

No. _____

In the
Supreme Court of the United States

IN RE RAHEEM JEFFERSON BRENNERMAN,
Petitioner.

On Petition for an Extraordinary Writ to the
United States Court of Appeals for the Second Circuit,
United States v. Raheem Brennerman, No. 18-3546

APPENDIX

Raheem Jefferson Brennerman
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July 31, 2026

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APPENDIX A

Judgment of Conviction and Sentence in
Criminal Case, United States v. Brennerman
at the United States District Court, Criminal Case
No. 1:17-cr-00337-RJS (S.D.N.Y.),
at ECF No. 203

UNITED STATES DISTRICT COURT

Southern District of New York

UNITED STATES OF AMERICA

v.

Raheem Brennerman

JUDGMENT IN A CRIMINAL CASE

Case Number: 17-cr-337

USM Number: 54001-048

Scott Tulman

Defendant's Attorney

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, 3, and 4
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1349	Conspiracy to commit bank fraud and wire fraud	6/1/2017	One
18 U.S.C. § 1344	Bank Fraud	6/1/2017	Two
18 U.S.C. § 1343	Wire Fraud	6/1/2017	Three

The defendant is sentenced as provided in pages 2 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) _____
- ☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must 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 must notify the court and United States attorney of material changes in economic circumstances.

11/19/2018

Date of Imposition of Judgment

Signature of Judge

Richard J. Sullivan, U.S.C.J., Sitting by Designation

Name and Title of Judge

11/19/2018

Date

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1546(a)	Visa Fraud	6/1/2017	Four

DEFENDANT: Raheem Brennerman
CASE NUMBER: 17-cr-337

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

144 months on Counts One, Two, and Three, and 120 months on Count Four, to run concurrent with each other and to run consecutive to the two-year sentence imposed by Judge Kaplan in 17-cr-155.

☒ The court makes the following recommendations to the Bureau of Prisons:

that Defendant be sentenced to a facility in California.

☒ 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 _____ ☐ a.m. ☐ p.m. 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 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

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 UNITED STATES MARSHAL

DEFENDANT: Raheem Brennerman
CASE NUMBER: 17-cr-337

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:
3 years, to run concurrent on all counts.

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, as determined by the court.
 - ☐ 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: Raheem Brennerman

CASE NUMBER: 17-cr-337

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 require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Raheem Brennerman
CASE NUMBER: 17-cr-337

ADDITIONAL SUPERVISED RELEASE TERMS

You must submit your person, residence, place of business, vehicle, and any property or electronic devices under your control to a search on the basis that the probation officer has reasonable suspicion that contraband or evidence of a violation of the conditions of your probation/supervised release may be found. The search must be conducted at a reasonable time and in a reasonable manner. Failure to submit to a search may be grounds for revocation. You must inform any other residents that the premises may be subject to search pursuant to this condition.

You shall not open any new lines of credit, take out any mortgages, open any credit card accounts, or otherwise assume new debt without the permission of the United States Probation Office. You must provide the probation officer with access to any requested financial information.

DEFENDANT: Raheem Brennerman
 CASE NUMBER: 17-cr-337

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>JVTA Assessment*</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 400.00	\$	\$	\$

☒ The determination of restitution is deferred until 2/18/2019. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount 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.

<u>Name of Payee</u>	<u>Total Loss**</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$	<u>0.00</u>	\$	<u>0.00</u>
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☒ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine 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 on Sheet 6 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 ☐ restitution.

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

* 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: Raheem Brennerman
CASE NUMBER: 17-cr-337

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- 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 equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 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:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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:

- ☐ 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:
Defendant shall forfeit \$4,400,000 as substitute assets reflecting Defendant's proceeds from this offense.

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

APPENDIX B

Amended Judgment of Conviction and Sentence in
Criminal Case, United States v. Brennerman
at the United States District Court, Criminal Case
No. 1:17-cr-00337-RJS (S.D.N.Y.),
at ECF No. 223

UNITED STATES DISTRICT COURT

Southern District of New York

UNITED STATES OF AMERICA

v.

