CLOSED,APPEAL,PASSPORT

U.S. District Court
DISTRICT OF KANSAS (Wichita)
CRIMINAL DOCKET FOR CASE #: 6:21−cr−10073−EFM−1

Case title: USA v. Capps

Date Filed: 09/08/2021

Date Terminated: 05/12/2023

Assigned to: Chief District Judge Eric F. Melgren

Defendant (1)

Michael R. Capps
TERMINATED: 05/12/2023

represented by **Kurt P. Kerns**
Kerns Law Group
328 North Main
Wichita, KS 67202
316−265−5511
Fax: 316−265−4433
Alternative Phone:
Cell Phone:
Email: kurtpkerns@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained
Bar Number: 15028
Bar Status: Active

Pending Counts	**Disposition**
18:1014 False statement to a bank for a PPP loan; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (1)	Sentenced to 27 months imprisonment and 2 years supervised release on Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15,each count running concurrently. $1200.00 special assessment fee. $318,647.21 restitution
18:1344(2) Bank fraud−PPP loan; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (2)	Sentenced to 27 months imprisonment and 2 years supervised release on Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15,each count running concurrently. $1200.00 special assessment fee. $318,647.21 restitution
18:1001(a) False statement to the SBA for EIDL loan 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (4−5)	Sentenced to 27 months imprisonment and 2 years supervised release on Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15,each count running concurrently. $1200.00 special assessment fee. $318,647.21 restitution
18:1343 Wire fraud, SBA; 18:2 Aiding and abetting	Sentenced to 27 months imprisonment and 2 years supervised release on Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12,

(INDICTMENT 9/8/2021) (7−8)	13, 14, & 15,each count running concurrently. $1200.00 special assessment fee. $318,647.21 restitution
18:1343 Wire fraud, Kansas Department of Commerce; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (9−10)	Sentenced to 27 months imprisonment and 2 years supervised release on Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15,each count running concurrently. $1200.00 special assessment fee. $318,647.21 restitution
18:1957 Money laundering; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (12−14)	Sentenced to 27 months imprisonment and 2 years supervised release on Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15,each count running concurrently. $1200.00 special assessment fee. $318,647.21 restitution
18:1957 Money laundering; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (15)	Sentenced to 27 months imprisonment and 2 years supervised release on Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15,each count running concurrently. $1200.00 special assessment fee. $318,647.21 restitution

Highest Offense Level (Opening)

Felony

Terminated Counts	**Disposition**
18:1001(a) False statement to the SBA for EID loan 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (3)	Acquitted
18:1343 Wire fraud, SBA; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (6)	Acquitted
18:1343 Wire fraud, Sedgwick County; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (11)	Dismissed per the Order filed 12/13/2022.
18:1957 Money laundering; 18:2 Aiding and abetting (INDICTMENT 9/8/2021) (16−19)	Acquitted

Highest Offense Level (Terminated)

Felony

Complaints	**Disposition**

None

Plaintiff

USA represented by **Alan G. Metzger**
Office of United States Attorney − Wichita
301 North Main Street, Suite 1200
Wichita, KS 67202−4812
316−269−6481 ext 6153
Fax: 316−269−6484
Alternative Phone:
Cell Phone: 316−648−0531
Email: alan.metzger@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained
Bar Number: 10143
Bar Status: Active

Annette Gurney
Office of United States Attorney − Wichita
301 North Main Street, Suite 1200
Wichita, KS 67202−4812
316−269−6481
Fax: 316−269−6484
Alternative Phone:
Cell Phone: 316−250−8393
Email: annette.gurney@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Bar Number: 11602
Bar Status: Active

Molly M. Gordon
Office of United States Attorney − Wichita
301 North Main Street, Suite 1200
Wichita, KS 67202−4812
316−269−6481
Fax: 316−269−6484
Alternative Phone:
Cell Phone:
Email: molly.gordon@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained
Bar Number: 23134
Bar Status: Active

