

ORIGINAL

STATE OF SOUTH CAROLINA

In The Court of Appeals

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SC Court of Appeals

APPEAL FROM LEXINGTON COUNTY

Edward B. Cottingham, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRIAN CURTIS MACK,

APPELLANT

APPELLATE CASE NO. 2013-001726

RECORD ON APPEAL

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Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
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1 State of South Carolina

Court of General Sessions

2 County of Lexington

3
4
5 State)

6 v.)

7 Brian Curtis Mack)

8 Defendant.)

Transcript of Record

12-GS-19-0392

13-GS-32-1004

13-GS-32-1012

9
10 July 10, 2013

11 Lexington, South Carolina

12
13 B E F O R E:

14 The Honorable Edward B. Cottingham, Sr., Judge.

15
16 A P P E A R A N C E S:

17 Shannon A. Davis, Assist. Solicitor
Attorney for the State

18 Orin G. Briggs, Esquire
19 Attorney for the Defendant

20
21
22
23
24 Stacy L. Sheppard, RPR
25 Circuit Court Reporter

1

I N D E X

2

WITNESSESDIRECTCROSSREDIRECTRECROSS

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(There were no witnesses.)

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EXHIBITS

NO.DESCRIPTIONID.EVD.

(There were no exhibits.)

1 (The following proceedings were held on July
2 10, 2013.)

3 **THE CLERK:** 2013-GS-32-1004, State versus Brian
4 Curtis Mack indicted for financial transaction card
5 fraud. He is pleading as charged. The indictment
6 is true billed.

7 2013-GS-32-1012, State versus Brian Curtis Mack
8 indicted for criminal sexual conduct with a minor
9 first degree. He is pleading to assault and battery
10 second degree. He is waiving presentment to the
11 grand jury.

12 2012-GS-19-392, State versus Brian Curtis Mack
13 indicted for forgery. He is pleading as charged.
14 The indictment has been true billed. And he is
15 represented by Mr. Briggs.

16 **THE COURT:** All of them true billed?

17 **THE CLERK:** He is waiving presentment to the
18 assault, the assault and battery.

19 **THE COURT:** That's the criminal sexual conduct?

20 **MS. DAVIS:** Yes, sir. He's pleading to A and B
21 second for the CSC charge and he's waived as to
22 that.

23 **THE COURT:** Is there any registry?

24 **MS. DAVIS:** The State's not asking for him to
25 be on the registry, Your Honor.

1 **THE COURT:** Is this plea as to the assault and
2 battery freely made by him?

3 **MR. BRIGGS:** It's going to be a no contest,
4 Your Honor, because we are still debating about
5 that, but I don't want to dwell on it a lot, but
6 I'll just mention briefly so the Court knows.

7 **THE COURT:** Well, I didn't hear the Solicitor
8 say they were accepting a nolo contendere.

9 **MS. DAVIS:** I wasn't aware that he was pleading
10 nolo, but --

11 **THE COURT:** Well, I'm not aware I'm going to
12 take it in a --

13 **MS. DAVIS:** I don't object to it, Your Honor.
14 The victim in that case was three years old. We
15 have problems with her competency and they --

16 **THE COURT:** On that basis, I can take a nolo.

17 **MS. DAVIS:** Yes, sir. And she's been asked not
18 to be -- her mother's asked for them not to be
19 contacted, Your Honor.

20 **THE COURT:** All right. Now, how about as to
21 the other charge, how does he plead, Counsel?

22 **MR. BRIGGS:** He pleads guilty to the -- one of
23 them is an Edgefield charge, the other one is
24 fraudulent check, Your Honor. He pleads guilty to
25 both of those.

1 **THE COURT:** Well, let me talk about the
2 Edgefield. He's entitled to have that dealt with in
3 Edgefield County. Does he consent to the
4 jurisdiction of Lexington County with regard to that
5 charge?

6 **DEFENDANT:** Yes, sir.

7 **THE COURT:** Sir?

8 **DEFENDANT:** Yes, sir, Your Honor.

9 **THE COURT:** Counsel, you agree with it?

10 **MR. BRIGGS:** Yes, sir.

11 **THE COURT:** And what charge was that, the
12 forgery or the other one?

