

IN THE CRIMINAL COURT FOR SCOTT COUNTY, TENNESSEE
JULY 2023 TERM

State of Tennessee

Vs.

Case # 12182

Austin Isaiah Lewallen
[REDACTED]

A TRUE BILL

On November 30, 2023, the following witness(es): [REDACTED] was/were sworn during open Court before the Grand Jury to give evidence on this indictment, and a true bill was returned by the Grand Jury on the following charges:

<u>Count</u>	<u>Charge</u>	<u>Tenn Code Annotated §</u>	<u>(Class)</u>
1	THEFT > \$10,000	39-14-103	C F
2	FRAUDULENT USE OF DEBIT CARD > \$10,000	39-14-118	C F

[REDACTED]
Prosecutor

Mark R. Smith
Foreman of the Grand Jury

Summon for the State at trial, the prosecutor, all Grand Jury witnesses and the following witnesses and evidence:

[REDACTED]
Jerried Jeffers, Scott Co. Mayor
Sheila Buttram, Scott Co. Commissioner
Paint Rock Volunteer Fire Department
Mary King
Jesse Lawson
Cole Strunk

This indictment returned to the Court by the Grand Jury and filed, and the subpoenas for the same authorized this the 30 day of November, 2023.

Martha Thomas DC
Clerk

Jared Effler 64
Jared Effler
District Attorney General
APR 23 2023
ADAG

STATE OF TENNESSEE, SCOTT COUNTY

Criminal Court, Eighth Judicial District

JULY 2023 TERM

COUNT 1

The Grand Jurors for the State of Tennessee, duly elected, impaneled, sworn, and charged to inquire in and for the body of the County of Scott, in the State of Tennessee, upon their oath, present: That

AUSTIN ISAIAH LEWALLEN

prior to the finding of this indictment, on or about May 01, 2022 - January 31, 2023, in the County and State aforesaid, did unlawfully, feloniously, knowingly and without the effective consent of the owner, obtain or exercise control over funds on deposit with First National Bank, the property of Paint Rock Volunteer Fire Department, with the intent to deprive the said owner of the property, valued at \$10,000.00 or more but less than \$60,000.00, in violation of T.C.A. §39-14-103, and against the peace and dignity of the State of Tennessee.

COUNT 2

And the Grand Jurors aforesaid, upon their oaths aforesaid, do further present: That **AUSTIN ISAIAH LEWALLEN** prior to the finding of this indictment, on or about May 01, 2022 - January 31, 2023, in the County and State aforesaid, did unlawfully, feloniously, knowingly, and fraudulently use a debit card or information from that card, for the purpose of obtaining property, cash, services or anything else of value with knowledge that the use of the card was unauthorized by either the issuer, owner, or person to whom the debit card was issued, to wit: Paint Rock Volunteer Fire Department, and the value of said fraudulent use totaling more than \$10,000.00 but less than \$60,000.00, in violation of T.C.A. §39-14-118, and against the peace and dignity of the State of Tennessee.

Jared Effler by:
Jared Effler
District Attorney General
W. Bradley
ADAG

IN THE CRIMINAL/CIRCUIT COURT FOR SCOTT COUNTY, TENNESSEE

Case Number: 12182 Count: 1 Counsel for the State: APRYL C. BRADSHAW
 Judicial District: 8th Judicial Division: _____ Counsel for the Defendant: PUBLIC DEFENDER
 State of Tennessee Retained Pub Def Appt Private Atty Appt
 vs. Counsel Waived Pro Se
 Defendant: AUSTIN ISAAH LEWALLEN Alias: _____ Date of Birth: [REDACTED] Sex: Male
 Race: White SSN: [REDACTED] Relationship to Victim: _____ Victim's Age: _____
 State ID #: _____ County Offender ID # (if applicable): _____ State Control #: _____
 Arrest Date: 12/04/2023 Indictment Filing Date: 11/30/2023