Email All Attorneys
Email All Attorneys and Additional Recipients

Date Filed	#	Docket Text

09/08/2021	1	INDICTMENT as to Michael R. Capps (1) count(s) 1, 2, 3, 4−5, 6−8, 9−10, 11, 12−19. (sz) (Entered: 09/09/2021)
09/09/2021		SUMMONS ISSUED as to Michael R. Capps Initial Appearance set for 9/22/2021 at 01:30 PM by Zoom before Magistrate Judge Gwynne E. Birzer. (Pretrial form provided to USMS)(sz) (Entered: 09/09/2021)
09/10/2021	2	SUMMONS RETURNED EXECUTED on 9/10/2021 as to Michael R. Capps. (jk) (Entered: 09/10/2021)
09/21/2021	3	ENTRY OF APPEARANCE by attorney Kurt P. Kerns appearing for Michael R. Capps. (Kerns, Kurt) (Entered: 09/21/2021)
09/21/2021	4	CONSENT TO APPEAR BY VIDEO OR TELEPHONE CONFERENCE for initial appearance, arraignment and detention hearing as to Michael R. Capps. (Kerns, Kurt) Modified on 9/22/2021 to add additional hearings. (mam) (Entered: 09/21/2021)
09/22/2021	5	**(NOTE: Access to document is restricted pursuant to the courts privacy policy.)** NOTICE OF SURRENDERED PASSPORT as to Michael R. Capps. (Passport Number 640927769, issued by USA.) (mam) (Entered: 09/22/2021)
09/22/2021	6	MINUTE ENTRY for proceedings held before Magistrate Judge Gwynne E. Birzer: RULE 5/INITIAL APPEARANCE and ARRAIGNMENT as to Michael R. Capps held on 9/22/2021 by ZOOM, Count(s) 1,2,3,4−5,6−8,9−10,11,12−19. Due Process Protections Act advisement given. The Government adopted the recommendations of Pretrial Services for release on conditions. Defendant provided verbal consent for Zoom. Defendant's next appearance per the Scheduling Order of Judge Melgren. (Tape #1:31−1:41) (sz) (Entered: 09/23/2021)
09/22/2021	7	ORDER SETTING CONDITIONS OF RELEASE as to Michael R. Capps (1) $25,000 unsecured bond. Signed by Magistrate Judge Gwynne E. Birzer on 9/22/2021. (sz) (Entered: 09/24/2021)
09/23/2021		ORDER as to Michael R. Capps − Pursuant to the Due Process Protections Act, the government is reminded of its obligations pursuant to Brady v. Maryland and its progeny to disclose material that is favorable to the defendant and material to defendants guilt or punishment. The failure to do so in a timely manner may include dismissal of the indictment or information, dismissal of individual charges, exclusion of government evidence or witnesses, or any other remedy that is just under the circumstances. Signed by Magistrate Judge Gwynne E. Birzer on 9/22/21. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (ala) (Entered: 09/23/2021)
09/24/2021	8	BOND POSTED as to Michael R. Capps. (sz) (Entered: 09/24/2021)
09/27/2021	9	PRETRIAL AND CRIMINAL CASE MANAGEMENT ORDER ENTERED: as to Michael R. Capps. Status Conference set for 11/8/2021 at 10:15 AM in Wichita Room 414 (EFM) before District Judge Eric F. Melgren. Jury Trial set for 11/23/2021 at 09:00 AM in Wichita Courtroom 408 (EFM) before District Judge Eric F. Melgren. Signed by District Judge Eric F. Melgren on 9/27/2021. (cm) (Entered: 09/27/2021)
10/27/2021	10	MOTION to Continue Status Conference and Jury Trial by Michael R. Capps. (Kerns, Kurt) (Entered: 10/27/2021)
10/28/2021	11	

		ORDER TO CONTINUE granting 10 Motion to Continue. Speedy Trial time excluded from 11/23/2021 until 1/25/2022 as to Michael R. Capps (1). Status Conference set for 1/12/2022 at 08:45 AM in Wichita Room 414 (EFM) before District Judge Eric F. Melgren. Jury Trial set for 1/25/2022 at 09:00 AM in Wichita Courtroom 408 (EFM) before District Judge Eric F. Melgren. Signed by District Judge Eric F. Melgren on 10/28/2021. (sz) (Entered: 10/28/2021)
01/07/2022	12	MOTION to Continue Status Conference and Jury Trial by Michael R. Capps. (Kerns, Kurt) (Entered: 01/07/2022)
01/10/2022	13	ORDER TO CONTINUE granting 12 Motion to Continue. Speedy Trial time excluded from 1/12/2022 until 3/29/2022 as to Michael R. Capps (1). Status Conference set for 3/14/2022 at 08:15 AM in Wichita Room 414 (EFM) before Chief District Judge Eric F. Melgren. Jury Trial set for 3/29/2022 at 09:00 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Signed by Chief District Judge Eric F. Melgren on 1/10/2022. (sz) (Entered: 01/10/2022)
03/02/2022	14	Joint MOTION to Continue Status Conference and Jury Trial by Michael R. Capps. (Kerns, Kurt) (Entered: 03/02/2022)
03/03/2022	15	ORDER TO CONTINUE granting 14 Motion to Continue. Speedy Trial time excluded from 3/14/2022 until 6/7/2022 as to Michael R. Capps (1). Status Conference set for 5/31/2022 at 10:00 AM in Wichita Room 414 (EFM) before Chief District Judge Eric F. Melgren. Jury Trial set for 6/7/2022 at 09:00 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Signed by Chief District Judge Eric F. Melgren on 3/3/2022. (sz) (Entered: 03/03/2022)
03/03/2022	16	NOTICE OF HEARING as to Defendant Michael R. Capps THIS IS AN OFFICIAL NOTICE FOR THIS HEARING (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) Due to a conflict on the court's calendar, the Status Conference is reset for 6/1/2022 at 01:30 PM in Wichita Room 414 (EFM) before Chief District Judge Eric F. Melgren. (cm) (Entered: 03/03/2022)
05/04/2022	17	MOTION to Continue Status Conference and Jury Trial by Michael R. Capps. (Kerns, Kurt) (Entered: 05/04/2022)
05/05/2022	18	ORDER TO CONTINUE granting 17 Motion to Continue. Speedy Trial Time excluded from 6/1/2022 until 8/16/2022 as to Michael R. Capps (1). Status Conference set for 8/5/2022 at 02:00 PM in Wichita Room 414 (EFM) before Chief District Judge Eric F. Melgren. Jury Trial set for 8/16/2022 at 09:00 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Signed by Chief District Judge Eric F. Melgren on 5/5/2022. (sz) (Entered: 05/05/2022)
07/08/2022	19	MOTION to Continue Status Conference and Jury Trial by Michael R. Capps. (Kerns, Kurt) (Entered: 07/08/2022)
07/11/2022	20	MOTION to Continue Status Conference and Jury Trial by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 07/11/2022)
07/12/2022	21	ORDER TO CONTINUE granting 19 Motion to Continue as to Michael R. Capps (1); finding as moot 20 Motion to Continue as to Michael R. Capps (1). Status Conference set for 10/31/2022 at 09:45 AM in Wichita Room 414 (EFM) before Chief District Judge Eric F. Melgren. Jury Trial set for 11/15/2022 at 09:00 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Signed by Chief District Judge Eric F. Melgren on 7/12/2022. (sz) (Entered: 07/12/2022)

