

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :

v. :

ANDRE DAVIS :

a/k/a “Murder” :

CRIMINAL NO. 10-147-2

GOVERNMENT'S SENTENCING MEMORANDUM

The United States of America, by its attorneys, Zane David Memeger, United States Attorney for the Eastern District of Pennsylvania, and K.T. Newton, Assistant United States Attorney for the District, hereby files its Sentencing Memorandum.

From on or about late 2005 through May 2010, defendant Andre Davis, a/k/a “Murder,” a/k/a “Dre,” who is no stranger to the criminal justice system, with co-conspirators Mike Knox, Nina Jones, Talayah Little, Latasha Snead, Kushiek Matthews, Kyliya Alston, Melvin Allen, Felicia Taliaferro, Byron Craig, Keith Ennis and others, participated in a conspiracy to commit bank fraud, and committed substantive acts of bank fraud. Davis himself recruited bank employees Nina Jones, Talaya Little, Latasha Snead and Kushiek Matthews to violate the trust placed in them by their employers and customers and provide him with bank account and personal information of over 90 bank customers of multiple banks, such as TD Bank, Citizens Bank, PNC Bank and Wachovia Bank. Davis himself also arranged for fraudulent identification for check runners such as Felicia Taliaferro, Melvin Allen and Byron Craig, and directed each of those individuals in their fraudulent transactions at numerous bank branches. Davis’ control of this scheme, and his personal participation with, and direction of, his co-conspirators resulted in

\$636,425 worth of fraudulent transactions and attempted transactions against the accounts of customers of those banks - a figure to which Davis stipulated in his guilty plea agreement and during his guilty plea colloquy.

I. STATUS OF THE DEFENDANT

On August 26, 2010, defendant Andre Davis, a/k/a “Murder, a/k/a “Dre,” a/k/a “Chauncy,” was charged by way of a Superseding Indictment, in Criminal No. 10-147-2, with: in Count 1, conspiracy to commit bank fraud and aggravated identity theft, in violation of 18 U.S.C. § 371; in Counts 2, 21, 29 and 37, bank fraud and aiding and abetting bank fraud, in violation of 18 U.S.C. §§ 1344 and 2; and, in Counts 3 through 20, 22 through 28, 30 through 36, and 38 through 40, aggravated identity theft and aiding and abetting aggravated identity theft, in violation of 18 U.S.C. §§ 1028A and 2, in violation of 18 U.S.C. § 1030(a)(2)(A). Davis is the only defendant to be charged with all forty counts contained in the Superseding Indictment. Davis appeared before the Court on March 20, 2012, just weeks before his trial on these charges was scheduled to start, and entered a plea of guilty to Counts One through Forty of the Superseding Indictment.

Andre Davis has been on pretrial and presentence release since October 27, 2010. He is scheduled to appear before the Court for sentencing on Thursday, August 30, 2012.

II. MAXIMUM PENALTY

Count 1 - 18 U.S.C. § 371 (conspiracy)

Five years imprisonment, three years supervised release, a \$250,000 fine, and a \$100 special assessment.

Counts 2, 21, 29, 37 - 18 U.S.C. § 1344 (bank fraud)

Thirty years imprisonment, five years supervised release, a \$1,000,000 fine, and a special assessment of \$100 per count.

Counts 3-20, 22-28, 30-36, 38-40 - 18 U.S.C. § 1028A (aggravated identity theft)

Two years imprisonment for each count, a two year mandatory minimum term of imprisonment, one year supervised release, as well as a \$250,000 fine, and a \$100 special assessment per count.

The maximum statutory penalty faced by Andre Davis is 195 years imprisonment, including two years mandatory minimum imprisonment, five years supervised release, \$13,000,000 fine and a \$4,000 special assessment. Full restitution of as much as \$466,301 (actual loss to the banks) shall also be ordered.