13 **MS. DAVIS:** That's the forgery, Your Honor.
14 I'm handling that for Assistant Solicitor Ervin
15 Maye.

16 **THE COURT:** Pardon me?

17 **MS. DAVIS:** I said, I'm handling that for Ervin
18 Maye.

19 **THE COURT:** Okay. Let's talk about the alleged
20 assault and battery second upon the three year old.

21 **MS. DAVIS:** Yes, sir, Your Honor. That
22 occurred July 20th of 2012 at [REDACTED] --
23 [REDACTED] within Batesburg-Leesville. There
24 it's alleged that he inappropriately touched the
25 victim, Minor , who was three years old at the

1 time, Your Honor.

2 **THE COURT:** Does he understand that a nolo
3 contendere plea is saying to me, I am not contesting
4 this charge?

5 **MR. BRIGGS:** He does, and he understands the
6 consequences of it, same as pleading guilty, Your
7 Honor.

8 **THE COURT:** Do you agree with that?

9 **DEFENDANT:** Yes, sir, Your Honor.

10 **THE COURT:** And do you understand you were
11 entitled to a trial by jury and to confront the
12 witnesses against you on this charge?

13 **DEFENDANT:** Yes, sir, Your Honor.

14 **THE COURT:** You're asking that I accept your
15 plea to the amended charge of A/B second; is that
16 correct?

17 **DEFENDANT:** Yes, sir, Your Honor.

18 **THE COURT:** I will do so.

19 All right. Tell me about the other matters.

20 **MS. DAVIS:** This is with regard to the
21 financial transaction card fraud.

22 **THE COURT:** That's the Edgefield case?

23 **MS. DAVIS:** No, sir. This is the other
24 Lexington case.

25 **THE COURT:** Okay.

1 **MS. DAVIS:** Between July 13th of 2012 and July
2 14th of 2012, the defendant, along with a
3 co-defendant, obtained goods from -- they presented
4 a BB&T debit card of Sheila Matthews without her
5 consent. They went to Reid's and spent \$9.97, the
6 Quick Pantry \$16.49, and then Wal-Mart \$482.48, for
7 a total of \$508 and --

8 **THE COURT:** How did they get her card?

9 **MS. DAVIS:** I'm not sure, Your Honor.

10 **THE COURT:** Was it -- you say they. Was it him
11 and somebody else?

12 **MS. DAVIS:** Yes, sir. It was a co-defendant,
13 Ms. Cannon. And she received -- she's pled to the
14 same charges. She received a year on that, Your
15 Honor.

16 And in exchange for the pleas today, the State
17 is dismissing an unrelated CDVHAN, a criminal
18 conspiracy and a financial transaction card theft.
19 And then with regard to the Edgefield charges, Mr.
20 Maye is dismissing a second forgery and a criminal
21 conspiracy.

22 **THE COURT:** Give me the details on the
23 Edgefield charge.

24 **MS. DAVIS:** Yes, sir, Your Honor. On July
25 23rd, the defendant presented a counterfeit check

1 drawn on the South Trust Bank for \$812.43. He gave
2 it to H&K Food Mart, which is located at 240 Lee
3 Street in Johnston, South Carolina, in Edgefield
4 County. There were two separate checks. And the
5 defendant has agreed, in exchange for the plea, to
6 pay the restitution. I have enclosed a restitution
7 order. I think it's about \$1600. The amount's on
8 the order, Your Honor.

9 **THE COURT:** What makes you think he's going to
10 ever pay \$1600?

11 **MS. DAVIS:** Mr. Maye seems to think he may be
12 able to, Your Honor. I'm not sure.

13 **THE COURT:** Is there any negotiations in this
14 case?

15 **MS. DAVIS:** With regard to the Edgefield
16 charges, Mr. Maye doesn't object to time served.
17 And as to mine, it's in your discretion, Your Honor.

18 **THE COURT:** How long did he serve in Edgefield
19 County?

20 **MS. DAVIS:** I'm not sure, Your Honor, maybe
21 Mr. Briggs would know that. I know he's been in for
22 a while.

23 **THE COURT:** How long did he serve in Edgefield?

24 **MR. BRIGGS:** One night, Your Honor, but he's
25 been in Lexington County Jail since September of

1 last year.

2 **THE COURT:** Yeah, but how about the Edgefield
3 County?

