

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Colleton County
Thomas A. Russo, Circuit Court Judge

Opinion No. 2014-UP-337 (S.C. Ct. App. filed 9/24/2014)
2011-GS-15-0769

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NOV 24 2014

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

ELIZABETH M. DINKINS,

PETITIONER

APPELLATE CASE NO. ~~2012-208407~~
2014-002521

APPENDIX

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Elizabeth M. Dinkins, Appellant.

Appellate Case No. 2012-208407

Appeal From Colleton County
Thomas A. Russo, Circuit Court Judge

Unpublished Opinion No. 2014-UP-337
Submitted July 1, 2014 – Filed September 24, 2014

AFFIRMED

Appellate Defender Carmen Vaughn Ganjehsani, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant
Attorney General Julie Kate Keeney, both of Columbia,
for Respondent.

PER CURIAM: In 2011, a grand jury indicted Dinkins for forgery. The face of the indictment stated Dinkins was indicted for "Forgery/Forgery, value less than

\$5,000."¹ The relevant code section was listed as Section 16-13-10(B)(2) of the South Carolina Code. On the reverse side of the indictment, it stated Dinkins "did forge the name of the manager of Title Max of Hampton on a Satisfaction of Title Lien to [the] Department of Motor Vehicles and did receive the sum of none; all in violation of [s]ection 16-13-10." The State presented evidence at trial that Dinkins entered the Department of Motor Vehicles and presented a fraudulent lien satisfaction form. Tamika White, a store manager for Title Max, testified Dinkins owed Title Max a loan valued at a little over \$4,000,² and the loan was secured by a lien on Appellant's vehicle. The jury convicted Dinkins of forgery, and the trial court sentenced her to two years' imprisonment.

On appeal, Dinkins argues the circuit court lacked subject matter jurisdiction because section 16-13-10(C) of the South Carolina Code (Supp. 2013) confers exclusive jurisdiction to the magistrate's court and municipal court when a forgery does not involve a dollar amount. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: S.C. Const. art. V, § 11 ("The [c]ircuit [c]ourt shall be a general trial court with original jurisdiction in civil and criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have such appellate jurisdiction as provided by law."); *State v. Smalls*, 364 S.C. 343, 346, 613 S.E.2d 754, 756 (2005) ("The [circuit court] has subject matter jurisdiction to try criminal cases."); S.C. Code Ann. § 16-13-10(B)(2) (Supp. 2013) (providing that a person who commits forgery "is guilty of a . . . felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than [\$10,000]"); *Edwards v. State*, 372 S.C. 493, 496, 642 S.E.2d 738, 739 (2007) ("In *Gentry*, we abandoned the view that, in criminal matters, the circuit court acquires subject matter jurisdiction to hear a particular case by way of a valid indictment." (citing *State v. Gentry*, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005))); *Edwards*, 372 S.C. at 496, 642 S.E.2d at 739 (providing an indictment is merely a notice document); *State v.*

¹ We note that the forgery statute was amended in June 2010. The 2010 amendment changed the amount of forgery in Section 16-13-10(B)(2) from "less than [\$5,000]" to "less than [\$10,000]." Dinkins's 2011 indictment contains the outdated language, but we find this inconsistency has no bearing on the disposition of this case.

² Although Dinkins seems to be challenging the sufficiency of the evidence proving the value of the forged lien satisfaction form was \$4,000, we note Dinkins did not raise this argument in her motion for a directed verdict.

Sheppard, 391 S.C. 415, 422, 706 S.E.2d 16, 19 (2011) ("[I]f an indictment is challenged as insufficient or defective, that challenge must be raised before the jury is sworn.").

AFFIRMED.³

FEW, C.J., and SHORT and GEATHERS, JJ., concur.

³ We decide this case without oral argument pursuant to Rule 215, SCACR.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Thomas A. Russo, Circuit Court Judge

Opinion No. 2014-UP-337 (S.C. Court of Appeals filed September 24, 2014)

THE STATE,

RESPONDENT,

V.

ELIZABETH M. DINKINS,

APPELLANT.

