



COMPTROLLER'S INVESTIGATIVE REPORT

David C. Berry

February 7, 2024

Jason E. Mumpower
Comptroller of the Treasury



DIVISION OF INVESTIGATIONS



JASON E. MUMPOWER
Comptroller

February 7, 2024

The Office of the Comptroller of the Treasury conducted an investigation of selected records of the David C. Berry, and the results are presented herein.

Copies of this report are being forwarded to Governor Bill Lee, the State Attorney General, the District Attorney General of the 12th Judicial District, certain state legislators, and various other interested parties. A copy of the report is available for public inspection in our Office and may be viewed at <http://www.comptroller.tn.gov/ia/>.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jason E. Mumpower", is written over a faint, larger version of the signature.

Jason E. Mumpower
Comptroller of the Treasury

JEM/MLC

INVESTIGATIVE REPORT

David C. Berry

The Office of the Comptroller of the Treasury, in conjunction with the Tennessee Bureau of Investigation, investigated allegations of malfeasance related to David C. Berry. This investigation was initiated upon the request of the District Attorney General of the 12th Judicial District, pursuant to Tenn. Code Ann. § 8-4-209. The investigation was limited to selected records for the period January 1, 2011 through September 30, 2020. The results of the investigation were communicated with the office of the District Attorney General of the 12th Judicial District.

BACKGROUND



David C. Berry (Berry) is the pastor of the Praise & Worship Family Outreach Center (PWFOC) in Jasper, Tennessee. Berry also owns and operates The Tax Service in Jasper, Tennessee. In 2011, Berry was appointed as the representative payee through the Social Security Administration's (SSA) Representative Payment Program to manage disability payments on

behalf of a disabled adult who, because of an intellectual disability, was unable to fully manage his own resources. As a representative payee, Berry was responsible for paying for the needs of the disabled adult which included food, shelter, clothes, medical care, and personal comfort items. In 2013, the disabled adult began receiving monthly pension benefits from a former job.

The Social Security Administration's Guide for Representative Payees states, "NOTE: We appoint a representative payee to manage Social Security and SSI funds only. A payee has no legal authority to manage non-Social Security income..., and you may not take a fee from the beneficiary for your services as a representative payee."

Pursuant to Tenn. Code Ann. § 39-15-502, it is an offense for any person to knowingly financially exploit a vulnerable adult. Tenn. Code Ann. §§ 39-15-501(A) and (C) define financial exploitation as the use of deception, intimidation, or undue influence to obtain or exert unauthorized control over a vulnerable adult's property with the intent to deprive the vulnerable adult of property, or the act of a caregiver in obtaining or exercising control over a vulnerable adult's property without receiving their effective consent and with the intent to benefit the caregiver or other third party.

RESULTS OF INVESTIGATION

1. BERRY MISAPPROPRIATED AT LEAST \$27,386.29 BELONGING TO THE DISABLED ADULT

Berry misappropriated at least \$27,386.29 belonging to the disabled adult. During the scope of the investigation, the disabled adult derived income from the Social Security Administration (disability benefits) as well as his pension fund (pension benefits).

After the disabled adult requested the Social Security Administration (SSA) to assign Berry as his representative payee, Berry opened a representative payee checking account to receive the disabled adult's social security payments. As a representative payee, he alone had access to account checkbook and debit card. SSA's policy does not allow the beneficiary direct access to their account, and Berry did not give the disabled adult access to his account bank statements for review.

Berry provided the disabled adult with \$250 biweekly, either on a prepaid debit Cash Express card with funds derived from the disabled adult's checking account or in cash. The \$250 provided to the disabled adult was for gasoline, groceries, and other necessities. Investigators were advised that the disabled adult had to drive to Berry's personal residence to retrieve the \$250 cash from inside of a grill, or when Berry provided electronic funds to the disabled adult, he would load \$250 onto a Cash Express card that was already in the disabled adult's possession. The \$250 that the disabled adult received biweekly was usually the only funds accessible to him. When the disabled adult had additional needs, such as home repairs or travel, Berry provided additional money at the disabled adult's request.

A. Berry misappropriated at least \$16,686.42 in unauthorized amounts via check payments from the disabled adult's checking account to the PWFOC.

Berry misappropriated at least \$16,686.42 in unauthorized amounts via check payments from the disabled adult's checking account to the PWFOC. Investigators were advised that the disabled adult authorized a monthly tithe of 10% of his income as well as a one-time contribution in April 2020 of \$1,000 to the PWFOC. However, Berry wrote checks from the disabled adult's checking account to the PWFOC for significantly more than 10% of the disabled adult's monthly income without the disabled adult's authorization.

Monthly Tithing Amounts in Excess of the Authorized 10%		
Payee	Date	Amount
PWFOC	November 2011 – December 2011	\$ 164.83
PWFOC	January 2014 – December 2014	\$ 445.99
PWFOC	January 2015 – December 2015	\$ 986.95
PWFOC	January 2016 – December 2016	\$ 2,017.29
PWFOC	January 2017 – December 2017	\$ 3,999.35
PWFOC	January 2018 – December 2018	\$ 1,860.03
PWFOC	January 2019 – December 2019	\$ 4,737.87
PWFOC	January 2020 – August 2020	\$ 2,474.11
	Total in Excess of Authorized Tithed Amounts	\$ 16,686.42

B. Berry misappropriated at least \$9,000 in unauthorized transfers from the disabled adult’s savings accounts, some of which were transferred directly into Berry’s personal checking account.

