness of Lexington County Sheriff Department. Some of their testimony was untruthful and under oath. RULE 603 WAS VIOLATED AND IT WAS IMPROPER FOR THE STATE ALLOWING WITNESS TO GET ON THE STAND UNDER OATH AND GIVE CONFLICTING TESTIMONY AND UNTRUTHFUL TESTIMONY TO CONVICT APPELLANT. ^{WITCH} MADE THIS TRIAL FUNDAMENTALLY UNFAIR AND CLEARLY MADE THE JURORS QUESTION THE ACCUSED IS GUILTY SIMPLY BECAUSE HE DIDNT TESTIFY. THE SOLICITOR SHOULDN'T HAVE UNDERMINED THIS DEFENCE BY ASKING THE JURY QUESTION WHY THE APPELLANT HAD NOT TOLD THE STORY IN DETAILS WHEN IN FACT ACCORDING TO TESTIMONY FROM BOTH OF STATE WITNESS HE REPORTED IT TO THEM AND THEY FAILED TO ACT ON HIS REPORT. THE SOLICITOR COMMENTS INFERRED THAT APPELLANT WAS BEING UNTRUTHFUL IN HIS DEFENCE THE ONLY WAY TO HAVE UN-RING THAT BELL WOULD HAVE BEEN TO GRANT A MISTRIAL. EVIDENCE WAS NOT SUFFICIENT TO SUPPORT FINDING THAT APPELLANT WAS AWARE THE CHECK WAS STOLEN AND HAD NO INTENT TO STEAL ANYTHING. THE TRIAL COURT ERRED IN REFUSING TO GRANT MOTION FOR MISTRIAL AND ALSO ERRED IN DENYING MOTION FOR DIRECTED VERDICT OF NOT GUILTY FOR LACK OF SUFFICIENT EVIDENCE.

CONCLUSION

Based on the foregoing argument, Appellant Respectfully Requests that this COURT Reverse His conviction and sentence and Remand the Case back to the COURT of General Sessions of Lexington County for a New Trial and OR rule on Appellant motion for a Directed Verdict and find the Appellant (NOT GUILTY) FOR LACK OF EVIDENCE

This 12th Day of December 2024

Notary: Paul Dennis Cue
GPPAR: Dec. 10, 2024

Akeem Hampton
PRO SE
12-9-24

Thank you
GOD BLESS
≡ ≡

What I sent to INvestigate

SQ *R & S -\$18.35 \$8.66
MANAGEME COLUMBIA SC

7:10 PM Wed Sep 15

17%

Active Duty Checking -...

Transactions

Available Balance
-\$9,700.56

HIDE DETAILS

Current Balance \$9,790.44

Average Daily Balance \$6,650.60

Last Statement Balance \$0.94
Ending 09/11/2021

Routing Number 256074974

Account Number 0557 SHOW

Active Duty Checking CHANGE

Joint Owner ADD

Direct Deposit Form CREATE

? Current vs Available Balance

keyword, amount, or mm/dd/yyyy

Transaction	Amount	Balance
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Sep 14

Transfer To SOMALIA HAMPTON	-\$370.00	\$9,790.44
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Sep 13

eDeposit-Scan/Mobile	\$10,000.00	\$10,160.44
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Adjustment - Cr	\$159.50	\$160.44
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Sep 11

Statement as of 09/11/2021

Sep 9

POS Debit - 6356 - CASH	-\$50.00	\$0.94
APP*JON D*ADD 8774174551 CA		

Sep 8

POS Debit - 6356 - LYFT RIDE TUE	-\$7.72	\$50.94
8P 855-865-9553 CA		

Transfer From SOMALIA HAMPTON	\$50.00	\$58.66
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Sep 7

POS Debit - 6356 - SQ *R & S	-\$18.35	\$8.66
MANAGEME COLUMBIA SC		

When check got deposit

Who gave me check

Manage Card

Statements

Send Money



Scheduled Transactions
View scheduled payments, transfers, deposits



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What I Sent to Investigation

11/24/21

Dear Akeem Hampton,

This is to advise you I have been trying to contact you regarding the report you
our department. Your case number is 2111025810. I have been assigned to
this case. To do so however, I need to get more information from you. To d
been unable to reach you by phone.

Please call me at the below phone number. If you call and I am unable to a
phone, please leave a message with your name, case number, and a phone n
may contact you regarding your case.

It is very important that you contact me as soon as possible. Should I not
within the next ten (10) working days, your case will be closed.

Sincerely,

Inv. K. Kovalchek
Criminal Investigative Division
803-576-1438



Below is a list of incidents you can report through the phone:

- License Monetary Value less than \$2,000 (including gas, tolls, etc) and theft from an auto where victim is calling from another city/state
- Burglary of residential room where a victim is calling from another city/state
- Windstorm/Meteoroid impact where property damage is \$500 or less.
- Fraud or Breach of Trust where the loss is less than \$1000.00; cases where there is evidence to be gathered or collected.

What I sent to Investigator



FEDERAL TRADE COMMISSION
ReportFraud.ftc.gov

FTC Report Number

141671662

Consumer Report To The FTC

The FTC cannot resolve individual complaints, but we can provide information about next steps to take. We share your report with local, state, federal, and foreign law enforcement partners. Your report might be used to investigate cases in a legal proceeding. Please read our Privacy Policy to learn how we protect your personal information, and when we share it outside the FTC.