4 **MR. BRIGGS:** One day. One day, Your Honor.

5 **MS. DAVIS:** And, Your Honor, he is in on a
6 bench warrant in Edgefield, so we'd ask that that be
7 lifted. And I think I've enclosed the form for that
8 as well.

9 **THE COURT:** As to these other charges, are you
10 guilty?

11 **DEFENDANT:** Yes, sir, Your Honor.

12 **THE COURT:** You are pleading freely and
13 voluntarily?

14 **DEFENDANT:** Yes, sir, Your Honor.

15 **THE COURT:** Waiving your rights to trial by
16 jury?

17 **DEFENDANT:** Yes, sir, Your Honor.

18 **THE COURT:** Pleading freely and voluntarily.
19 He's got a bad record for doing the same thing,
20 Counsel. What do you want to tell me?

21 **MR. BRIGGS:** Well, Your Honor, I would point
22 out the fact that except for this last charge with
23 regard to the child, and I'll get into that very
24 briefly --

25 **THE COURT:** I don't need to get into that.

1 It's nolo contendere. The child is only three and
2 she has -- understands that. But I'm concerned with
3 his -- all of these charges, these financial
4 transactions. This ain't his first rodeo. He's
5 been around six, seven times.

6 MR. BRIGGS: Your Honor, again, this is a plea,
7 so I'm not trying to make an excuse or anything like
8 that.

9 THE COURT: I know. You wouldn't do that.

10 MR. BRIGGS: I don't do that. But it was a
11 period of time when he and his girlfriend, who I
12 think, in talking with them, they're probably
13 common-law marriage, but they never did put it on a
14 piece of paper. And one of these days I'll
15 straighten that out, Your Honor. But she's here.
16 And she's also, and I'm not going to say anymore
17 about it, she is the mother of the key witness in
18 the child case, so you just need to know that. And
19 -- so she supports him completely.

20 But it was a period of time when they were
21 having trouble, Your Honor, and he was not working.
22 He has worked since that period of time. He was
23 actually working when he went to jail, and he's
24 confident he can get that job back, Your Honor.

25 So he's not denying any responsibility. He

1 knows he has to pay this restitution. And I think
2 the time he served in jail, he's learned a lot.
3 He's always been quite humble when I go to see him
4 in jail. And it's been, what, four times I think?

5 **DEFENDANT:** Yes, sir.

6 **MR. BRIGGS:** So, Your Honor, I understand that
7 it's serious and that's why I'm pleading him.

8 **THE COURT:** Under these financial, that's under
9 the five-year statute in both of them, isn't it?

10 **MS. DAVIS:** Yes, sir, Your Honor.

11 **THE COURT:** Yes, sir.

12 **MR. BRIGGS:** The only thing I would say, Your
13 Honor, I think he has a very stable relationship
14 with his girlfriend now. He is absolutely confident
15 he can go back and work at the same place he was
16 working when he went to jail.

17 And all I can say, Your Honor, in talking with
18 him, he understands not only that he made a mistake,
19 but he broke the laws of this state and that some
20 penalty is appropriate, Your Honor. I think he's
21 served enough time. I would suggest the Court give
22 him some time. I don't even have a problem with
23 three years if it's suspended, but whatever the
24 Court thinks is appropriate, but --

25 **THE COURT:** They dismissed about four or five

1 transactions.

2 **MR. BRIGGS:** Actually, I think three, Your
3 Honor.

4 **THE COURT:** Well, three, and he's here now
5 before me with two more. No, sir, I regard this
6 very seriously. He done -- apparently, he thinks he
7 can steal all he wants to from the financial system.

8 And with the assault and battery involving the
9 three year old, given the fact that you have some
10 real difficulty proving that case --

11 **MS. DAVIS:** Yes, sir, Your Honor.

12 **THE COURT:** -- I'm going to sentence him to 18
13 months suspended on time served.

14 With reference to the two financial
15 transactions, I'm going to sentence him to five
16 years on each one concurrent. Give him credit for
17 time served and order the restitution, which we know
18 you're going to never get. But given his business
19 in the financial -- I'm not making it consecutive,
20 I'm doing it concurrent, but I'll give him credit
21 for time served, but I'm going to sentence him to
22 five years on each one of these concurrent.