Raheem Brennerman

Date of Original Judgment: 11/19/2018
 (Or Date of Last Amended Judgment)

Reason for Amendment:

- ☐ Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
☐ Reduction of Sentence for Changed Circumstances (Fed. R. Crim. P. 35(b))
☐ Correction of Sentence by Sentencing Court (Fed. R. Crim. P. 35(a))
☐ Correction of Sentence for Clerical Mistake (Fed. R. Crim. P. 36)

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 17-cr-337

USM Number: 54001-048

Scott Tulman

Defendant's Attorney

- ☐ Modification of Supervision Conditions (18 U.S.C. §§ 3563(c) or 3583(e))
☐ Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
☐ Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
☐ Direct Motion to District Court Pursuant ☐ 28 U.S.C. § 2255 or ☐ 18 U.S.C. § 3559(c)(7)
☒ Modification of Restitution Order (18 U.S.C. § 3664)

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, 3, and 4
 after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 U.S.C. § 1349	Conspiracy to commit bank fraud and wire fraud	6/1/2017	One
18 U.S.C. § 1344	Bank Fraud	6/1/2017	Two
18 U.S.C. § 1343	Wire Fraud	6/1/2017	Three

The defendant is sentenced as provided in pages 2 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) _____
☐ Count(s) _____ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must 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 must notify the court and United States attorney of material changes in economic circumstances.

11/19/2018

Date of Imposition of Judgment

Signature of Judge

Richard J. Sullivan, U.S.C.J.

Name and Title of Judge

2/12/2019

Date

DEFENDANT: Raheem Brennerman

CASE NUMBER: 17-cr-337

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1546(a)	Visa Fraud	6/1/2017	Four

DEFENDANT: Raheem Brennerman

CASE NUMBER: 17-cr-337

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of:

144 months on Counts One, Two, and Three, and 120 months on Count Four, to run concurrent with each other and to run consecutive to the two year sentence imposed by Judge Kaplan in 17-cr-155.

☒ The court makes the following recommendations to the Bureau of Prisons:
that Defendant be sentenced to a facility in California.

☒ 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 _____ ☐ a.m. ☐ p.m. 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 2 p.m. on _____

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

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 UNITED STATES MARSHAL

DEFENDANT: Raheem Brennerman
CASE NUMBER: 17-cr-337

SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of :

3 years, to run concurrent on all counts.

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, as determined by the court.
 - ☐ 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 (42 U.S.C. § 16901, *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: Raheem Brennerman

CASE NUMBER: 17-cr-337

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 require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
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. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: Raheem Brennerman

CASE NUMBER: 17-cr-337

ADDITIONAL SUPERVISED RELEASE TERMS

You must submit your person, residence, place of business, vehicle, and any property or electronic devices under your control to a search on the basis that the probation officer has reasonable suspicion that contraband or evidence of a violation of the conditions of your probation/supervised release may be found. The search must be conducted at a reasonable time and in a reasonable manner. Failure to submit to a search may be grounds for revocation. You must inform any other residents that the premises may be subject to search pursuant to this condition.

You shall not open any new lines of credit, take out any mortgages, open any credit card accounts, or otherwise assume new debt without the permission of the United States Probation Office. You must provide the probation officer with access to any requested financial information.

DEFENDANT: Raheem Brennerman

CASE NUMBER: 17-cr-337

CRIMINAL MONETARY PENALTIES

The defendant must pay the following total criminal monetary penalties under the schedule of payments on Sheet 6.

	Assessment	JVTA Assessment*	Fine	Restitution
TOTALS	\$ 400.00	\$	\$	\$ 5,264,176.19

☐ 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 amount 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
ICBC (London) plc	\$5,264,176.19	\$5,264,176.19	

TOTALS	\$ 5,264,176.19	\$ 5,264,176.19
--------	-----------------	-----------------

☐ Restitution amount ordered pursuant to plea agreement. \$

☒ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine 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 on Sheet 6 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
☐ fine
☐ restitution.
- ☐ the interest requirement for the
☐ fine
☐ restitution is modified as follows:

* 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: Raheem Brennerman
CASE NUMBER: 17-cr-337

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- 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 equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☒ Payment during the term of supervised release will commence within 30 (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:

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of 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.