APPELLATE CASE NO. 2012-208407

PETITION FOR REHEARING

The Appellant, Elizabeth M. Dinkins, respectfully petitions the Court for a rehearing of its Opinion No. 2014-UP-337 pursuant to Rule 221(a), SCACR based upon the following points overlooked or misapprehended by the Court:

On September 24, 2014, this Court filed its unpublished opinion affirming Appellant's conviction for forgery. In her appeal, Appellant argued that her conviction for forgery not involving any dollar amount in the Court of General Sessions should be vacated for lack of subject matter jurisdiction where the Legislature placed this offense within the exclusive jurisdiction of the magistrates and municipal court.

The description of the indictment alleged that the amount involved in the forgery was *none*, triggering the provisions of S.C. CODE ANN. § 16-13-10(C). R. 100. South Carolina Code section 16-13-10(C) provides:

If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, ***notwithstanding*** the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

§ 16-13-10(C) (emphasis added).

The plain language of this statute confers exclusive jurisdiction to the magistrates and municipal court for cases of forgery not involving any dollar amount. Therefore, the Court of General Sessions lacked subject matter jurisdiction to hear the case against Appellant. The State in its Respondent's Brief did not contest Appellant's assertion that § 16-13-10(C) conferred exclusive jurisdiction to the magistrates and municipal court for cases of forgery not involving any dollar amount and that the Court of General Sessions lacked subject matter jurisdiction over this offense.

"When interpreting a statute, this Court's primary function is to ascertain the intention of the Legislature. . . . When a statute is clear and unambiguous, the terms of the statute must be given their literal meaning." Mosteller v. County of Lexington, 336 S.C. 360, 363-64, 520 S.E.2d 620, 622 (1999). In addition, when the Legislature uses the phrase "***notwithstanding*** any other provision of the law" in a particular statute, the Legislature clearly intends that the statute to be "exclusive of other provisions of the law." Id. at 364, 520 S.E.2d at 622 (emphasis added).

In State v. Castleman, 219 S.C. 136, 64 S.E.2d 250 (1951), this State's Supreme Court held it was reversible error for the Court of General Sessions to try a defendant for

the first offense of unlawful possession of intoxicating liquor where the Court of General Sessions did not have jurisdiction. The Supreme Court found that the General Assembly had statutorily conferred exclusive jurisdiction to the magistrates' court for the offense for which defendant was charged and therefore, the Court of General Sessions lacked jurisdiction over the case. *Id.* at 138, 64 S.E. at 251. Likewise, in Appellant's case, the Legislature has expressly placed crimes of forgery not involving any dollar amount within the exclusive jurisdiction of the magistrates and municipal court.

This Court held that the State presented evidence that Appellant owed Title Max a loan valued at a little over \$4000.00. However, the State never moved at trial to amend the indictment to allege that the amount of the forgery involved a dollar amount of \$4000.00. Instead, the State left the indictment language charging Appellant with receiving the sum of *none*. R. 100.

This Court's reliance on State v. Gentry, 363 S.C. 93, 610 S.E.2d 494 (2005) and Edwards v. State, 372 S.C. 493, 642 S.E.2d 738 (2007) is also misplaced where Appellant is not challenging the sufficiency of the indictment but whether which court had subject matter jurisdiction to try a case of forgery involving no dollar amount which the Legislature placed in the exclusive jurisdiction of the magistrates and municipal court. "[S]ubject matter jurisdiction is the power of a court to hear and determine cases of the general class to which the proceedings in question belong." Gentry, at 100, 610 S.E.2d at 498. Issues related to subject matter jurisdiction may be raised at any time. *Id.* at 100, 610 S.E.2d at 498

Accordingly, it was error for the Court of General Sessions to hear the case against Appellant where the Legislature expressly placed crimes of forgery not involving any dollar

amount within the exclusive jurisdiction of the magistrates and municipal court. Appellant's conviction for forgery not involving any dollar amount should be vacated for lack of subject matter jurisdiction.

CONCLUSION

For the reasons set forth herein, Appellant Elizabeth M. Dinkins respectfully requests that the Opinion of the Court of Appeals be withdrawn and her conviction for forgery vacated for lack of subject matter jurisdiction.

Respectfully submitted,



Carmen V. Ganjehsani
Appellate Defender

This 9th day of October, 2014.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Thomas A. Russo, Circuit Court Judge

Opinion No. 2014-UP-337 (S.C. Court of Appeals filed September 24, 2014)

THE STATE,

RESPONDENT,

V.