23 **MR. BRIGGS:** Your Honor, I know you've spoken,
24 but could I withdraw my plea at this time?

25 **THE COURT:** No, sir. No, sir. You can't do

1 that. I'm not going to accept the plea and then let
2 you withdraw it.

3 **MR. BRIGGS:** And I understand, Your Honor. I
4 heard what you've said, but I would just --

5 **THE COURT:** Yes, sir.

6 No, sir, I really, given his record, I ought to
7 sentence him to ten years, but I'm going to take
8 into consideration the fact he's been -- I can tell
9 you if I looked at his record, he's been stealing
10 from the people of South Carolina for the last 15
11 years and he needs to go to jail and that's where
12 he's heading. But I thank you, sir. I would not
13 permit you to withdraw your plea after you don't
14 like my sentence.

15 **MR. BRIGGS:** I understand, Your Honor, and I
16 thank you for your time.

17 **MS. DAVIS:** Thank you, Your Honor. And, Your
18 Honor, can his bench warrant be vacated?

19 **THE COURT:** Yes.

20

21 END OF PROCEEDINGS

22

23

24

25

C E R T I F I C A T E

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

I, the undersigned, Stacy L. Sheppard, Circuit Court Reporter for the Eleventh 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 the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Lexington County, South Carolina, on the 10th of July, 2013.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

February 21, 2014

A handwritten signature in cursive script that reads "Stacy L. Sheppard". The signature is written in dark ink and includes a large, circular flourish at the end.

Stacy L. Sheppard, RPR
Circuit Court Reporter

\$	Mino [1] - 6:25 appeal [1] - 15:12 appropriate [2] - 12:20, 12:24 assault [6] - 4:9, 4:18, 5:1, 6:20, 13:8 Assist [1] - 1:17 Assistant [1] - 6:14 Attorney [2] - 1:17, 1:19 Avenue [1] - 6:23 aware [2] - 5:9, 5:11	15:15 charge [10] - 4:21, 5:21, 5:23, 6:5, 6:11, 7:4, 7:12, 7:15, 8:23, 10:22 charged [2] - 4:5, 4:13 charges [5] - 8:14, 8:19, 9:16, 10:9, 11:3 check [2] - 5:24, 8:25 checks [1] - 9:4 child [3] - 10:23, 11:1, 11:18 Circuit [4] - 1:25, 15:6, 15:7, 15:22 CLERK [2] - 4:3, 4:17 co [2] - 8:3, 8:12 co-defendant [2] - 8:3, 8:12 Columbia [2] - 6:22, 6:23 common [1] - 11:13 common-law [1] - 11:13 competency [1] - 5:15 complete [1] - 15:9 completely [1] - 11:19 concerned [1] - 11:2 concurrent [3] - 13:16, 13:20, 13:22 conduct [2] - 4:8, 4:19 confident [2] - 11:24, 12:14 confront [1] - 7:11 consecutive [1] - 13:19 consent [2] - 6:3, 8:5 consequences [1] - 7:6 consideration [1] - 14:8 conspiracy [2] - 8:18, 8:21 contacted [1] - 5:19 contendere [3] - 5:8, 7:3, 11:1 contest [1] - 5:3 contesting [1] - 7:3 correct [1] - 7:16 Cottingham [1] - 1:14 Counsel [2] - 5:21, 10:20 counsel [2] - 6:9, 15:16 counterfeit [1] - 8:25	County [8] - 1:2, 6:3, 6:4, 9:4, 9:19, 9:25, 10:3, 15:13 COUNTY [1] - 15:4 COURT [43] - 4:16, 4:19, 4:23, 5:1, 5:7, 5:11, 5:16, 5:20, 6:1, 6:7, 6:9, 6:11, 6:16, 6:19, 7:2, 7:8, 7:10, 7:14, 7:18, 7:22, 7:25, 8:8, 8:10, 8:22, 9:9, 9:13, 9:18, 9:23, 10:2, 10:9, 10:12, 10:15, 10:18, 10:25, 11:9, 12:8, 12:11, 12:25, 13:4, 13:12, 13:25, 14:5, 14:19 Court [8] - 1:1, 1:25, 5:6, 12:21, 12:24, 15:7, 15:13, 15:22 credit [2] - 13:16, 13:20 criminal [4] - 4:8, 4:19, 8:17, 8:20 Criminal [1] - 15:12 CROSS [1] - 2:2 CSC [1] - 4:21 Curtis [4] - 1:7, 4:4, 4:7, 4:12	dismissed [1] - 12:25 dismissing [2] - 8:17, 8:20 done [1] - 13:6 drawn [1] - 9:1 dwell [1] - 5:5
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ORIGINALSTATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

2013 JUL 25 AM 10:16

IN THE COURT OF GENERAL SESSIONS
FOR THE 11TH JUDICIAL CIRCUIT

State of South Carolina,

vs.