ORDER OF DEFERRAL (JUDICIAL DIVERSION) Original Amended Corrected

On the 8th day of July, 2024, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Pled Nolo Contendere Was Found Guilty By: <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Bench Trial	Indictment: Class (circle one) 1 st A B C D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Indicted Offense Name <u>AND TCA §: 39-14-103 - Theft > \$10,000</u> Amended Offense Name <u>AND TCA §:</u> Offense Date: <u>05/01/2022</u> County of Offense: <u>Scott</u> Deferred Offense Name <u>AND TCA §: 39-14-103 - Theft > \$10,000</u> Deferred Offense: Class (circle one) A B C D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
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Upon review of the case, the court finds the facts stated above as well as the following (For Item 3, Check **ONE** OF The Two Boxes):

1. The defendant is eligible for deferral of the prosecution pursuant to Tennessee Code Annotated section (T.C.A.) 40-35-313;
2. The Tennessee Bureau of Investigation has certified (per attached certificate) that the defendant does not have a prior felony or Class A misdemeanor conviction;
3. The defendant was not charged with a violation of a criminal statute the elements of which constitute abuse, neglect or misappropriation of the property of a vulnerable person as defined in Title 68, Chapter 11, Part 10: **OR**
 The defendant agrees without contest or any further notice or hearing that the defendant's name shall be permanently placed on the registry governed by Title 68, Chapter 11, Part 10, whereupon a copy of this order shall be forwarded by the clerk to the department of health;
4. The defendant consents to T.C.A. 40-35-313 deferral, as evidenced by the defendant's signature below; AND
5. The defendant should be granted a deferral of charges pursuant to T.C.A. 40-35-313.

It is, therefore, **ORDERED** that the prosecution in this case is deferred pursuant to T.C.A. 40-35-313, and the defendant is placed on probation. The terms and conditions ordered by this court apply to the defendant's probation and are incorporated herein by reference thereto.

Probation Term: Total Length 6 years Beginning Date 07/08/2024 Ending Date 07/08/2030 Supervised Unsupervised

The monetary obligations shall be paid at the rate of \$225 per month beginning 8/8/2024. Payments in this case shall be applied toward restitution first. The defendant shall report to probation in person not less than once per month. All automobiles, contraband, firearms, and currency shall be forfeited to the seizing agency.

FILED
 DATE: 7/8/24 TIME: 12 AM
 DONNIE PHILLIPS, CLERK

Costs	Concurrent with:	Restitution	Pretrial Jail Credit Period(s):
\$ _____ Sex Offender Tax (39-13-709)		Victim Name: <u>Paint Rock Volunteer Fire Dept</u>	From _____ to _____
\$ _____ Sex Offender Fine (40-24-108)		Address: <u>3710 Tunnel Hill Road</u>	From _____ to _____
\$ _____ Drug Testing Fee (39-17-420)		<u>Helenwood, TN 37755</u>	From _____ to _____
\$ _____ Treatment Expenses (40-35-313)	Consecutive to:	Total Amount <u>\$13,716.71</u>	From _____ to _____
\$ <u>75.00</u> ECF		Per Month \$ _____	
\$ <u>100.00</u> Other: Admin Fee			

Austin Swallen
 Defendant

ZACHARY R. WALDEN
 JUDGE'S NAME

Howard Ellis
 Counsel for the Defendant

ENTER this the 8th day of July, 2024.