10/26/2022	22	MOTION in Limine by USA as to Michael R. Capps. (Attachments: # 1 Attachment 1, # 2 Attachment 2, # 3 Attachment 3, # 4 Attachment 4, # 5 Attachment 5, # 6 Attachment 6, # 7 Attachment 7, # 8 Attachment 8)(Metzger, Alan) (Entered: 10/26/2022)
10/26/2022	23	SEALED MOTION for Leave to File Under Seal *Motion in Limine* by USA as to Michael R. Capps. (Attachments: # 1 Proposed Sealed Document, # 2 Proposed Sealed Document Exhibit 10, # 3 Proposed Sealed Document Exhibit 15, # 4 Proposed Sealed Document Exhibit 23)(Metzger, Alan) (Entered: 10/26/2022)
10/27/2022	24	ORDER granting 23 Sealed Motion for Leave to File Under Seal. Counsel is directed to file forthwith the requested document(s) with an event from the SEALED DOCUMENTS category as to Michael R. Capps (1) Signed by Chief District Judge Eric F. Melgren on 10/27/2022. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 10/27/2022)
10/27/2022	25	SEALED MOTION *in Limine* by USA as to Michael R. Capps. (Attachments: # 1 Exhibit 10, # 2 Exhibit 15, # 3 Exhibit 23)(Metzger, Alan) (Entered: 10/27/2022)
10/28/2022	26	Amended MOTION in Limine by USA as to Michael R. Capps. (Attachments: # 1 Attachment 1, # 2 Attachment 2, # 3 Attachment 3, # 4 Attachment 4, # 5 Attachment 5, # 6 Attachment 6, # 7 Attachment 7, # 8 Attachment 8, # 9 Attachment 9)(Metzger, Alan) (Entered: 10/28/2022)
10/31/2022	27	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: STATUS CONFERENCE as to Michael R. Capps held on 10/31/2022. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 10/31/2022)
10/31/2022	28	MOTION to Continue Jury Trial by Michael R. Capps. (Kerns, Kurt) (Entered: 10/31/2022)
10/31/2022	29	ORDER granting 28 Motion to Continue Jury Trial. Speedy trial time excluded from 11/15/2022 until 12/20/2022 as to Michael R. Capps (1). Jury Trial is reset for 12/20/2022 at 09:00 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Signed by Chief District Judge Eric F. Melgren on 10/31/2022. (mam) (Entered: 10/31/2022)
10/31/2022	30	ORDER as to Michael R. Capps re 26 Amended MOTION in Limine filed by USA. At the direction of Chief Judge Eric F. Melgren, defendant will file a response to the Amended Motion in Limine on or before 11/7/2022. Signed by Chief District Judge Eric F. Melgren on 10/31/2022. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 10/31/2022)
10/31/2022	31	ORDER granting in part and denying in part 25 Sealed Motion as to Michael R. Capps (1). Signed by Chief District Judge Eric F. Melgren on 10/31/2022. (ca) (Entered: 10/31/2022)
11/01/2022	32	NOTICE OF HEARING as to Defendant Michael R. Capps THIS IS AN OFFICIAL NOTICE FOR THIS HEARING (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) Jury Trial set for 12/12/2022 at 09:00 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Jury Trial set for 12/14/2022, 12/15/2022, and 12/19/2022 at 08:30 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. (cm) (Entered: 11/01/2022)

