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9/24/2026

AI MUSIC FRAUDSTER WANTS NO PRISON FOR \$8M SCAM: 'NO VICTIM SUFFERED ANY REAL HARM'

Michael Smith argues his streaming fraud scheme — using bots to play AI songs billions of times — caused only "tiny, immeasurable losses" for any single artist.

By **Bill Donahue**



The United States District Court for the Southern District of New York, where streaming fraudster Michael Smith will be sentenced.

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A man who admitted to using AI music to steal millions in royalties now says he should get no prison time for the first-ever streaming fraud conviction, arguing the harm to any single artist was “insignificant” and that “big labels” were doing the same thing.

Michael Smith, 54, **pled guilty in March**

(<https://www.billboard.com/pro/ai-song-streaming-fraud-musician->

pleads-guilty-stealing/) to wire fraud conspiracy over accusations that he generated thousands of AI songs and then used bots to stream them billions of times. It's the first criminal case over a tricky problem that's plagued the music industry for years.

Federal officials have recommended two years in prison, but in new court filings this week, Smith's attorneys say he should get just probation for a crime that caused only "tiny, immeasurable losses" spread across millions of songwriters and artists.

"The effect each individual stream of one artist's song has on every other artist's share of total streams is not akin to a drop in a proverbial bucket — it is a drop in an ocean," Smith's lawyers write in the Tuesday (Sept. 22) filing, obtained by *Billboard*. "No individual artist or songwriter suffered any perceptible harm from Mr. Smith's conduct."

Streaming fraud is a longstanding problem for the music business, made far worse in recent years by AI that can churn out fake songs and then enable bots to play them on repeat. By some estimates, several percentage points of all streams are inauthentic, amounting to billions of monthly plays. Since streaming royalties are divvied up among rightsholders from a finite pie of revenue, such phony numbers siphon off money from legitimate streams of real artists.

In Tuesday's filing, Smith's lawyers say they're not making excuses — that he is "profoundly sorry" and has "accepted full responsibility" for his crimes. They acknowledge that he used "increasingly deceptive tactics" and directly lied when his conduct was eventually flagged: "He knew that he was cheating the system."

But they also argue that such shady behavior on streaming platforms is "indisputably rampant" in the music industry, "including by big labels and

publishers” — and that it was not clear that what he was doing was actually illegal when he first started.

“He did not set out to commit a crime; he thought he found a way to game a corrupt system that financially incentivized and profited from artificial streaming — a system that otherwise only served corporate interests,” Smith’s lawyers write.

“Streaming fraud is ... a systemic problem rooted in the structure of the digital royalty system itself,” Smith’s attorneys add. “No custodial sentence imposed on an individual American defendant can eliminate the incentives that drive billions of dollars in fraudulent activity worldwide.”

The Manhattan U.S. Attorney’s Office did not immediately return a request for comment. The prosecution will file its own sentencing recommendations in the weeks ahead.

Smith was arrested in 2024 on a three-count indictment that charged him with using thousands of bots to continuously stream his songs on multiple platforms, including Spotify, Amazon Music, Apple Music and YouTube Music, starting in 2017. Prosecutors said Smith originally used his own human-created music but later turned to mass-produced AI tracks to feed the scheme.

The case claimed AI songs were supplied by an unnamed CEO of an AI music company after Smith promised to share the proceeds of his efforts. The AI firm was not identified in court papers, but ***Billboard* reported**

(<https://www.billboard.com/pro/ai-music-streaming-fraud-case-boomy-ceo-listed-co-writer-songs/>) that hundreds of the songs registered to Smith list **Alex Mitchell**, founder of the AI firm Boomy, as a co-writer.

Mitchell has not been charged with any crime; he told *Billboard* at the time that

he was “shocked” by the charges and that Smith “consistently represented himself as legitimate.”

In March, Smith entered a guilty plea on a single count of wire fraud conspiracy and agreed to forfeit more than \$8 million in streaming fraud proceeds.

“Although the songs and listeners were fake, the millions of dollars Smith stole was real,” U.S. Attorney **Jay Clayton** said at the time. “Millions of dollars in royalties that Smith diverted from real, deserving artists and rights holders.”

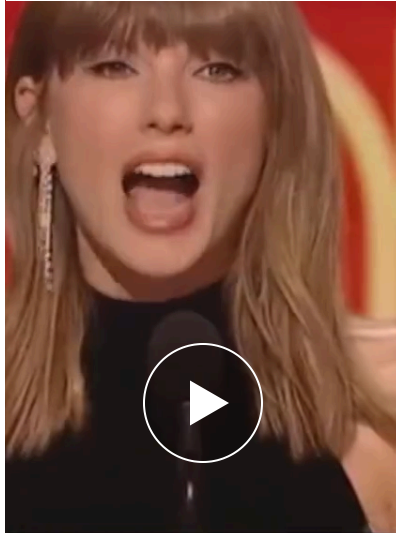
Wire fraud conspiracy carries a five-year maximum prison sentence, and federal guidelines call for between 46 and 57 months in Smith’s case. But the Presentence Investigation Report, an important tool used by judges to decide sentences, recommended a lighter sentence of 24 months.

In Tuesday’s brief, Smith’s lawyers pleaded with the judge to avoid prison altogether, citing his lack of a criminal record, alleged history of good deeds and impact on his family: “While he made serious mistakes here, those mistakes do not define him as a person, and his fundamentally good character should assure the court that he presents no risk to the public going forward.”

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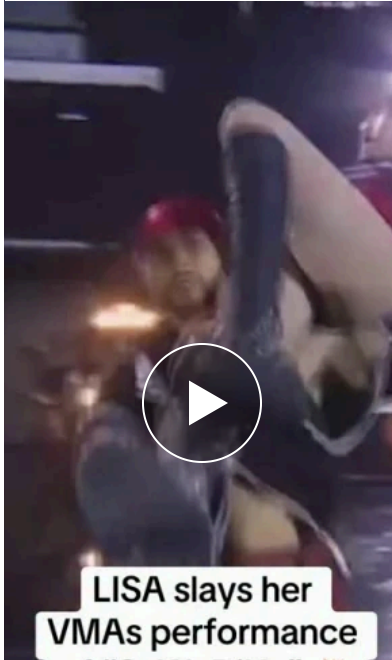
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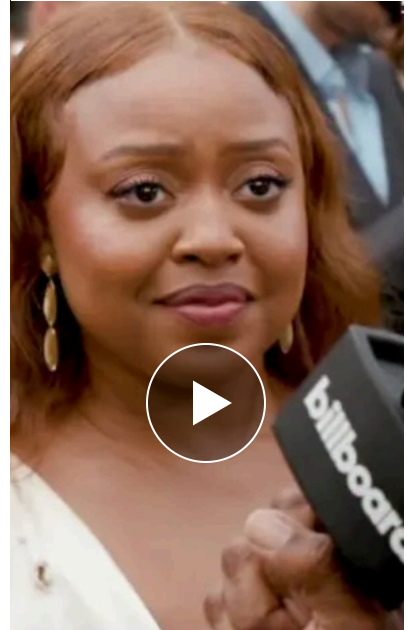
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