Brian Mack,

Defendant.

BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SCCase No.: 2013 GS-32-1004
2012A3220200022ORDER DENYING DEFENDANT'S
MOTION TO ALTER SENTENCE
IN GUILTY PLEA PURSUANT TO
RULE 59

The Court heard this guilty plea in Lexington County on July 10, 2013. After waiving presentment to the grand jury and waiving his constitutional rights, the defendant freely and voluntarily entered a plea of nolo contendere to assault and battery second degree. The defendant was sentenced to 18 months suspended on time served. Additionally, after waiving his constitutional rights, the defendant freely and voluntarily entered a plea of guilty to financial transaction card fraud. The defendant was sentenced to 5 years, with credit for time already served. Finally, after the defendant waived his constitutional rights, he freely and voluntarily entered a plea of guilty to financial transaction card fraud in Edgefield County to which he was sentenced to a concurrent 5 year sentence, with appropriate restitution ordered. In exchange for these pleas, the solicitor agreed to dismiss several other financial offenses in Lexington and/or Edgefield counties.

On July 12, 2013, counsel for the defendant filed a written motion to alter sentence in guilty plea pursuant to Rule 59. Defense counsel suggests that the Court misunderstood the defendant's prior record when sentencing the defendant. However, after reviewing defense counsel's written arguments, and personal notes taken, the Court maintains that given the several financial offenses to which the defendant specifically entered a plea of guilty, the imposed sentence is appropriate. For the same reasons specified on the record during the qualification and acceptance of the guilty plea, the Court denies defendant's motion. After reviewing personal notes from the July 10, 2013 guilty plea, oral arguments will not be necessary in this matter.

Therefore, defendant's motion to alter sentence in guilty plea is DENTED.

IT IS SO ORDERED.

July 23, 2013
Lexington, South Carolina


Edward B. Cottingham
Presiding Judge

WITNESSES

JPD

ROBINSON

ARREST WARRANT NUMBER

J607362

ACTION OF GRAND JURY

TRUE BILL

Lillie R. Henderson

Foreperson of Grand Jury

Date: *7-11-2012*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012-GS-19- *392*

The State of South Carolina

County of EDGEFIELD

COURT OF GENERAL SESSIONS

JULY TERM 2012

THE STATE

vs.

BRIAN CURTIS MACK

CDR#3436

Indictment for

FORGERY

DONALD V. MYERS, SOLICITOR

THE ABOVE IS A TRUE COPY OF THE ORIGINAL
THE ABOVE IS A TRUE COPY OF THE ORIGINAL
WHICH IS ON FILE IN THE OFFICE OF THE CLERK
CLERK OF COURT OF EDGEFIELD COUNTY, SC
Shirley F. Newby
SHIRLEY F. NEWBY, CLERK OF COURT
COURT OF GENERAL SESSIONS
OF COMMON PLEAS, ETC.
DATED

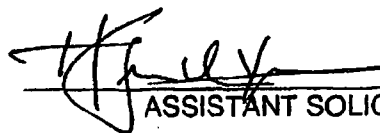
STATE OF SOUTH CAROLINA)
)
 COUNTY OF EDGEFIELD)

INDICTMENT FOR
 FORGERY

At a Court of General Sessions, convened on July 11, 2012 the Grand Jurors of Edgefield County present upon their oath:

That BRIAN CURTIS MACK, did in Edgefield County on or about July 23, 2010, with intent to defraud, falsely make, forge, counterfeit, cause or procure to be falsely made, forged, or counterfeited, utter and/or publish as true, or willfully act or assist in any of the foregoing, in regard to an instrument of writing, to wit: Brian Curtis Mack did forge a written instrument owned by PBR, check #1017, drawn on Suntrust Bank, Atlanta, Georgia in the amount of Eight Hundred Twelve Dollars and Forty Three Cents (\$812.43), and presented for payment at H&K Food Mart, in violation of §16-13-10(A), South Carolina Code of Laws, 1976, as amended, with penalties provided for in §16-13-10(B)(2), South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