III. GUIDELINE IMPRISONMENT/SUPERVISED RELEASE/FINE RANGES

The government believes that the Probation Office correctly calculated the defendant's offense level, Criminal History category, and sentencing guidelines range as follows:

The applicable guideline is U.S.S.G. § 2B1.1. The amount of fraud loss and intended loss as a result of Davis' direction of, and participation on, the fraudulent transactions and attempted transactions against accounts of customers of TD Bank, Citizens Bank, PNC Bank and Wachovia Bank was \$636,425. Davis' base offense level, therefore, is 7 pursuant to

§ 2B1.1(a)(1). That level is increased by 14 pursuant to § 2B1.1(b)(1)(H), as the loss is greater than \$400,000 and less than \$1,000,000, for an adjusted offense level of 21. Davis' offense level is increase by 4 for greater than 50 victims, pursuant to § 2B1.1(b)(2)(A), and further increased by 4 for his role as a leader or organizer of a scheme with five or more participants, pursuant to § 3B1.1(b), for an adjusted offense level of 29. Davis had qualified for a three level reduction for acceptance of responsibility, for a final offense level, therefore, is 26.

However, given that Davis now appears to be contesting the loss and intended loss amount to which he had stipulated in his signed guilty plea agreement and during his guilty plea colloquy, and appears to be contesting his unquestioned role as a leader or organizer in this multi-year scheme, the government believes that such a reduction is no longer appropriate, leaving his offense level at 29.

Davis has 4 criminal history points, putting him in Criminal History Category III. Without the 3 point reduction for acceptance of responsibility, Davis' guideline range for the bank fraud and conspiracy charges is 108-135 months. Davis also is subject to a 24 month mandatory consecutive sentence, and up to an 840 month consecutive sentence for the aggravated identity theft counts, resulting in a guideline range of 132 to 975 months.¹

IV. SENTENCING RECOMMENDATION

Andre Davis, a/k/a "Murder," a/k/a "Dre," a/k/a "Chauncy," engaged for a very significant period of time over five years in serious offenses conspiracy, and committing,

¹ With the 3 points for acceptance of responsibility, Davis's Offense level would have been 26. With a Criminal History category of III, and as stated in the Presentence Investigation Report, Andre Davis' guideline range for the bank fraud and conspiracy charges would be 78-97 months, and with the 24 to 840 month consecutive sentence for the aggravated identity theft counts, his final guideline range would be 102 to 937 months.

and aiding and abetting, bank fraud and identity theft, offenses that had real consequences to individuals and to TD Bank, Citizens Bank, PNC Bank and Wachovia Bank.

A significant prison sentence is warranted and called for by application of the Sentencing Guidelines. The guideline range for imprisonment is 132-975 months. The government believes that, considering Davis' conduct and role in this scheme, coupled with his criminal history, that a sentence within the guideline range is mandated. Indeed, a thorough consideration of all of the sentencing factors set forth in 18 U.S.C. § 3553(a) indicates that the most appropriate sentence would be one within the guideline range of 158-168 months (110 to 120 months on the conspiracy and bank fraud charges, and a 48 month consecutive sentence for the aggravated identity theft charges, with two 24 month terms running consecutively, and the remaining terms running concurrently).

The Supreme Court has declared: "As a matter of administration and to secure nationwide consistency, the Guidelines should be the starting point and the initial benchmark." *Gall v. United States*, 128 S. Ct. 586, 596 (2007). Thus, the Sentencing Guidelines remain an indispensable resource for assuring appropriate and uniform punishment for federal criminal offenses.

This Court must also consider all of the sentencing considerations set forth in Section 3553(a). Those factors include: (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (3) the need to afford adequate deterrence to criminal conduct, and to protect the public from further crimes of the defendant; (4) the need to provide the defendant with educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(5) the guidelines and policy statements issued by the Sentencing Commission; (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need to provide restitution to any victims of the offense. 18 U.S.C. § 3553(a).²

Consideration of the 3553(a) Factors

Restitution, which is mandatory, is an issue in this case.

1. The nature and circumstances of the offense and the history and characteristics of the defendant

a. The nature and circumstances of the offense

Davis, despite his current protestations to the contrary, was the leader and organizer of this large scale, multi-year bank fraud and identity theft ring. He, with co-conspirator Mike Knox and others, recruited other participants such as Melvin Allen, Byron Craig and Keith Ennis, to act as check runners. He himself recruited at least four bank employees, young women with no prior criminal records Nina Jones, Talayah Little, Latasha Snead and Kushiek Matthews, to provide bank customer and personal information for use in the scheme. Each of these young women, as a result of accessing and passing on to Andre Davis customer information, lost her job and, more significantly, now stand as a convicted felon.