- ☐ 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:

Defendant shall forfeit \$4,400,000 as substitute assets reflecting Defendant's proceeds from this offense.

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

APPENDIX C

Summary Order and Judgement in Appeal,
United States v. Brennerman at the United States
Court of Appeals for the Second Circuit, Appeal
No. 18-3546(L), at ECF No. 186-1

18-3546(L)
United States v. Raheem Brennerman

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York on the 9th day of June, two thousand twenty.

Present: ROSEMARY S. POOLER,
REENA RAGGI,
WILLIAM J. NARDINI,
Circuit Judges.

UNITED STATES OF AMERICA,

Appellee,
v.

18-3546, 19-497

RAHEEM BRENNERMAN,
AKA JEFFERSON R. BRENNERMAN,
AKA AYODEJI SOETAN,

Defendant-Appellant.

Appearing for Appellant: John C. Meringolo, Meringolo & Associates, P.C., Brooklyn, N.Y.

Appearing for Appellee: Danielle R. Sassoon, Assistant United States Attorney (Nicholas Roos, Robert B. Sobelman, Matthew Podolsky, Assistant United States Attorneys, *on the brief*), for Geoffrey S. Berman, United

States Attorney for the Southern District of New York, New York,
N.Y.

Appeal from the United States District Court for the Southern District of New York (Sullivan, J.).

ON CONSIDERATION WHEREOF, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment be and it hereby is **AFFIRMED**.

Defendant-Appellant Raheem Brennerman appeals from the February 12, 2019, amended judgment of conviction entered in the United States District Court for the Southern District of New York (Sullivan, J.), sentencing him principally to 144 months' imprisonment, 3 years' supervised release, forfeiture in the amount of \$4,400,000, and restitution in the amount of \$5,264,176.19. Following a jury trial, Brennerman was convicted of one count of conspiracy to commit bank and wire fraud, in violation of 18 U.S.C. § 1349; one count of bank fraud, in violation of 18 U.S.C. §§ 1344 and 2; one count of wire fraud, in violation of 18 U.S.C. §§ 1343 and 2; and one count of visa fraud, in violation of 18 U.S.C. § 1546(a). We assume the parties' familiarity with the underlying facts, procedural history, and specification of issues for review.

On appeal, Brennerman argues: (1) there was insufficient evidence to convict him on the conspiracy count, the substantive bank fraud count, and the substantive wire fraud count; (2) the government made an impermissible constructive amendment to the indictment; (3) the search warrant for Brennerman's Las Vegas apartment was unlawful; (4) the admission of the testimony of Julian Madgett violated Brennerman's constitutional rights; (5) the district court erred by applying a two-offense level enhancement for obstruction of justice, pursuant to U.S.S.G. § 3C1.1; and (6) the district court incorrectly determined the restitution amount.

I. Sufficiency of the Evidence

A defendant challenging the sufficiency of the evidence bears a "heavy burden," *United States v. Gaskin*, 364 F.3d 438, 459 (2d Cir. 2004), as the standard of review is "exceedingly deferential," *United States v. Hassan*, 578 F.3d 108, 126 (2d Cir. 2008). Ultimately, "the task of choosing among competing, permissible inferences is for the [jury], not for the reviewing court." *United States v. McDermott*, 245 F.3d 133, 137 (2d Cir. 2001).