Apryl C Bradshaw
 JUDGE'S SIGNATURE

Apryl C Bradshaw
 Counsel for the State of Tennessee

IN THE CRIMINAL/CIRCUIT COURT FOR SCOTT COUNTY, TENNESSEE

Case Number: 12182 Count: 2 Counsel for the State: APRYL C. BRADSHAW
 Judicial District: 8th Judicial Division: _____ Counsel for the Defendant: PUBLIC DEFENDER
 State of Tennessee Retained Pub Def Appt Private Atty Appt
 vs. Counsel Waived Pro Se
 Defendant: AUSTIN ISAAH LEWALLEN Alias: _____ Date of Birth: [REDACTED] Sex: Male
 Race: White SSN: [REDACTED] Relationship to Victim: _____ Victim's Age: _____
 State ID #: _____ County Offender ID # (if applicable): _____ State Control #: _____
 Arrest Date: 12/04/2023 Indictment Filing Date: 11/30/2023

ORDER OF DEFERRAL (JUDICIAL DIVERSION) Original Amended Corrected

On the 8th day of July, 2024, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Pled Nolo Contendere Was Found Guilty By: <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Bench Trial	Indictment: Class (circle one) 1 st A B C D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Indicted Offense Name AND TCA §: <u>39-14-118 - Fraudulent Use of Debit Card - \$10,000</u> Amended Offense Name AND TCA §: _____ Offense Date: <u>05/01/2022</u> County of Offense: <u>Scott</u> Deferred Offense Name AND TCA §: <u>39-14-118 - Fraudulent Use of Debit Card > \$10,000</u> Deferred Offense: Class (circle one) A B C D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
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Upon review of the case, the court finds the facts stated above as well as the following (For Item 3, Check ONE OF THE TWO BOXES):

1. The defendant is eligible for deferral of the prosecution pursuant to Tennessee Code Annotated section (T.C.A.) 40-35-313;
2. The Tennessee Bureau of Investigation has certified (per attached certificate) that the defendant does not have a prior felony or Class A misdemeanor conviction;
3. The defendant was not charged with a violation of a criminal statute the elements of which constitute abuse, neglect or misappropriation of the property of a vulnerable person as defined in Title 68, Chapter 11, Part 10: OR
 The defendant agrees without contest or any further notice or hearing that the defendant's name shall be permanently placed on the registry governed by Title 68, Chapter 11, Part 10, whereupon a copy of this order shall be forwarded by the clerk to the department of health;
4. The defendant consents to T.C.A. 40-35-313 deferral, as evidenced by the defendant's signature below; AND
5. The defendant should be granted a deferral of charges pursuant to T.C.A. 40-35-313.

It is, therefore, ORDERED that the prosecution in this case is deferred pursuant to T.C.A. 40-35-313, and the defendant is placed on probation. The terms and conditions ordered by this court apply to the defendant's probation and are incorporated herein by reference thereto.

Probation Term: Total Length 6 years Beginning Date 07/08/2024 Ending Date 07/08/2030 Supervised Unsupervised

The monetary obligations shall be paid at the rate of \$200 per month beginning 8/8/2024. Payments in this case shall be applied toward restitution first. The defendant shall report to probation in person not less than once per month. All automobiles, contraband, firearms, and currency shall be forfeited to the seizing agency.

FILED

DATE: 7/8/24 TIME: 12:00
 DONNIE HULL, CLERK

Costs	Concurrent with:	Restitution	Pretrial Jail Credit Period(s):
\$ _____ Sex Offender Tax (39-13-709)		Victim Name: _____	From _____ to _____
\$ _____ Sex Offender Fine (40-24-108)		Address: _____	From _____ to _____
\$ _____ Drug Testing Fee (39-17-420)	Consecutive to:	Total Amount \$ _____	From _____ to _____
\$ _____ Treatment Expenses (40-35-313)		Per Month \$ _____	From _____ to _____
\$ _____ Supervision Fees (40-35-313)			
\$ <u>75.00</u> Other: ECF			