11/17/2022	33	Unopposed MOTION in Limine by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 11/17/2022)
11/17/2022	34	TRIAL ORDER estimated trial time 4 days as to Michael R. Capps. In Limine/Jury Instructions Conference set for 12/2/2022 at 01:30 PM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Signed by Chief District Judge Eric F. Melgren on 11/17/2022. (cm) (Entered: 11/17/2022)
11/17/2022	35	ORDER granting 33 Motion in Limine as to Michael R. Capps (1). Exhibit 29 may be admitted into evidence during the trial of this matter without the necessity of a sponsoring/foundation witness. Signed by Chief District Judge Eric F. Melgren on 11/17/2022. (sz) (Entered: 11/17/2022)
11/28/2022	36	EXHIBIT LIST by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 11/28/2022)
11/28/2022	37	WITNESS LIST by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 11/28/2022)
11/29/2022	38	AMENDED EXHIBIT LIST by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 11/29/2022)
11/30/2022	39	PROPOSED JURY INSTRUCTIONS by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 11/30/2022)
11/30/2022	40	ENTRY OF APPEARANCE on behalf of USA by Molly M. Gordon. (Gordon, Molly) (Entered: 11/30/2022)
11/30/2022	41	PROPOSED JURY INSTRUCTIONS by Michael R. Capps. (Kerns, Kurt) (Entered: 11/30/2022)
11/30/2022	42	PROPOSED VOIR DIRE QUESTIONS by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 11/30/2022)
11/30/2022	43	EXHIBIT LIST by Michael R. Capps (Kerns, Kurt) (Entered: 11/30/2022)
11/30/2022	44	WITNESS LIST by Michael R. Capps (Kerns, Kurt) (Entered: 11/30/2022)
11/30/2022	45	PROPOSED VOIR DIRE QUESTIONS by Michael R. Capps (Kerns, Kurt) (Entered: 11/30/2022)
12/02/2022	46	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: granting 26 Motion in Limine as to Michael R. Capps (1); finding as moot 22 Motion in Limine as to Michael R. Capps (1); PRETRIAL CONFERENCE as to Michael R. Capps held on 12/2/2022. (Court Reporter Jo Wilkinson) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 12/02/2022)
12/05/2022	47	PROPOSED JURY INSTRUCTIONS − *Supplemental* by USA as to Michael R. Capps (Metzger, Alan) (Entered: 12/05/2022)
12/05/2022	48	NOTICE OF HEARING as to Defendant Michael R. Capps THIS IS AN OFFICIAL NOTICE FOR THIS HEARING (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) In Court/Jury Instructions Conference set for 12/9/2022 at 09:00 AM in Wichita Courtroom 408 (EFM)before Chief District Judge Eric F. Melgren. (cm) (Entered: 12/05/2022)

12/05/2022	49	EXHIBIT LIST by Michael R. Capps (Kerns, Kurt) (Entered: 12/05/2022)
12/06/2022	50	WITNESS LIST by USA as to Michael R. Capps (Metzger, Alan) (Entered: 12/06/2022)
12/06/2022	51	PROPOSED JURY INSTRUCTIONS − *Second Supplemental* by USA as to Michael R. Capps (Metzger, Alan) (Entered: 12/06/2022)
12/06/2022	52	PROPOSED FORFEITURE JURY INSTRUCTIONS by USA as to Michael R. Capps (Metzger, Alan) (Entered: 12/06/2022)
12/07/2022	53	MOTION in Limine *to Bar Expert Testimony* by Michael R. Capps. (Kerns, Kurt) (Entered: 12/07/2022)
12/07/2022	54	NOTICE OF HEARING as to Defendant Michael R. Capps THIS IS AN OFFICIAL NOTICE FOR THIS HEARING (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) In Court/Jury Instructions Conference set for 12/9/2022 at 09:00 AM in Wichita Room 414 (EFM)before Chief District Judge Eric F. Melgren. NOTE: THIS IS A LOCATION CHANGE ONLY.(cm) (Entered: 12/07/2022)
12/08/2022	55	WITNESS LIST by Michael R. Capps (Kerns, Kurt) (Entered: 12/08/2022)
12/08/2022	56	RESPONSE TO MOTION by USA as to Michael R. Capps re 53 MOTION in Limine *to Bar Expert Testimony* (Metzger, Alan) (Entered: 12/08/2022)
12/09/2022	57	UNOPPOSED MOTION to Dismiss Count 11 by USA as to Michael R. Capps. (Metzger, Alan) (Entered: 12/09/2022)
12/09/2022	60	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: IN COURT/JURY INSTRUCTIONS CONFERENCE as to Michael R. Capps held on 12/9/2022. (Court Reporter Jo Wilkinson) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 12/14/2022)
12/12/2022	58	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: JURY TRIAL as to Michael R. Capps held on 12/12/2022. (Court Reporter Jo Wilkinson) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 12/12/2022)
12/13/2022	59	ORDER granting without prejudice 57 Unopposed Motion to Dismiss Count 11 as to Michael R. Capps (1). Signed by Chief District Judge Eric F. Melgren on 12/12/2022. (mam) (Entered: 12/13/2022)
12/14/2022	61	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: JURY TRIAL as to Michael R. Capps held on 12/14/2022. (Court Reporter Jo Wilkinson) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 12/14/2022)
12/15/2022	62	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: JURY TRIAL as to Michael R. Capps held on 12/15/2022. (Court Reporter Jo Wilkinson) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 12/15/2022)
12/18/2022	63	MOTION TO READ INSTRUCTIONS TO JURY AT CLOSE OF EVIDENCE by Michael R. Capps. (Kerns, Kurt) Modified on 12/19/2022 to re−title. (mam) (Entered: 12/18/2022)