Brennerman argues there was insufficient evidence to convict him of a conspiracy. He argues the jury could not have adduced the existence of an agreement because the record does not contain a single response from Peter Aderinwale, the purported co-conspirator with whom Brennerman corresponded over email. His argument is both factually and legally flawed. First, the record did contain two responsive emails from Aderinwale concerning draft emails to be sent to ICBC as part of the scheme. Second, a response from an alleged co-conspirator following conspiratorial communication is not legally necessary to establish the existence of a conspiracy. We agree with the government that a reasonable jury could infer the requisite intent from emails in which Brennerman solicited Aderinwale's input on aspects of the fraud scheme and from Brennerman's transfer of substantial scheme proceeds to Aderinwale. These facts would have supported the inference that Aderinwale was a co-conspirator, even in the absence of any email

response from Aderinwale. The jury would have been entitled to infer that Aderinwale's responses had been conveyed over the phone or in person. "This is so because a conspiracy by its very nature is a secretive operation, and it is a rare case where all aspects of a conspiracy can be laid bare in court with the precision of a surgeon's scalpel." *United States v. Pitre*, 960 F.2d 1112, 1121 (2d Cir. 1992) (internal quotation marks and citation omitted). Thus, viewing the evidence in the light most favorable to the government, we find there was sufficient evidence from which the jury could have reasonably inferred the existence of a conspiracy.

Brennerman also argues that there was insufficient evidence that he intended to defraud an institution insured by the Federal Deposit Insurance Corporation ("FDIC") as required for bank fraud, because most of the evidence offered at trial showed that he targeted the Industrial and Commercial Bank of China's London branch ("ICBC"), which is not FDIC-insured. Contrary to Brennerman's assertions, however, the record did establish that he defrauded Morgan Stanley, an FDIC-insured institution, as part of his broader scheme by, among other things, inducing it to issue him a credit card based on false representations about his citizenship, assets, and the nature and worth of his company. Indeed, the government argued just this theory on summation, asserting that Brennerman was guilty of bank fraud because "he engaged in a scheme to defraud Morgan Stanley" through lies told to a Morgan Stanley employee, which were "all part of an attempt to defraud an FDIC-insured institution." App'x at 1709-10. Defense counsel in summation also emphasized that Morgan Stanley was the sole FDIC-insured institution involved. And the district court instructed the jury on the proper elements of bank fraud, including the FDIC-insured institution element. Brennerman's challenge, therefore, is foreclosed by "the law's general assumption that juries follow the instructions they are given," which applied here would indicate that the jury properly accounted for the evidence related to Morgan Stanley when convicting Brennerman of the bank fraud count. *United States v. Agrawal*, 726 F.3d 235, 258 (2d Cir. 2013).

As to the wire fraud count, Brennerman argues there was insufficient evidence to establish a domestic violation of the statute. "[W]ire fraud involves sufficient domestic conduct when (1) the defendant used domestic mail or wires in furtherance of a scheme to defraud, and (2) the use of the mail or wires was a core component of the scheme to defraud." *Bascuñán v. Elsaca*, 927 F.3d 108, 122 (2d Cir. 2019). We conclude that the evidence here was sufficient. The record at trial established that Brennerman used domestic wires to carry out the fraudulent scheme. Indeed, he concedes that he used telephone lines and email in the United States to make fraudulent representations in furtherance of the scheme. In addition, the account to which ICBC wired the loan money was a Citibank account within the United States, and Brennerman subsequently moved that money to domestic accounts. This is precisely the kind of use of domestic wires that we have held sufficient under the wire fraud statute. *See, e.g., United States v. Kim*, 246 F.3d 186, 190 (2d Cir. 2001).

II. Constructive Amendment

An impermissible constructive amendment occurs only when the government's proof and the trial court's jury instructions "modify essential elements of the offense charged to the point that there is a substantial likelihood that the defendant may have been convicted of an offense

other than the one charged by the grand jury.” *United States v. Vebeliunas*, 76 F.3d 1283, 1290 (2d Cir. 1996) (internal quotation marks and citation omitted).