 ASSISTANT SOLICITOR

WITNESSES

Batesburg Leesville Police Department

Cynthia Crow

Law Enforcement Case #: 12-1161

SAD

ARREST WARRANT NUMBER

2012A3220200047

ACTION OF GRAND JURY

TRUE BILL

Ron Bassinger
Foreperson of Grand Jury
Date: 4-8-13

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2013-GS-32-01012

The State of South Carolina
County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2013

THE STATE
vs.

Brian Curtis Mack

CDR #: 0385

Indictment for

CRIMINAL SEXUAL CONDUCT WITH A
MINOR UNDER 11 YEARS OF AGE-
FIRST DEGREE

§ 16-03-0655(A)(1)

DONALD V. MYERS, SOLICITOR

Pleading to A+B 2nd

I DO HEREBY WAIVE MY RIGHT TO GRAND JURY PRESENTMENT	
<i>Brian Mack</i>	
DEFENDANT	
<i>7-10-13</i>	
DATE	
<i>Don V. Myers</i>	
WITNESS	

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)
)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT WITH A
MINOR UNDER 11 YEARS OF AGE-
FIRST DEGREE

§ 16-03-0655(A)(1)

At a Court of General Sessions, convened on APRIL 2013, the Grand Jurors of Lexington County present upon their oath:

That **Brian Curtis Mack**, did in Lexington County, South Carolina on or about July 20, 2012, willfully and unlawfully commit criminal sexual conduct with a minor in the first degree by engaging in sexual battery with a minor who was less than eleven (11) years of age, to wit: genital intrusion upon Minor , DOB [REDACTED], in violation of Section 16-3-655(A)(1), S.C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

Batesburg Leesville Police Department

B A Hill

Law Enforcement Case #: 12-1125

SAD

ARREST WARRANT NUMBER

2012A3220200028

ACTION OF GRAND JURY

TRIAL

Ron L. Singleton

Foreperson of Grand Jury

Date: 4-8-13

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2013-GS-32-01004

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

APRIL TERM 2013

THE STATE

vs.

Brian Curtis Mack

CDR #: 2349

Indictment for

**FINANCIAL TRANSACTION CARD
FRAUD VALUE \$500 OR MORE**

§ 16-14-0060(a)(1-5)

DONALD V. MYERS, SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF LEXINGTON)

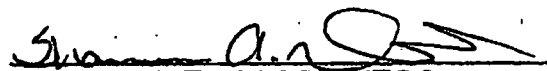
INDICTMENT FOR
FINANCIAL TRANSACTION CARD FRAUD
VALUE \$500 OR MORE

§ 16-14-0060(a)(1-5)

At a Court of General Sessions, convened on APRIL 2013, the Grand Jurors of Lexington County present upon their oath:

That **Brian Curtis Mack** did in Lexington County, South Carolina on or about July 13, 2012 through July 14, 2012, with intent to defraud Sheila Matthews knowingly and willfully use a financial transaction card obtained or retained, or which was received with knowledge that it was obtained or retained, in violation of Section 16-14-20 and or 16-14-60 to wit: defendant used a stolen debit card belonging to Sheila Matthews to purchase miscellaneous items from WalMart in the amount of \$482.48, Reid's in the amount of \$9.97, and Quick Pantry in the amount of \$16.49, such amount being more than five hundred (\$500) dollars in a six month period, in violation of § 16-14-60(a)(1-5), 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

26

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS19392

A/W#: J607362

Date of Offense: 7/23/2010

S.C. Code § : 16-13-0010(A)

CDR Code #: 3436

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

TO: FORGERY

in violation of § 16 13 10 of the S.C. Code of Laws, bearing CDR Code # 3436
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ Recommendation by the State.

ATTEST:

Shawn A. D. Solicitor 78342 B. M. K. SC Bar# Don B. B. Attorney for Defendant 893 SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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.