² Further, the “parsimony provision” of Section 3553(a) states that “[t]he court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection.” The Third Circuit has held that “district judges are not required by the parsimony provision to routinely state that the sentence imposed is the minimum sentence necessary to achieve the purposes set forth in § 3553(a)(2). . . . ‘[W]e do not think that the “not greater than necessary” language requires as a general matter that a judge, having explained why a sentence has been chosen, also explain why some lighter sentence is inadequate.’” *United States v. Dragon*, 471 F.3d 501, 506 (3d Cir. 2006) (quoting *United States v. Navedo-Concepcion*, 450 F.3d 54, 58 (1st Cir. 2006)).

Davis arranged for fraudulent identification for the check runners and Davis and Knox and others took the check runners out to conduct fraudulent transactions against the accounts of numerous bank customers. Indeed, Davis recruited a woman who had been a friend of his for years, Felicia Taliaferro, to participate in the scheme as a runner.

Under no circumstances, is any of what Davis has done acceptable or condonable behavior and, more importantly, Davis knew, without question, that his actions were illegal. As a direct result of the actions of Davis and those that he recruited, TD Bank, Citizens Bank, PNC and Wachovia Bank became victims of bank fraud and numerous customers of these banks became the victims of identity theft. Without Davis' leadership and actions, in recruiting and receiving information from the bank employees and in recruiting and directing the check runners, who actually go into the banks to cash the fraudulent checks, the fraud could not and would not have occurred.

Andre Davis' participation, at the highest level in this long-lasting and far-reaching illegal scheme, victimized many innocent individuals individuals whose only reason for being defrauded was that they had bank accounts. His role in no way can be minimized. Pursuant to § 3553(a)(1), consideration of the nature of his offenses and his actions in furtherance of this scheme, counsels in favor of a very significant period of incarceration for Davis.

As a direct result of the actions and leadership of Andre Davis, over ninety individuals became victims of identity theft, having to deal with the consequences of that serious breach and invasion of privacy. These victims' personal, identifying information their social security numbers, their dates of birth, their driver's license numbers, their addresses have been put out into a public and criminal domain. Like the genie, they cannot be stuffed back in the

bottle.

These crimes also have an even more direct and immediate impact on the victims, in terms of time, effort, frustration and feelings of violation. One of the victims, Ira Feldman, had relayed to Keith Ennis' Probation Officer the difficulties in getting his bank account issues cleared up.

Carolanne Clark, another of the victims of this fraud scheme, wrote a letter, explaining how her bank account had been emptied right before Christmas during a period of time when she was sick. *See* Gov't Exhibit A. Not only did Ms. Clark miss work to clear up the issues with her bank account, and have to change bank accounts and insurance, she had her husband had continued issues in refinancing their home and obtaining loans for their daughter's college education. *Id.* Ms. Clark summed up her frustrations with this fraud: "My husband and I try our best to always work hard and pay all of our bills. I am so tired of people trying to take the easy way out. . . . Please set an example for others who may try and take the easy way." *Id.*

Matilda Clipner, another victim, stated: "Being a victim of identity theft was a very upsetting time of my life. My money was being stolen out of my checking account. I could not believe this was happening to me." Gov't Exhibit B. Ms. Clipner described the impact this fraud had for her and her husband:

Our savings and checking accounts were frozen. We could not get money out of our accounts or use our debit cards. We had to borrow money from my elderly mother-in-law to put gas in my car, buy food and other living expenses. Very embarrassing . . . I felt like someone was watching me or 'going to get me.' I did not even want to use the computer because I thought someone was recording my every move.

Id.

Victim Nina Leavitt Amsler described her experience:

In October 2009, I checked my online banking and found that a large check had been deposited in my account, and, the same day, an almost as large withdrawal was made. After a worried and sleepless night, my husband & I went into the branch as early as we could on Saturday morning. . . . we spent the whole morning at the bank trying to untangle our situation. After the bank, we spent a couple hours at the Horsham Police Department to report the crime. . . . It was also our anniversary, & although my husband & I went out as planned, I was very distraught, & upset, & not able to enjoy it. I spent many hours thereafter trying to track down & cancel what outstanding checks I could. . . . Even now I have great trepidation when I am called upon to write a check. I continue to pay a monthly fee for credit monitoring to this day, & I check my online banking compulsively.