Austin Lewallen
 Defendant

ZACHARY R. WALDEN
 JUDGE'S NAME

Howard Ellis
 Counsel for the Defendant

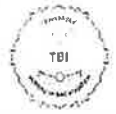
ENTER this the 8th day of July, 2024

APRYL C. BRADSHAW
 JUDGE'S SIGNATURE

APRYL C. BRADSHAW
 Counsel for the State of Tennessee



APPLICATION FOR CERTIFICATION OF ELIGIBILITY FOR DIVERSION



COUNTY Scott	COURT Criminal	DISTRICT Eight	JUDGE WALDEN
DEFENDANT'S NAME AUSTIN I LEWALLEN		DOCKET # 12182	COURT DATE 07/08/2024
DATE OF BIRTH [REDACTED]	SEX/RACE M/W	SOCIAL SECURITY NUMBER [REDACTED]	TYPE OF DIVERSION Judicial
OFFENSES TO BE DIVERTED THEFT > \$10,000 - DOA: 11/30/2023 - Felony FRAUDULENT USE OF DEBIT/CREDIT CARD > \$10,000 - DOA: 11/30/2023 - Felony			
NAME AND PHONE NUMBER OF DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTORNEY TO WHOM RESPONSE SHOULD BE SENT JARED R. EFFLER [REDACTED]			
FAX NUMBER 4236634105 4236638802		EMAIL LWBOTTS@TNDAGC.ORG	
NAME AND PHONE NUMBER OF DEFENSE ATTORNEY OR PRO SE DEFENDANT TO WHOM RESPONSE SHOULD BE SENT SHONDA DUNCAN 4234053034 TERESA.TERRY@TN.GOV			

CERTIFICATION OF ELIGIBILITY FOR DIVERSION

I hereby certify that, pursuant to Tenn. Code Ann. 38-6-118(b), a query of the TBI Expunged Criminal Offender and Pretrial Diversion Database has been conducted pursuant to the above authorized request, and based upon the results of that query:

- The defendant has not had a prior disqualifying felony or misdemeanor conviction.
 The defendant has a prior disqualifying felony or misdemeanor conviction.
 The defendant has a prior arrest for which no disposition has been entered.
- The defendant has not previously been granted diversion.
 The defendant has been granted diversion before.
- The defendant has a prior expunction due to a diversion.
 The defendant has a prior expunction due to 40-32-101(g).

The defendant has not had a prior disqualifying felony or misdemeanor conviction

FILED
DATE: 7/8/24 TIME: 12:00
DONNIE PHILLIPS, CLERK

Heather Hurley
TBI Criminal Records - Diversions
TBI.Diversions@tbi.tn.gov | 615-744-4617

07/01/2024
Date

PLEASE NOTE THAT THIS DOES NOT CONSTITUTE A CERTIFICATION THAT THE DEFENDANT IS ELIGIBLE OR INELIGIBLE FOR DIVERSION UNDER TCA 40-35-313 OR TCA 40-15-105. THIS IS ONLY A CERTIFICATION THAT A RECORDS CHECK OF THE TBI EXPUNGED CRIMINAL OFFENDER AND PRETRIAL DIVERSION DATABASE HAS REVEALED QUALIFYING OR DISQUALIFYING INFORMATION UNDER THE CRITERIA SET OUT IN THE DIVERSION STATUTES REFERENCED ABOVE.

JUDGEMENT OF PRETRIAL DIVERSION OR JUDICIAL DIVERSION

Comes now the District Attorney General for the State and Defendant with counsel of record for entry of judgement.

On the 8th day of July, 2024

OFFENSE INDICTED <u>Theft > 10,000 ; Fraud use of Debit Card > 10,000</u>	OFFENSE CLASS <u>C/F ; C/F</u>
OFFENSE DIVERTED <u>Theft > 10,000 ; Fraud use of Debit Card > 10,000</u>	OFFENSE CLASS <u>C/F ; C/F</u>

The defendant is sentenced to pretrial diversion judicial diversion for the following period:

0 years, _____ months, _____ days. Effective: 7-8-24

Zachary R. Walden
JUDGE (Printed)

[Signature]
JUDGE (Signature)

7 / 8 / 24
ENTRY OF JUDGEMENT DATE

[Signature]
DISTRICT ATTORNEY

[Signature]
ATTORNEY FOR DEFENDANT