12/19/2022	64	EXHIBIT LIST by Michael R. Capps (Kerns, Kurt) (Entered: 12/19/2022)
12/19/2022	65	ORDER denying, in open court, 63 Motion for Order as to Michael R. Capps (1) Signed by Chief District Judge Eric F. Melgren on 12/19/2022. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 12/19/2022)
12/19/2022	66	ORDER for Juror Lunch as to Michael R. Capps. Signed by Chief District Judge Eric F. Melgren on 12/19/2022. (cm) (Entered: 12/19/2022)
12/19/2022	67	TRANSCRIPT of Jury Trial, Excerpt of James Clendenin, held 12−14−22 as to Michael R. Capps before Judge Eric F. Melgren, Court Reporter Jo Wilkinson, 316−315−4334, jo_wilkinson@ksd.uscourts.gov. Transcript purchased by: Mr. Dion Lefler, Wichita Eagle. **NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at www.ksd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.** Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter or PACER. Release of Transcript Restriction set for 3/20/2023. (jw) (Entered: 12/19/2022)
12/19/2022	68	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: JURY TRIAL as to Michael R. Capps held on 12/19/2022. (Court Reporter Jo Wilkinson) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 12/19/2022)
12/19/2022	69	JURY INSTRUCTIONS as to Michael R. Capps. (sz) (Entered: 12/20/2022)
12/21/2022	70	QUESTIONS FROM THE JURY filed as to Michael R. Capps. (kas) (Entered: 12/21/2022)
12/21/2022	71	ORDER as to Michael R. Capps. Lunch ordered for jurors during deliberations. Signed by Chief District Judge Eric F. Melgren on 12/21/2022. (cm) (Entered: 12/21/2022)
12/21/2022	72	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: JURY TRIAL as to Michael R. Capps concluded on 12/21/2022. (Court Reporter Jo Wilkinson) (Attachments: # 1 Witness Sheet, # 2 Exhibit List Plaintiff's, # 3 Exhibit List Defendant's) (cm) (Entered: 12/22/2022)
12/21/2022	73	JURY VERDICT as to Michael R. Capps (1). Defendant found Guilty on Counts 1−2, 4−5, 7−10 and 12−15; Not Guilty on Counts 3, 6 and 16−19. (mam) (Additional attachment(s) added on 12/22/2022: # 1 Unredacted Verdict) (mam). (Entered: 12/22/2022)
12/21/2022	74	FORFEITURE INSTRUCTIONS TO THE JURY as to Michael R. Capps. Signed by District Judge Eric F. Melgren on 12/21/2022. (mam) (Entered: 12/22/2022)
12/21/2022	75	

		SPECIAL VERDICT FORM FOR FORFEITURE as to Michael R. Capps. (mam) (Additional attachment(s) added on 12/22/2022: # 1 Unredacted Special Verdict Form) (mam). (Entered: 12/22/2022)
12/27/2022	76	TRANSCRIPT of Excerpt of Jury Trial, Defense Opening Statements, held December 12, 2022, as to Michael R. Capps before Judge Eric F. Melgren, Court Reporter Jo Wilkinson, 316−315−4334, jo_wilkinson@ksd.uscourts.gov. Transcript purchased by: Ms. Molly M. Gordon. **NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at www.ksd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.** Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter or PACER. Release of Transcript Restriction set for 3/27/2023. (jw) (Entered: 12/27/2022)
01/09/2023	77	MOTION for New Trial by Michael R. Capps. (Kerns, Kurt) (Entered: 01/09/2023)
01/12/2023	78	NOTICE OF HEARING as to Defendant Michael R. Capps THIS IS AN OFFICIAL NOTICE FOR THIS HEARING (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) Sentencing set for 3/10/2023 at 09:30 AM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. The court failed to docket the sentencing date at the conclusion of the trial. This entry fixes that error.(cm) (Entered: 01/12/2023)
01/13/2023	79	TRANSCRIPT of Excerpt of Jury Trial Volume III held December 15, 2022, as to Michael R. Capps before Judge Eric F. Melgren, Court Reporter Jo Wilkinson, 316−315−4334, jo_wilkinson@ksd.uscourts.gov. Transcript purchased by: Ms. Molly Gordon. Volume: III. **NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at www.ksd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.** Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter or PACER. Release of Transcript Restriction set for 4/13/2023. (jw) (Entered: 01/13/2023)
01/13/2023	80	TRANSCRIPT of Excerpt of Jury Trial Volume IV held December 19, 2022, as to Michael R. Capps before Judge Eric F. Melgren, Court Reporter Jo Wilkinson, 316−315−4334, jo_wilkinson@ksd.uscourts.gov. Transcript purchased by: Ms. Molly Gordon. Volume: IV.

		NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at www.ksd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter or PACER. Release of Transcript Restriction set for 4/13/2023. (jw) (Entered: 01/13/2023)
01/25/2023	81	MOTION for *Preliminary Order of* Forfeiture of Property by USA as to Michael R. Capps. (Gurney, Annette) (Entered: 01/25/2023)
01/27/2023	82	RESPONSE TO MOTION by USA as to Michael R. Capps re 77 Motion for New Trial. (Gordon, Molly) (Entered: 01/27/2023)
02/16/2023	83	PRELIMINARY ORDER OF FORFEITURE granting 81 Motion for Preliminary Order of Forfeiture of Property as to Michael R. Capps (1). Signed by Chief District Judge Eric F. Melgren on 2/16/2023. (sz) (Entered: 02/16/2023)
02/17/2023	84	MEMORANDUM AND ORDER denying 77 Defendant's Motion for a New Trial as to Michael R. Capps (1). Signed by Chief District Judge Eric F. Melgren on 2/17/2023. (mam) (Entered: 02/17/2023)
02/21/2023	85	NOTICE OF HEARING as to Defendant Michael R. Capps THIS IS AN OFFICIAL NOTICE FOR THIS HEARING (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) Due to a conflict on the Court's calendar, the Sentencing is being reset for 3/30/2023 at 02:30 PM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. (cm) (Entered: 02/21/2023)
03/22/2023	86	NOTICE OF HEARING as to Defendant Michael R. Capps. THIS IS AN OFFICIAL NOTICE FOR THIS HEARING. (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) At request of counsel, the Sentencing is reset for 4/24/2023 at 01:30 PM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Sentencing Memorandum Deadline set for 4/17/2023. (cm) (Entered: 03/22/2023)
04/14/2023	87	PRESENTENCE INVESTIGATION REPORT as to Michael R. Capps **(NOTE: Access to this document is restricted to the USA and this defendant.)** (USPO) (Entered: 04/14/2023)
04/14/2023	88	NOTICE OF HEARING as to Defendant Michael R. Capps THIS IS AN OFFICIAL NOTICE FOR THIS HEARING (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) Sentencing set for 5/11/2023 at 02:00 PM in Wichita Courtroom 408 (EFM) before Chief District Judge Eric F. Melgren. Sentencing Memorandum Deadline set for 5/5/2023. (cm) (Entered: 04/14/2023)
05/01/2023	89	TRANSCRIPT of Jury Trial, Testimony of Michael Capps, held December 15, 2022, as to Michael R. Capps before Judge Eric F. Melgren, Court Reporter Jo Wilkinson, 316−315−4334, jo_wilkinson@ksd.uscourts.gov. Transcript purchased by: Ms. Molly

		Gordon. **NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at www.ksd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.** Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter or PACER. Release of Transcript Restriction set for 7/31/2023. (jw) (Entered: 05/01/2023)
05/01/2023	90	TRANSCRIPT of Jury Trial, Testimony of Michael Capps, held December 19, 2022, as to Michael R. Capps before Judge Eric F. Melgren, Court Reporter Jo Wilkinson, 316−315−4334, jo_wilkinson@ksd.uscourts.gov. Transcript purchased by: Ms. Molly Gordon. **NOTICE RE REDACTION OF TRANSCRIPTS: Within 7 calendar days of this filing, each party shall inform the Court, by filing a Notice of Intent to Redact, of the party's intent to redact personal data identifiers from the electronic transcript of the court proceeding. The policy is located on our website at www.ksd.uscourts.gov. Please read this policy carefully. If no Notice of Intent to Redact is filed within the allotted time, this transcript will be made electronically available on the date set forth below.** Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through the Court Reporter or PACER. Release of Transcript Restriction set for 7/31/2023. (jw) (Entered: 05/01/2023)
05/05/2023	91	SENTENCING MEMORANDUM by USA as to Michael R. Capps (Gordon, Molly) (Entered: 05/05/2023)
05/05/2023	92	SENTENCING MEMORANDUM by Michael R. Capps (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K, # 12 Exhibit L, # 13 Exhibit M, # 14 Exhibit N, # 15 Exhibit O)(Kerns, Kurt) (Entered: 05/05/2023)
05/10/2023	93	SERVICE BY PUBLICATION filed by USA as to Michael R. Capps. Last publication date April 15, 2023. (Attachments: # 1 Attachment 1)(Gurney, Annette) (Entered: 05/10/2023)
05/10/2023	94	RESPONSE TO Sentencing Memorandum by USA as to Michael R. Capps (Gordon, Molly) (Entered: 05/10/2023)
05/11/2023	95	MINUTE ENTRY for proceedings held before Chief District Judge Eric F. Melgren: SENTENCING HEARING held on 5/11/2023 as to defendant Michael R. Capps. Defendant was sentenced to 27 months to Bureau of Prisons and was allowed to self−surrender. (Court Reporter Jo Wilkinson) (This is a TEXT ENTRY ONLY. There is no.pdf document associated with this entry.) (cm) (Entered: 05/11/2023)

05/12/2023	96	EXHIBIT LIST by Government from Sentencing for Michael R. Capps. (cm) (Entered: 05/12/2023)
05/12/2023	97	AMENDED PRESENTENCE INVESTIGATION REPORT as to Michael R. Capps **(NOTE: Access to this document is restricted to the USA and this defendant.)** (USPO) (Entered: 05/12/2023)
05/12/2023	98	JUDGMENT as to Michael R. Capps (1) − Counts: 1, 2, 4, 5, 7−10, 12−15 Sentenced to 27 months imprisonment and 2 years supervised release; each count, running concurrently. $1200.00 special assessment fee. $318,647.21 restitution. Acquitted on Counts 3, 6, 16, 17, 18, and 19. Count 11, Dismissed per the Order filed 12/13/2022. Signed by Chief District Judge Eric F. Melgren on 5/12/2023. (ca) (Entered: 05/12/2023)
05/12/2023	99	STATEMENT OF REASONS as to Michael R. Capps re 98 Judgment. **(NOTE: Access to this document is restricted to the USA and this defendant.)** (ca) (Entered: 05/12/2023)
05/16/2023	100	MOTION to Withdraw Kurt Kerns as Attorney by Michael R. Capps. (Kerns, Kurt) (Entered: 05/16/2023)
05/17/2023	101	NOTICE OF APPEAL TO 10CCA as to defendant Michael R. Capps (Kerns, Kurt) (Entered: 05/17/2023)
05/26/2023		APPEAL FEE STATUS: filing fee Not Paid re: 101 Notice of Appeal on behalf of Defendant Michael R. Capps. (THIS IS A TEXT ONLY ENTRY−NO DOCUMENT IS ASSOCIATED WITH THIS TRANSACTION) (kas) (Entered: 05/26/2023)