☒ 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 the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☒ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☒ Ordered

Total: \$ 11067.28 plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS. _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI-Breath Test Fee)	\$50
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$ 3.90
TOTAL	\$ <u>13390</u>

Clerk of Court/ Deputy Clerk Beth A. B.

Court Reporter: S. Steppa

SCCA/217 (03/2011)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge

Judge Code: 2041

Sentence Date: 7-10-13

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.
Brian Curtis Mack

AKA: _____
Race: _____ Sex: M Age: 41
DOB: _____ SS#: _____
Address: _____
City, State, Zip: SWANSEA, SC 29160
DL#: _____ SID#: 00722856

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
TO: Assault / Assault & Battery 2nd degree

0-3y+1/2 up to \$2500 27
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2013GS3201012

A/W#: 2012A3220200047

Date of Offense: 7/20/2012

S.C. Code § : 16-03-0655(A)(1)

CDR Code #: 0385

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-03-0600(D)(1) of the S.C. Code of Laws, bearing CDR Code # 3413
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
w/minor 1st or Lowd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☒ Defendant Waives Presentment to Grand Jury. BLM (defendant's initials)

The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Sham A. D.
Solicitor

78342
SC Bar#

Brian M. Mack
Defendant

Andrew B. D.
Attorney for Defendant

883
SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 18 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of time served days/months/years 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.

☒ 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 the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$
§ 14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100
§ 14-1-211(A)(2) (DUI Surcharge)	\$100
§ 56-5-2995 (DUI Assessment)	\$12
§ 56-1-286 (DUI Breath Test)	\$25
Proviso 47.9 (Public Def/Prob)	\$500
§ 14-1-212 (Law Enforce. Funding)	\$25
§ 14-1-213 (Drug Court Surcharge)	\$150
§ 50-21-114(BUI Breath Test Fee)	\$50
§ 56-5-2942(I) (Vehicle Assessment)	\$40/ea
Proviso 90.5 (SCCJA Surcharge)	\$5
3% to County (if paid in installments)	\$
TOTAL	\$130

Clerk of Court/ Deputy Clerk

Court Reporter: S. Sheppard

SCCA/217 (03/2011)

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Presiding Judge Paul B. Bell

Judge Code: 0541

Sentence Date: 7-10-13

STATE OF SOUTH CAROLINA

COUNTY OF Lexington
STATE VS.Brian Curtis Mack

AKA: _____

Race: _____ Sex: M Age: 41

DOB: _____ SS#: _____

Address: _____

City, State, Zip: SWANSEA, SC 29160DL#: _____ SID#: 00722856*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☐ CONVICTED OF or ☒ PLEADSTO: FinanTC / Financial Transaction Card fraud value more than \$500 in six month period, by cardholderin violation of § 16-14-0060(a)(1-5) of the S.C. Code of Laws, bearing CDR Code # 2349☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor78342
SC Bar#[Signature]
Defendant[Signature]
Attorney for Defendant
883
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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.

☒ 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 the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 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 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 65

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$ \$

TOTAL \$ 130Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

0-5y +/or \$3000-\$5000
IN THE COURT OF GENERAL SESSIONSINDICTMENT/CASE#: 2013GS3201004A/W#: 2012A3220200028Date of Offense: 7/13/2012S.C. Code § : 16-14-0060(a)(1-5)CDR Code #: 2349

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADSin violation of § 16-14-0060(a)(1-5) of the S.C. Code of Laws, bearing CDR Code # 2349☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

[Signature]
Solicitor78342
SC Bar#[Signature]
Defendant[Signature]
Attorney for Defendant
883
SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years 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.

☒ 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 the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$

§ 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 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforce. Funding) \$25 \$ 65

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(J) (Vehicle Assessment) \$40/ea \$

Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5

3% to County (if paid in installments) \$ \$

TOTAL \$ 130Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

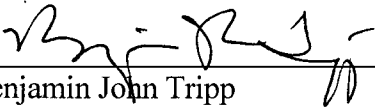
§ 47.12 requires \$500 be paid to Clerk during probation.

Presiding Judge [Signature]Judge Code: 2041Sentence Date: 7-10-13

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."

November 24, 2014


Benjamin John Tripp
Appellate Defender

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

ATTORNEY FOR APPELLANT

RECEIVED
NOV 24 2014
SC Court of Appeals