Gov't Exhibit C. Ms. Leavitt summarized her feelings on the effect of this fraud: "This has been a very stressful experience, & I am glad that the responsible parties have been caught. I hope their sentences send a strong message to other who might be contemplating similar fraudulent activity." *Id.*

Victim Claudia Micola described the impact these crime had as the "worst time" of her life, and as "shattering" to her "physical, mental and emotional" well-being. *See* Gov't Exhibit D. Similar to what Ms. Clipner had experienced, Ms. Micola explained:

I was NOT allowed to have any of my money that was LEGALLY mine before this person(s) went ahead with their scam. My creditors, whose checks I had already sent out knowing that I had my money in the account and that TD Bank would process them, were not very sympathetic. They would all listen to my story but in the next breath[], ask where the payment was.

Id.

Victim Ronald Ramler also has provided a statement, in which he described the feelings that he and his family had upon learning of the fraud against their bank account. *See* Gov't Exhibit E.

When we first noticed the money was stolen, we felt violated and afraid. The fact that someone had our vital information made us scared and not knowing which way to turn. We did not know if we would be subjected to identity theft or more scary, a violent crime. The criminals knew where we lived and had our banking information.”

Id. Mr. Ramler further explained:

We dismissed our cleaning lady and her team as we looked to eliminate any potential person from being in our house and having access to information as well as us. We really liked her but the trust factor was not there; it is hard to trust people after this happens. To feel even more secure about our identity, we had to hire Life lock to maintain protection and we also got a dog for an added sense of security.

Id. Mr. Ramler summarized the impact this crime had on him: “The net impact is a lasting feeling of being scared, always looking over my back, and a cost to me of services (Life lock, dog) which I did not have before the incident.” Mr. Ramler asks: “I hope you will consider all of our feelings and make sure this person pays his debt to society. He not only hurt us, but he hurt himself and those who love him.” *Id.*

b. The history and characteristics of the defendant

As noted in the Presentence Report, this conviction does not mark Andre Davis’ first contact with the criminal justice system. Indeed, Davis’ criminal career began at the age of 18 with retail theft and receipt of stolen property in Montgomery County, a crime for which he was placed in the Accelerated Rehabilitative Disposition program and was placed on probation for one year. PSR ¶¶ 94-97. His foray into financial and identity theft crimes started at the age of 21, with a conviction in Philadelphia for theft by deception, as a result of Davis’ pretending to be Prudential Insurance customers and making withdrawals in their names. PSR ¶¶ 85-88.

Undeterred by any ARD program participation or sentence of probation received thus far, Andre Davis continued his financial crime pattern in Bucks County in 2005 with conspiracy to commit identity theft, forgery and bad checks, as well as the crimes of forgery, bad checks and theft by deception, for conspiring with others to deposit bad checks into a Citizens Bank account and then withdrawing funds from that account the same type of activity he directed here. PSR ¶¶ 89-92. He received a sentence of one year probation for those offenses. PSR ¶ 89. Indeed, Davis was on probation for these offenses when he recruited Citizens Bank employee Nina Jones to provide customer information for his continuing fraud schemes.

Andre Davis currently is facing charges in New Jersey, which also have a forgery scheme component possession with intent to distribute a controlled dangerous substance, possession of an illegal prescription over 100-count, and obtaining a controlled dangerous substance by fraud. PSR ¶ 98. These charges result from an August 17, 2010 arrest in Monroe Township, New Jersey for his participation in a scheme to fraudulently obtain OxyContin through the use of fake prescriptions. PSR ¶ 100.