Berry misappropriated at least \$9,000 in unauthorized transfers from the disabled adult’s savings accounts, some of which were transferred directly into Berry’s personal checking account. One transaction totaling \$5,000 was transferred from the disabled adult’s savings account to the disabled adult’s checking account and then withdrawn as cash. Five additional electronic transactions totaling \$4,000 were transferred from the disabled adult’s savings account directly into Berry’s personal checking account (**Refer to Exhibit 1**).

Exhibit 1

Summary of Unauthorized Transfers from Disabled Adult's Savings Account	
Funds transferred from Savings Account to Checking Account for Cash Withdrawal	\$5,000
Funds transferred directly into Berry's Personal Checking Account	\$4,000
	Total \$9,000

Summary of unauthorized transfers made by Berry from the disabled adult’s savings account

C. Berry misappropriated \$898.75 in unauthorized disbursements from the disabled adult’s checking account for dental care received by Berry and his wife.

Berry misappropriated \$898.75 in unauthorized disbursements from the disabled adult’s checking account for dental care received by Berry and his wife. An invoice for \$498.75 was paid from the disabled adult’s checking account to a dental office located in Chattanooga, Tennessee. The invoice listed Berry’s wife as the patient for dental care provided on January 9, 2018 (**Refer to Exhibit 2**). An additional invoice for \$400 was paid from the disabled adult’s checking account to a different dental office, also located in Chattanooga. The invoice listed Berry as the patient for dental care received in September

2019 (Refer to Exhibit 3). Investigators determined that the disabled adult had worn dentures since 2013 and was not a patient of either dentist.

Exhibit 2

Exhibit 3

August 30, 2021

██████████ Berry
P.O. Box ██████████
Jasper, TN 37347

ID: 8282

Account Aging	Amount
Current	\$0.00
30 Days	\$0.00
60 Days	\$0.00
90 Days	\$0.00
Contract	\$0.00
Balance Due	\$0.00
Estimated Insurance	\$0.00
Balance Due Now:	\$0.00

Date	Description	Charges	Payments	Adjustments	Balance Due Now
1/6/2018	██████████ (Standard Fee \$305.00) (Adjust \$0.00) (Fee \$305.00)	\$305.00			\$305.00
	██████████ (Standard Fee \$305.00) (Adjust \$0.00) (Fee \$305.00)	\$305.00			\$305.00
	██████████ (Standard Fee \$185.00) (Adjust \$0.00) (Fee \$185.00)	\$185.00	DOB		\$185.00
12/20/2017	██████████ (Standard Fee \$46.00) (Adjust \$0.00) (Fee \$46.00)	\$46.00			\$46.00
	██████████ (Standard Fee \$24.00) (Adjust \$0.00) (Fee \$24.00)	\$24.00			\$24.00
	██████████ (Standard Fee \$20.00) (Adjust \$0.00) (Fee \$20.00)	\$20.00			\$20.00
1/8/2018	██████████ XXXXXXXXXXXX██████████ or (\$498.75) Entry Method: Support Card Type: ██████████ Account # ██████████ Approval: ██████████		(\$498.75)		
Sub Total:					\$2,095.00
Tax:					\$0.00
Charges:					\$2,095.00
Payment(s):					\$498.75
Balance Due:					\$0.00

Contract Balance	Estimated Insurance	Previous Balance	Charges)	Payment(s)	Adjustment(s)	Balance Due Now
\$0.00	\$0.00	(\$1,586.25)	\$2,095.00	\$498.75	\$0.00	\$0.00

Future Family Appointments: None

Patient	Next Appointment	Patient	Next Appointment

Thank You for Visiting our Office. Have a Nice Day!

Page 1 of 1

Berry's wife's dental care

STATEMENT OF SERVICES RENDERED

CHART NO. ████ PAGE NO. 1
050C20

BILLING DATE: 09/28/2019

CREDIT CARD # ████ EXP. ████

NAME: ████ (It appears on card)

SIGNATURE: ████

TYPE OF CARD: ████ AMOUNT PAID: \$

APPROVAL #: ████

PATIENT	TOOTH	SURF	ADA CODE : DESCRIPTION	CHARGE	CREDIT
David			Debit Card Payment Un #	400.00	-400.00

DEBIT CARD RECEIPT

Card # ████
Network: ████
Chip Card: ████
ATC: ████
SEC #: ████
Batch #: ████
Approval Code: ████
Entry Method: ████
Mode: ████

SALE AMOUNT: \$400.00

DAVID C. BERRY
MERCHANT COPY

PRIOR BALANCE	CURRENT CREDITS	CURRENT CHARGES	NEW BALANCE	DENTAL INS. EST.	PLEASE PAY
0.00	400.00	400.00	0.00	0.00	0.00

***** If an ADJUSTMENT is needed you must call the office in advance for an appointment. ████

093285-109312


Berry's dental care

D. Berry misappropriated \$801.12 in an unauthorized disbursement to an automotive repair shop for repair work done on Berry's personal vehicle.