Brennerman contends that the government constructively amended counts one and two of the indictment by proving a fraud against Morgan Stanley at trial—while the indictment, especially the speaking part, focuses on the fraud against ICBC. We disagree. It is clear from the indictment that the scheme against ICBC was merely one target of Brennerman’s alleged fraud. The indictment alleged that Brennerman’s scheme in fact targeted “several financial institutions around the world, including in the United States.” App’x at 39. It also specifically alleged that Brennerman defrauded an FDIC-insured financial institution. The indictment did not limit the proof only to Brennerman’s scheme against ICBC. While the indictment discusses ICBC activity at length, it makes clear that those allegations are illustrations, asserting that “[b]eginning in or about January 2013, [Brennerman] made similar [false] representations to other financial institutions in an effort to induce those institutions to provide financing to Blacksands Pacific and Blacksands Alpha.” App’x at 42. At trial, the government offered evidence that Morgan Stanley was one of those “other financial institutions.” See App’x at 608-09 (testimony of Morgan Stanley’s Kevin Bonebrake about a January 2013 telephone call with Brennerman discussing financing to develop oil asset). Thus, there was not a “a substantial likelihood that the defendant may have been convicted of an offense other than the one charged by the grand jury.” *Vebeliunas*, 76 F.3d at 1290.

III. Search Warrant

Brennerman challenges the lawfulness of the search warrant of his Las Vegas apartment. Even assuming, for the sake of argument only, that the search warrant was unlawful, we conclude that the good faith exception to the Fourth Amendment’s exclusionary rule would apply. We therefore need not address the propriety of the search warrant. The district court found that the law enforcement agents who executed the warrant reasonably relied on its terms in good faith, and Brennerman has not challenged this finding. Where, as here, evidence is obtained by police officers executing the search “in objectively reasonable reliance” on a warrant, the good faith exception to the exclusionary rule applies. *United States v. Falso*, 544 F.3d 110, 125 (2d Cir. 2008) (internal quotation marks and citation omitted).

IV. Testimony of Julian Madgett

Brennerman argues that Julian Madgett’s testimony at trial violated due process and his Sixth Amendment rights to confrontation and compulsory process because he was unable to obtain certain exculpatory personal notes from Madgett, and the government would not turn the notes over or otherwise retrieve them from ICBC.

The government has an obligation under the Due Process Clause to make a timely disclosure of any exculpatory or impeaching evidence that is material and in its possession. See *Brady v. Maryland*, 373 U.S. 83 (1963); see also *Giglio v. United States*, 405 U.S. 150 (1972). Additionally, the Jencks Act provides that, “[a]fter a witness called by the United States has testified on direct examination, the court shall, on motion of the defendant, order the United States to produce any statement . . . of the witness in the possession of the United States which relates to the subject matter as to which the witness has testified.” 18 U.S.C. § 3500(b).

Brennerman's argument claiming constitutional violations as a result of Madgett's testimony is without merit. The government's discovery and disclosure obligations extend only to information and documents in the government's possession. *United States v. Avellino*, 136 F.3d 249, 255 (2d Cir. 1998) (explaining that the *Brady* obligation applies only to evidence "that is known to the prosecutor"). The government insists that every document it received from ICBC was turned over to Brennerman and that it is not aware of the personal notes referenced by Brennerman. Therefore, the government has not violated its disclosure obligation. Nor was the government under any obligation under the Jencks Act to collect materials about Madgett that were not in the government's possession. See *United States v. Bermudez*, 526 F.2d 89, 100 n.9 (2d Cir. 1975).

Even if the documents exist and are material and favorable, Brennerman never sought a subpoena pursuant to Federal Rule of Criminal Procedure 17, never made a timely request for a deposition under Federal Rule of Criminal Procedure 15, and never asked the district court to issue letters rogatory pursuant to 28 U.S.C. § 1781 to obtain documentary evidence or secure testimony from the United Kingdom where ICBC maintains its records. The only indication that such documents are extant comes from Brennerman's bare assertions.

V. Sentence

At sentencing, the court applied a two-offense level enhancement for obstruction of justice, pursuant to U.S.S.G. § 3C1.1, a finding that relied on, as an alternative basis, Brennerman's false representations in his bail applications to the court. Brennerman argues that those misrepresentations cannot support an obstruction of justice enhancement because the misstatements "were at most minimally connected to the offense conduct in this case and did not obstruct the prosecution in any meaningful way." Appellant's Br. at 54. However, this argument has already been rejected by our Court in *United States v. Mafanya*, 24 F.3d 412, 415 (2d Cir. 1994) ("Appellant's false statement to a judicial officer (the magistrate judge) was an attempt to obstruct justice. Therefore, the district court properly Applied the [Section 3C1.1] enhancement . . ."). Accordingly, the district court did not err in applying the enhancement.