Davis entered into this pattern of criminal activity, despite having a stable upbringing with his mother. PSR ¶¶ 105-106. He has a high school diploma, as well as a diploma in building maintenance from Orleans Technical Institute. PSR ¶¶ 123-124. He appears to have held a variety of jobs and positions between 1994 and the present. PSR ¶¶ 125-130. Interestingly, Davis was conducting some his fraudulent activities during periods of time when he was reporting self-employment income of over \$80,000 (2006) and \$40,000 (2008). PSR ¶ 130. Most telling of Davis' character is his statement to the probation officer of his "personal feeling that he did not want to live his life with financial deficiencies," and his decision to "resort[] to criminal acts if needed." PSR ¶ 65. The idea of a mind set that allows someone to

think that, just because you want more money, you commit crimes to get it, is appalling and chilling.

That mind set is borne out as well when looking at Davis' financial condition a \$210,000 mortgage with more than \$32,000 past due, tax liens of over \$140,000, outstanding credit account debt of over \$6,000, and a car loan for a 2006 Mercedes Benz for \$37,000. PSR ¶ 131 & n. 5-13. Despite all this, Davis retained counsel in this case, he claims he invested \$10,000 in 2010 in Omega Optical (now in bankruptcy proceedings with no mention of Andre Davis as an equity security holder), and he claims that he purchased a vehicle to add to the fleet of Community Medical Transporters. PSR ¶ 128, 129, 134.

2. The need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

The seriousness of Andre Davis' offenses is reflected in the adjusted offense level of 29, given his integral role in the bank fraud and identity theft scheme. The government believes that a within-guidelines sentence is the best way to recognize the seriousness of Davis' offenses, to promote respect for the law, and to provide just punishment for his crimes. Certainly, Davis' past conduct has not demonstrated respect for the law.

3. The need to afford adequate deterrence to criminal conduct, and to protect the public from further crimes of the defendant;

A sentence within the guidelines affords both specific and general deterrence to criminal conduct, deterrence that is clearly mandated in this case. Given Davis' past convictions and continued and escalated criminal activity, specific deterrence is required. A within-guidelines sentence should give him reason to reconsider his past activities and act as a deterrent for him from future criminal conduct. A guidelines sentence also sends a message to others who would contemplate these same activities. In addition, the government asks that the Court impose

the maximum period of five years supervised release, which may provided additional impetus to Knox to refrain from returning to illegal activities.

4. The need to provide the defendant with educational or vocational training, medical care, or other correctional treatment in the most effective manner;

There does not appear to be a need to adjust Andre Davis' sentence in order "to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner."

5. The guidelines and policy statements issued by the Sentencing Commission and the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct;

While the sentencing guidelines are advisory, they remain the sole means available for assuring some measure of uniformity in sentencing, fulfilling a key Congressional goal in adopting the Sentencing Reform Act of 1984. Reference to the guidelines, while carefully considering the 3553(a) factors particularly relevant to an individual defendant, is the only available means of preventing the disfavored result of basing sentences on the luck of the draw in judicial assignments. The Third Circuit has explained:

Even under the current advisory system, district courts must "meaningfully consider" § 3553(a)(4), i.e., "the applicable category of offense . . . as set forth in the guidelines." The section of *Booker* that makes the Guidelines advisory explains that "the remaining system, while not the system Congress enacted, nonetheless continue[s] to move sentencing in Congress' preferred direction, *helping to avoid excessive sentencing disparities while maintaining flexibility sufficient to individualize sentences where necessary.*" *Booker*, 543 U.S. at 264-65 (emphasis added). The Guidelines remain at the center of this effort to "avoid excessive sentencing disparities," and, as the *Booker* Court explained, the Sentencing Commission will continue "to promote uniformity in the sentencing process" through the Guidelines. *Id.* at 263. We have likewise observed that the "Guidelines remain an essential tool in creating a fair and uniform sentencing regime across the country." *Cooper*, 437 F.3d at 331 (quoting *United States v.*

Mykytiuk, 415 F.3d 606, 608 (7th Cir. 2005)).

United States v. Ricks, 494 F.3d 394, 400 (3d Cir. 2007) (emphasis in original). Indeed, as the Supreme Court held in *Gall*, the court must begin with, and remain cognizant of, the Guidelines.

In a somewhat similar case, *United States v. Miguel Bell et al.*, No. 09-672, Miguel Bell played a similar role to that of Andre Davis in the same type of scheme he too recruited and romanced bank employees and directed the fraud scheme for a period of several years. Bell was convicted at trial and, with a guidelines range of 154 to 1026 months (fraud loss and intended loss between \$1,000,000 and \$2,500,000), Judge Pratter sentenced Miguel Bell to 184 months imprisonment and 5 years supervised release.