About you

Name: Akeem Hampton

Email: Keemhamp@yahoo.com

Address: 316 Fontaine Pl

Phone: 803-466-7201

City: Columbia State: South Carolina Zip Code: 29223-4525

Country: USA

What happened

I met a guy on a app call Jack It's a gay app. We kicked it off we Chatted on the app Four months I didn't have a vehicle he wanted me to come see him A lot he claim he is a regional manager at Costco's and moved from Florida Georgia South Carolina North Carolina Alabama Costco's. He offered to help me get a vehicle and wrote me a check four 10,000 talking about I look good in a dodge challenger but tell me then I should cash a check in my account by depositing I and then pay the car Lott my self since he wasn't able to be here to pay for it and once I go to the car like he was going to fax over a his info to basically cosign or put it in his name or something. I deposit the check it cleared I transferred the money over to my sister to pay off debt the .Check return He's telling me that he's on the down low and his wife doesn't know he's gay and she saw the transactions so he disputed It and that I shouldn't worry he's handle it on I've been reaching out to him on the app and he recently gave me a phone number and pretty much the bank said that the check was for was fake.

What I sent to Investigation

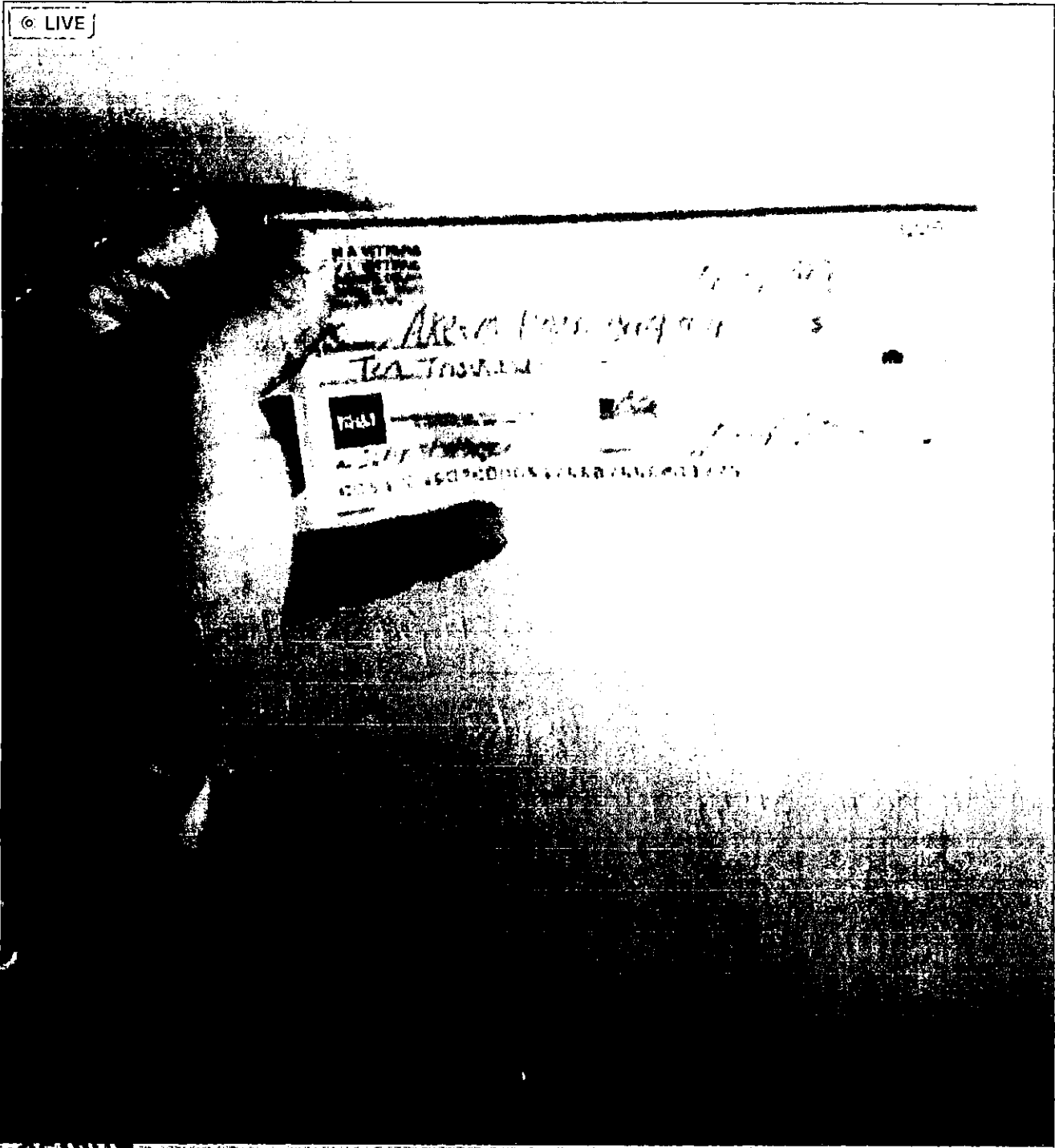
1:50 PM Wed Dec 22

82%

September 13
5:20 PM

Share Heart Delete Ed

LIVE

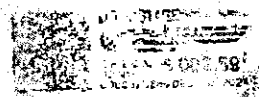


5623 Two Notch
PO Box 143
Columbia, SC 29202

MESENGER
You missed a call from Jaquawn.

now

Akeem Hampton 353416
Tiger River Correctional Institution
Upper Yard
200 Prison Rd
Inmate SC 29835



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DEC 13 2024
SC Court of Appeals

SOUTH CAROLINA COURT OF APPEALS
P.O. Box 11629
Columbia SC 29211
ATTN Catherine Harrison

RECEIVED
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TYGER RIVER MAILROOM

LEGAL MAIL
12-9-24