VI. Restitution

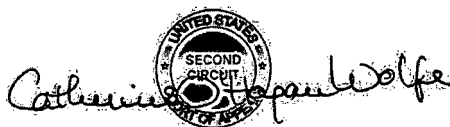
The Mandatory Victims Restitution Act of 1996 ("MVRA") provides that "[i]n each order of restitution, the court shall order restitution to each victim in the full amount of each victim's losses as determined by the court and without consideration of the economic circumstances of the defendant." 18 U.S.C. § 3664(f)(1)(A). "[A]t sentencing, the government bears the preponderance burden of proving actual loss supporting a restitution order." *United States v. Rutigliano*, 887 F.3d 98, 109 (2d Cir. 2018). "[W]e review a district court's order of restitution under the MVRA for abuse of discretion." *United States v. Zangari*, 677 F.3d 86, 91 (2d Cir. 2012).

Brennerman argues that the district court improperly imposed restitution in the full amount of the \$5 million ICBC loan even though Brennerman had already made a payment of \$446,466.13. But the testimony at trial established that ICBC released approximately \$4.4 million to Brennerman and the rest was used to finance loan servicing fees. The \$446,466.13

paid to ICBC by Brennerman was an interest-only payment that did not reduce the \$5 million principal owed. Therefore, ICBC's loss of \$5 million as a result of the fraud was supported, and Brennerman points to nothing that undermines the district court's finding.

We have considered the remainder of Brennerman's arguments and find them to be without merit. Accordingly, the judgment of the district court hereby is AFFIRMED.

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk

The block contains a handwritten signature in cursive script that reads "Catherine O'Hagan Wolfe". To the left of the signature is the official seal of the United States Second Circuit Court of Appeals. The seal is circular with "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom.

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

ROBERT A. KATZMANN
CHIEF JUDGE

Date: June 09, 2020
Docket #: 18-3546cr
Short Title: United States of America v.
Brennerman

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

DC Docket #: 1:17-cr-337-1
DC Court: SDNY (NEW YORK CITY)
DC Docket #: 1:17-cr-337-1
DC Court: SDNY (NEW YORK CITY)
DC Judge: Sullivan

BILL OF COSTS INSTRUCTIONS

The requirements for filing a bill of costs are set forth in FRAP 39. A form for filing a bill of costs is on the Court's website.

The bill of costs must:

- * be filed within 14 days after the entry of judgment;
- * be verified;
- * be served on all adversaries;
- * not include charges for postage, delivery, service, overtime and the filers edits;
- * identify the number of copies which comprise the printer's unit;
- * include the printer's bills, which must state the minimum charge per printer's unit for a page, a cover, foot lines by the line, and an index and table of cases by the page;
- * state only the number of necessary copies inserted in enclosed form;
- * state actual costs at rates not higher than those generally charged for printing services in New York, New York; excessive charges are subject to reduction;
- * be filed via CM/ECF or if counsel is exempted with the original and two copies.

**United States Court of Appeals for the Second Circuit
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007**

ROBERT A. KATZMANN
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DC Court: SDNY (NEW YORK CITY)
DC Judge: Sullivan

VERIFIED ITEMIZED BILL OF COSTS

Counsel for

respectfully submits, pursuant to FRAP 39 (c) the within bill of costs and requests the Clerk to
prepare an itemized statement of costs taxed against the

and in favor of

for insertion in the mandate.

Docketing Fee _____

Costs of printing appendix (necessary copies _____) _____

Costs of printing brief (necessary copies _____) _____

Costs of printing reply brief (necessary copies _____) _____

(VERIFICATION HERE)

Signature

**Additional material
from this filing is
available in the
Clerk's Office.**