In the present case, the 3553(a) factors on balance would support the imposition of a sentence within the recommended sentencing guidelines and of a maximum period of supervised release. Given a guidelines range of 132-975 months, the government is asking for a sentence in the range of 123-128 months (75 to 80 months on the conspiracy and bank fraud charges, and a 48 month consecutive sentence for the aggravated identity theft charges, with two 24 month terms running consecutively, and the remaining terms running concurrently), to be followed by a five year period of supervised release.

Respectfully submitted,

ZANE DAVID MEMEGER
United States Attorney

K.T. Newton

K.T. NEWTON
Assistant United States Attorney

Dated: August 27, 2012

GOVERNMENT EXHIBIT A

VICTIM IMPACT STATEMENT

Victim Name: _____

USAO Number: 2010R00278

Court Docket Number: 10-CR-00147

Court Docket Number: 10-CR-00542

Court Docket Number: 10-CR-00671

Insert the impact of the crime here

Honorable Mary A. McLaughlin,

I am very sorry that I can not attend
the sentencing due to my work schedule,

Please note that these three took advantage
of me and my family while I was very
sick (Bloodwork weekly) and they emptied
out my bank account right before Christmas.

I had to miss work, change all of
my bank accounts, license and my insurance's.

To this day my husband and I are
still having problems with a refinance

and loans for our daughter who is starting college this fall.

My husband and I try our best to always work hard and pay all of our bills. I am so tired of people trying to take the easy way out.

If these three put the same amount of effort into a days work, they would be in a better place.

Please set an example for others who may try and take the easy way.

Thank you,
Ceslaune Clark

P.S.

As of yet I have not received any apology from Citizens Bank as MainLine Health Care.
(sad)

GOVERNMENT EXHIBIT B

VICTIM IMPACT STATEMENT

Victim Name: MATILDA CLIPPER
USAO Number: 2010R00278

Court Docket Number: 10-CR-00147
Court Docket Number: 10-CR-00671

Insert the impact of the crime here

May 30, 2012

Victim Impact Statement

Being a victim of identity theft was a very upsetting time in my life. My money was being stolen right out of my checking account. I could not believe this happened to me. My husband and I went to our bank to question the odd withdraws and rubber checks deposited in our checking account. While we were speaking with the bank manager, the thieves were taking money out from another branch. Our savings and checking account were frozen. We could not get money out of our accounts or use our debt cards. We had to borrow money from my elderly mother-in-law to put gas in my car, buy food and other living expenses. Very embarrassing and unnecessary since we had money to pay our bills but could not use our accounts until things were investigated and worked out. I felt like someone was watching me or going to "get me". I did not even want to use the computer because I thought someone was recording my every move. This was a very emotional time for me besides the mental stress this caused me & my husband. Plus the financial mess with our accounts. We were victimized.

Matilda Cliper

GOVERNMENT EXHIBIT C

VICTIM IMPACT STATEMENT

Victim Name: Nina Amster (Leavitt)
USAO Number: 2010R00278

Court Docket Number: 10-CR-00147
Court Docket Number: 10-CR-00542
Court Docket Number: 10-CR-00671

Insert the impact of the crime here

In October of 2009, I checked my online banking, & found that a large check had been deposited in my account, and the same day, an almost as large withdrawal was made from the same account. Neither my husband nor I were aware of either the deposit or the withdrawal. It was a Friday night that I noticed this, and ^{that night} I called the Citizen's Bank customer service line to see what I should do about it. They told me to go into our local branch office the next morning.

After a worried & sleepless night, my husband & I went into the branch as early as we could on Saturday morning. We left our 3 children home, & told them that we would be back soon, so we could visit with Grandma & Popop who were coming over for lunch.

Plans are made to be broken, & instead of making it home for lunch to see my parents we spent the whole morning at the bank trying to untangle our situation. Right after the bank, we spent a couple hours at the Horsham Police Department to report the crime. (At first they →

had a hard time understanding why we were complaining, because there was ~~think~~ an unauthorized deposit first of I think \$4k, but then a withdrawal of \$3k, so they thought at first that we had made \$1k! They were actually trying to make me feel like I was in the wrong! It was awful.)