Berry misappropriated \$801.12 in an unauthorized disbursement to an automotive repair shop for repair work done on Berry's personal vehicle (Refer to Exhibit 4). In December 2019, Berry used funds from the disabled adult's checking account to pay for the replacement of a fuel pump, fuel filter, and an immobilizer key reader on his personal vehicle. Berry specifically stated to investigators that he used the \$801.12 for repair work to his personal vehicle.

Exhibit 4

██████████
██████████
TN
423 ██████████
██████████@GMAIL.COM



INVOICE

BILL TO
David Berry

INVOICE
DATE 1443
12/11/2019
DUE DATE 01/10/2020

ACTIVITY	DESCRIPTION	QTY	RATE
Labor	R&R fuel pump	1	222.50
Parts	fuel filter	1	13.42
Parts	fuel pump	1	268.00
Labor	R&R immobilizer key reader	1	178.00
Parts	key	1	26.00
Shop Supplies		1	21.03
Hazardous Materials		1	1.00

This invoice totals \$801.12 when subtotaled and tax is added.

SUBTOTAL
TAX
TOTAL
PAYMENT
BALANCE DUE

Berry's automobile repair

Summary of Misappropriation		
Section	Description	Amount
A.	Payments to PWFOC	\$ 16,686.42
B.	Savings Account Transfers	\$ 9,000.00
C.	Dental Care	\$ 898.75
D.	Automobile Repair	\$ 801.12
Total		\$ 27,386.29

Berry stated that he would occasionally use the disabled adult's funds for personal use. Berry stated that he kept up with the amount of funds that he borrowed, but he did not provide investigators with records for those amounts.

2. BERRY EXCEEDED HIS AUTHORITY BY CONTROLLING FUNDS TOTALING \$366,587.76 BELONGING TO THE DISABLED ADULT AND HIS WIFE WITHOUT DOCUMENTED AUTHORITY

Berry exceeded his authority by controlling funds totaling \$366,587.76 belonging to the disabled adult and his wife without documented authority. Berry opened a savings account for the disabled adult naming himself conservator on that account. Investigators did not locate any legal documentation to establish a conservatorship over the disabled adult. Berry then used that access to take control of disabled adult's pension fund of \$318,736.64. Berry transferred

money from the disabled adult's savings account to the representative payee account, thereby commingling the disabled adult's income sources, resulting in questionable spending of \$318,736.64. Per IRS regulations, the Representative Payee account should only receive the disabled adult's social security benefits. Investigators were informed that when the disabled adult got married, his wife voluntarily gave Berry permission to sign checks on her bank account (not as a social security representative payee). However, investigators found no documentation from the disabled adult's wife authorizing Berry on the account aside from a document signed by Berry that listed him as an authorized signatory (but that did not contain any grant of authority from or signature of the disabled adult's wife). Berry then commingled the disabled adult's wife's money totaling \$47,851.12, with her husband's SSA funds and pension benefits in the representative payee account.

The disabled adult's pension benefits (\$318,736.64) and his wife's SSA benefits (\$47,851.12) totaled \$366,587.76 being placed into the disabled adult's representative payee account violated SSA's representative payee policy and made it undeterminable which expenses were spent specifically from the disabled adult's SSA benefits. There were numerous transactions on the disabled adult's bank account for restaurant purchases, fuel purchases, various retail store purchases, a loan for a Super Bowl party, numerous cash transactions, and other questionable purchases. Berry provided bi-weekly spending money to the disabled adult by loading money onto a Cash Express card. All other transactions, including all daily transaction activity, on the bank debit card were made by Berry. It could not be determined what amount was spent for the benefit of the disabled adult or his wife.

3. BERRY MADE MULTIPLE QUESTIONABLE TRANSFERS TOTALING \$9,549.50 FROM ACCOUNTS BELONGING TO THE DISABLED ADULT AND HIS WIFE

Berry made multiple questionable transfers totaling \$9,549.50 from accounts belonging to the disabled adult and his wife. Berry made three transfers from the disabled adult's savings account totaling \$3,350 to unknown accounts. These transfers were not traced into any of the disabled adult's other accounts, nor were they traced into any of Berry's accounts. Berry also transferred \$6,199.50 from the disabled adult's wife's account, and this amount was not transferred into any of the other accounts owned or attached to the disabled adult or his wife.

On February 5, 2024, the Marion County Grand Jury indicted **David C Berry** on one count(s) of Violation of the Computer Crimes Act; one count of Theft over \$10,000 but less than \$60,000; and one count of Financial Exploitation of an Elderly or Vulnerable Adult;

The charges and allegations contained in the indictment are merely accusations of criminal conduct, and not evidence. The defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt and convicted through due process of law.

[David C. Berry Investigative Exhibit](#)