United States District Court
District of Kansas

UNITED STATES OF AMERICA
v.
Michael R Capps

JUDGMENT IN A CRIMINAL CASE

Case Number: 6:21CR10073 - 001
USM Number: 66142-509
Defendant's Attorney: Kurt P. Kerns

THE DEFENDANT:

☐ pleaded guilty to count(s): ___.
☐ pleaded nolo contendere to count(s) ___ which was accepted by the court.
☒ was found guilty on count(s) 1, 2, 4, 5, 7-10, 12-15 of the Indictment after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count

See Next Page

The defendant is sentenced as provided in pages 1 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☒ The defendant has been found not guilty on count(s) 3, 6, 16, 17, 18, and 19 of the Indictment .

☒ Count 11 was previously dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of material changes in economic circumstances.

05/11/2023
Date of Imposition of Judgment

s/ Eric F. Melgren
Signature of Judge

Honorable Eric F. Melgren, Chief U.S. District Judge
Name & Title of Judge

5/12/2023
Date

DEFENDANT: Michael R Capps
CASE NUMBER: 6:21CR10073 - 001

ADDITIONAL COUNTS OF CONVICTION

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1014	FALSE STATEMENTS TO A BANK FOR PPP LOAN, a Class B Felony	05/04/2020	1
18 U.S.C. § 1344(2)	BANK FRAUD, a Class B Felony	05/04/2020	2
18 U.S.C. § 1001(a)	FALSE STATEMENT TO THE SBA FOR EID LOAN, a Class D Felony	03/31/2020	4
18 U.S.C. § 1001(a)	FALSE STATEMENT TO THE SBA FOR EID LOAN, a Class D Felony	03/31/2020	5
18 U.S.C. § 1343	WIRE FRAUD, a Class C Felony	03/31/2020	7
18 U.S.C. § 1343	WIRE FRAUD, a Class C Felony	03/31/2020	8
18 U.S.C. § 1343	WIRE FRAUD, a Class C Felony	08/19/2020	9
18 U.S.C. § 1343	WIRE FRAUD, a Class C Felony	08/19/2020	10
18 U.S.C. § 1957	MONEY LAUNDERING, a Class C Felony	05/26/2020	12
18 U.S.C. § 1957	MONEY LAUNDERING, a Class C Felony	05/26/2020	13
18 U.S.C. § 1957	MONEY LAUNDERING, a Class C Felony	05/26/2020	14
18 U.S.C. § 1957	MONEY LAUNDERING, a Class C Felony	05/26/2020	15

DEFENDANT: Michael R Capps
CASE NUMBER: 6:21CR10073 - 001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 27 months.

Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15: 27 months on each count, running concurrently.

☒ The Court makes the following recommendations to the Bureau of Prisons:
At request of defendant, designation to a facility close to family in Wichita, Kansas, to facilitate family visitation.

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district.

☐ at ___ on ___.

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before ___ on ___.

☒ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Officer.

RETURN

I have executed this judgment as follows:

_____

_____

_____

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

_____
UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

DEFENDANT: Michael R Capps
CASE NUMBER: 6:21CR10073 - 001

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of 2 years.

Cts. 1, 2, 4, 5, 7, 8, 9, 10, 12, 13, 14, & 15: 2 years on each count, running concurrently.

MANDATORY CONDITIONS

1. You must not commit another federal, state, or local crime.

2. You must not unlawfully possess a controlled substance.

3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight (8) drug tests per month.

   ☐ The above drug testing condition is suspended based on the court's determination that you pose a low risk of future substance abuse. *(Check if applicable.)*

4. ☒ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(Check if applicable.)*

5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(Check if applicable.)*

6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq*.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(Check if applicable.)*

7. ☐ You must participate in an approved program for domestic violence. *(Check if applicable.)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Michael R Capps
CASE NUMBER: 6:21CR10073 - 001

STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or Tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may, after obtaining court approval, require you to notify the person about the risk and you must comply with that instruction.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. I understand additional information regarding these conditions is available at the www.uscourts.gov.

Defendant's Signature _____ Date _____

DEFENDANT: Michael R Capps
CASE NUMBER: 6:21CR10073 - 001

SPECIAL CONDITIONS OF SUPERVISION

1. You must not engage in any occupation, business, profession, or volunteer activity in which you have discretionary authority over financial matters without the approval of the U.S. Probation Officer.

2. You must not incur new credit charges or open, or attempt to open, additional lines of credit, without the prior approval of the U.S. Probation Officer. You must also execute any release of information forms necessary for the probation officer to monitor your compliance with the credit restrictions.

3. You must immediately provide the U.S. Probation Officer with access to any and all requested financial information, to include executing any release of information forms necessary for the probation office to obtain and/or verify said financial information.