By the time we got home, my 10-year old daughter had helped Grandma make lunch, everybody had eaten, & in fact, my parents had left! We missed them entirely! It was also our anniversary, & although my husband & I went out as planned, I was very distraught & upset, & not able to enjoy it.

I spent many hours thereafter tracking down & trying to cancel what outstanding checks I could. Although we left a small amount of money in the effected account, we moved most of our money to a new account, & soon after closed the old account entirely, with all that that entails (changing direct deposits & automatic withdrawals...)

Even now, I have great trepidation when I am called upon to write a check. I continue to pay a monthly fee for credit monitoring to this day, & I check my online banking compulsively.

This has been a very stressful experience & I am glad that the responsible parties have been caught. I hope their sentences send a strong message to others who might be contemplating similar fraudulent activity.

GOVERNMENT EXHIBIT D

MICOLA



To whom it may concern:

This is to advise you that when I was frauded by these people through my TD Bank checking account for 5 months, I was put through HOLY HELL!!!! It was the WORSE time of my life. What I was put through as a victim, should never be suffered by any of my enemies!!!! I was NOT allowed to have any of my money that was LEGALLY mine before this person(s) went ahead with their scam. My creditors, whose checks I had already sent out knowing that I had my money in the account & that TD Bank would process them, were not very sympathetic. They would all listen to my story but in the next breathe, ask where the payment was. The staff of TD Bank was just disgusting in "helping" me -- making out that I was the bad guy in this scheme. My physical, mental & emotional well-beings were all shattered because of this crime.

Don't think that this CAN'T happen to you -- I didn't but yet it did!!!

Respectfully,



Claudia Micola

GOVERNMENT EXHIBIT E

Newton, KT (USAPAE)

Subject: FW: United States v. Andre Davis, No. 10-147

From: Ron Ramler [REDACTED]
Sent: Monday, August 27, 2012 4:38 PM
To: Newton, KT (USAPAE)
Subject: Re: United States v. Andre Davis, No. 10-147

Dear Ms Newton,

I will, unfortunately, not be able to attend the hearing this Thursday as I will be out of the area. I did want to send my feelings and impact this had on me/ my family.

When we first noticed the money was stolen, we felt violated and afraid. The fact that someone had our vital information made us scared and not knowing which way to turn. We did not know if we would be subjected to identity theft or more scary, a violent crime. The criminals knew where we lived and had our banking information. You read about this all the time and the only feeling we felt was of personal terror. I dislike the fact that my family (wife, 2 young boys, aged 6 and 9) and I had to go through this. I was/ still constantly watching over my shoulder when approaching my home to be aware if someone would be coming after me.

I also had to protect my family. We dismissed our cleaning lady and her team as we looked to eliminate any potential person from being in our house and having access to information as well as us. We really liked her but the trust factor was not there; it is hard to trust people after this happens. To feel even more secure about our identity, we had to hire Life lock to maintain protection and we also got a dog for an added sense of security.

The fact that I saw the image of the person stealing from us made me feel violated but more, very angry. I work very hard for my money and for someone to come up with fake ID and not even spell my name correctly when stealing my money made me feel more angry.

This ring leader seemed to have his career headed in the right direction (music I believe). He tried to take the easy way out and not consider others feelings or their belongings. Premeditation makes it even worse as he was planning and scheming to hurt and steal from me and my family (as well as many others).

The net impact is a lasting feeling of being scared, always looking over my back, and a cost to me of services (Life lock, dog) which I did not have before the incident.

I hope you will consider all of our feelings and make sure this person pays his debt to society. He not only hurt us, but he hurt himself and those who love him.

I ask that we stay anonymous, but our feelings have changed forever- that can not be changed.

Thank you.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Government's Sentencing Memorandum, which was filed via ECF, has been served upon:

Jack J. McMahon, Jr., Esquire
Attorney for Defendant Andre Davis

K.T. Newton

K.T. NEWTON
Assistant United States Attorney

Dated: August 27, 2012