ELIZABETH M. DINKINS,

APPELLANT.

APPELLATE CASE NO. 2012-208407

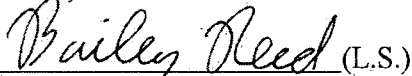
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Petition for Rehearing in the above-entitled case has been served upon Mary Shannon Williams, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 9th day of October, 2014.



Carmen V. Ganjehsani
Appellate Defender
ATTORNEY FOR APPELLANT

SWORN TO BEFORE ME this 9th day
of October, 2014.



Notary Public for South Carolina

My Commission Expires: October 24, 2021.

The South Carolina Court of Appeals

The State, Respondent,

v.

Elizabeth M. Dinkins, Appellant.

Appellate Case No. 2012-208407

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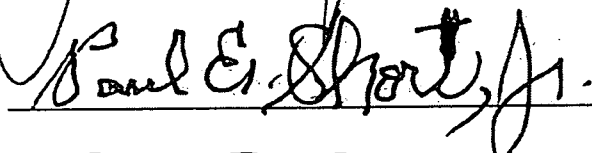
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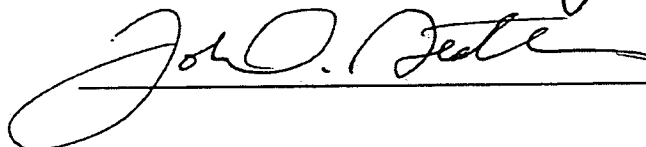
SC OFFICE OF
APPELLATE DEFENSE

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 C.J.

 J.

 J.

Columbia, South Carolina

cc: Alan McCrory Wilson, Esquire
Carmen Vaughn Ganjehsani, Esquire
Mary Shannon Williams, Esquire

FILED

October 23, 2014
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STATE OF SOUTH CAROLINA

In The Court of Appeals

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NOV 24 2014

APPEAL FROM COLLETON COUNTY

Thomas A. Russo, Circuit Court Judge

S.C. Supreme Court

THE STATE,

RESPONDENT,

V.

ELIZABETH M. DINKINS,

APPELLANT

APPELLATE CASE NO. 2012-208407

RECORD ON APPEAL

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1 STATE OF SOUTH CAROLINA)
2 COUNTY OF COLLETON) COURT OF GENERAL SESSIONS
3) No. 2011 GS 15 0769

4 STATE OF SOUTH CAROLINA)
5)
6 versus) TRANSCRIPT OF RECORD
7)
8 ELIZABETH M. DINKINS)
9 Defendant)

10 Walterboro, South Carolina
11 January 31-February 1, 2012

12 B E F O R E :

13 HONORABLE THOMAS A. RUSSO, Judge, and a Jury

14 A P P E A R A N C E S:

15 For the State: STEVEN KNIGHT, Esq.
16 Assistant Solicitor

17 For the Defendant: DAVE MATTHEWS, Esq.
18 Public Defender

19 Reporter Present: DEBORAH EVERETT

20

21 HARRIET P. BENNETT
22 Reporter, S. C. Court Administrator
23 46 Regency Oaks Drive
24 Summerville, SC 29485
25

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1 (The within matter came before the Court on January
2 31, 2012)

3 THE COURT: At this time I recognize the State to
4 call the first case for trial..

5 SOLICITOR: State calls Indictment Number 2011 GS 15
6 0769, State versus Elizabeth Dinkins, an Indictment for
7 forgery.

8 I submit the original which has been True Billed, and
9 a list of proposed witnesses.

10 THE COURT: Thank you. All right, ladies and gentle-
11 men, you have heard the Solicitor call the case of the
12 State of South Carolina versus Elizabeth Dinkins.

13 Ms. Dinkins is charged under Indictment 2011 GS 15
14 0769, and she is charged with the offense of forgery.

15 Ladies and gentlemen, what is important for you to
16 understand is this. To this Indictment, to this charge,
17 Ms. Dinkins has pled not guilty, and that plea of not
18 guilty places upon the State the burden of proof.

19 What I want you to understand about an Indictment, lad-
20 ies and gentlemen, is an Indictment is simply a piece of
21 paper that has on it the formal charges that the State has
22 brought against an individual.

23 The charge that is on this Indictment and the language
24 contained in this Indictment is in no way evidence or in
25 no way proves the charges against the Defendant in this

1 case, Ms. Dinkins.