4. You must participate in an approved program for mental health treatment, and follow the rules and regulations of that program, which may include psychological counseling. You must contribute toward the cost, to the extent you are financially able to do so.

5. You must take all mental health medications that are prescribed by your treating physician, and you must contribute toward the cost, to the extent you are financially able to do so.

6. You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States Probation Officer. Failure to submit to a search may be grounds for revocation of release. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

ACKNOWLEDGMENT OF CONDITIONS:
I have read or have had read to me the conditions of supervision set forth in this judgment; and I fully understand them. I have been provided a copy of them. I understand upon finding of a violation of probation or supervised release, the Court may (1) revoke supervision, (2) extend the term of supervision and/or (3) modify the conditions of supervision.

Defendant's Signature _____ Date _____

USPO Signature _____ Date _____

DEFENDANT: Michael R Capps
CASE NUMBER: 6:21CR10073 - 001

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments set forth in this Judgment.

	Assessment	Restitution	Fine	AVAA Assessment*	JVTA Assessment**
TOTALS	$1,200	$318,647.21	Waived	Not applicable	Not applicable

☐ The determination of restitution is deferred until ___. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☒ The defendant shall make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss***	Restitution Ordered	Priority or Percentage
Small Business Administration		$278,647.21	
Kansas Department of Commerce		$40,000.00	
TOTALS		**$318,647.21**	

☐ Restitution amount ordered pursuant to plea agreement ____.

☐ The defendant shall pay interest on any fine or restitution of more than $2,500, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options set forth in this Judgment may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☒ The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

☒ the interest requirement is waived for the ☐ fine and/or ☒ restitution.

☐ the interest requirement for the ☐ fine and/or ☐ restitution is modified as follows:

*Amy, Vicky, and Andy Child Pornography Victim Assistance Act of 2018, Pub. L. No. 115-299.
**Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.
***Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Michael R Capps
CASE NUMBER: 6:21CR10073 - 001

SCHEDULE OF PAYMENTS

Criminal monetary penalties are due immediately. Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows, but this schedule in no way abrogates or modifies the government's ability to use any lawful means at any time to satisfy any remaining criminal monetary penalty balance, even if the defendant is in full compliance with the payment schedule:

A ☐ Lump sum payment of $___ due immediately, balance due
☐ not later than ___, or
☐ in accordance with ☐ C, ☐ D, ☐ E, or ☐ F below; or

B ☒ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☒ F below); or

C ☐ Payment in monthly installments of not less than 5% of the defendant's monthly gross household income over a period of ___ years to commence ___ days after the date of this judgment; or

D ☒ Payment of not less than 10% of the funds deposited each month into the inmate's trust fund account and monthly installments of not less than 5% of the defendant's monthly gross household income over a period of __2__ years, to commence __30__ days after release from imprisonment to a term of supervision; or

E ☐ Payment during the term of supervised release will commence within ____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or

F ☒ Special instructions regarding the payment of criminal monetary penalties:

If restitution is ordered, the Clerk, U.S. District Court, may hold and accumulate restitution payments, without distribution, until the amount accumulated is such that the minimum distribution to any restitution victim will not be less than $25.

Payments should be made to Clerk, U.S. District Court, U.S. Courthouse - Room 204, 401 N. Market, Wichita, Kansas 67202, or may be paid electronically via Pay.Gov.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (*including defendant number*), Total Amount, Joint and Several Amount and corresponding payee, if appropriate.

Case Number **Defendant and Co-Defendant Names** **(including defendant number)**	**Total Amount**	**Joint and Several Amount**	**Corresponding Payee, if appropriate**

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States. Payments against any money judgment ordered as part of a forfeiture order should be made payable to the United States of America, c/o United States Attorney, Attn: Asset Forfeiture Unit, 1200 Epic Center, 301 N. Main, Wichita, Kansas 67202.

A. Contents of account number xxxxx4457, located in Pershing LLC account, styled as Michael R. Capps, TOD DTD 04/1 1/2019, located at Pershing LLC, One Pershing Plaza, Jersey City, New Jersey - $197,306.83.

*The Court noted the forfeiture of $197,306.83 should be applied to the restitution.

B. a Forfeiture judgment in the amount of $178,193.17.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) AVAA assessment, (5) fine principal, (6) fine interest, (7) community restitution, (8) JVTA assessment, (9) penalties, and (10) costs, including cost of prosecution and court costs.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(WICHITA DOCKET)

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 6:21-cr-10073-EFM
	)	
MICHAEL R. CAPPS,	)	
	)	
Defendant,	)	
	)	

NOTICE OF APPEAL

NOTICE is hereby given that Michael R. Capps, Defendant in the above-named case, hereby appeals to the United States Court of Appeals for the Tenth Circuit from the final judgment entered in this action of the 11th day of May, 2023.

Respectfully submitted,

/s/ Kurt P. Kerns
Kurt P. Kerns, #15028
328 North Main Street
Wichita, KS 67202
Telephone: (316) 265-5511
Email: kurtpkerns@aol.com
Counsel for Defendant Michael Capps

CERTIFICATE OF SERVICE

The undersigned certifies that on May 17, 2023, a true and correct copy of the foregoing was filed and served electronically pursuant to the CM/ECF system on all counsel of record.

/s/ Kurt P. Kerns
Kurt P. Kerns, #15028