2 It is simply an allegation the State is making
3 against a Defendant, but it is in no way proof of those
4 allegations.

5 The burden of proof rests on the State to prove
6 guilt beyond a reasonable doubt. However, I am going
7 to read to you the allegations that are contained in the
8 Indictment. This will give you some understanding of
9 what the State alleges Ms. Dinkins has done, and it
10 states that in Colleton County, South Carolina, on or
11 about October the 26th of 2011 the Defendanty, Elizabeth
12 Dinkins, with intent to defraud, falsely did make, forge,
13 counterfeit or cause to procure, to be falsely made,
14 forged or counterfeited, a writing or did knowingly utter
15 and publish as true a forged, false or counterfeited writ-
16 ing, or did act or assist in any of the foregoing; to wit,
17 the Defendant did forge the name of the manager of Title
18 Max of Hampton on a satisfaction of title lien to the
19 Department of Motor Vehicles and did receive the sum of,
20 and there is no dollar amount that she received.

21 The allegation is that she signed a satisfaction of
22 title and signed someone else's name. That is the alle-
23 gation against Ms. Dinkins, and, as I said, ladies and
24 gentlemen, to that allegation she has pled not guilty.

25 Now, that is not a terrible amount of information,

1 but based on what I've just shared with you, is there any
2 member of the jury panel who knows anything about this
3 case? If so, please stand.

4 (No response from jurors)

5 Thank you, there are none.

6 I'm going to get the attorneys to introduce themselves
7 to you. From the State, Mr. Knight?

8 SOLICITOR: Thank you, Your Honor. I'm Steven Knight.
9 I'm Assistant Solicitor here in Colleton County.

10 THE COURT: Thank you, sir.

11 Ladies and gentlemen, is there any member of the jury
12 panel who is related by blood, connected by marriage,
13 or has any close business or personal relationship with,
14 or who has been in the past represented by Mr. Knight?
15 If so, please stand.

16 (No response from jurors)

17 Thank you, there are none.

18 Mr. Matthews, if you would introduce your table?

19 MR. MATTHEWS: Dave Matthews, I'm the Public Defender,
20 and this is Elizabeth Dinkins. She lives in Sumter.

21 THE COURT: Thank you very much. Is there any member
22 of the jury panel who is related by blood or connected by
23 marriage, or has any close business or personal relation-
24 ship with, or who has been represented by Mr. Dave
25 Matthews? If so, please stand.

1 MR. MATTHEWS: Ms. Dinkins is from Ridgeland. I'm
2 sorry.

3 (No response from jurors)

4 THE COURT: Thank you, there are none.

5 You met Ms. Dinkins. Is there any member of the
6 jury panel who is related by blood or connected by mar-
7 riage, or has any close business or personal relationship
8 with Ms. Dinkins? If so, please stand. Elizabeth Dinkins.

9 (No response)

10 Thank you, there are none.

11 Ladies and gentlemen, I'm going to call out some names,
12 and these are folks that are listed as potential witnesses
13 in this case. They may or may not testify during the
14 course of this trial.

15 The question I'm going to ask you is the same ques-
16 tion I just asked you in regards to Ms. Dinkins. If you
17 are related by blood, connected by marriage, or have any
18 close business or professional relationship with any of
19 these folks who I'm going to call.

20 There aren't that many but there are a few names I
21 am going to call here, and if you hear a name and that
22 question applies to that individual, please stand imme-
23 diately.

24 Now, after you stand and I'm still calling out names
25 just please listen carefully because it may be that you

1 know more than one individual on this list.

2 If any of these witnesses are in Court, I would also
3 ask that you stand when I call your name, and I apologize
4 if anybody's name is mis-pronounced.

5 Laurie Minus; Leroy Dinkins; Syreker Smart; Elbert
6 Sweat; Tamika White; Jason Chapman.

7 (Jurors standing)

8 THE COURT: Okay, let me begin -- we'll start here.

9 JUROR 14: Bert Sweat -- Jason Chapman.

10 THE COURT: Are you related?

11 JUROR 14: I just know them from work.

12 THE COURT: The fact that you know those two potential
13 witnesses, if they were to testify in this case, would that
14 in any way affect your ability to be fair and impartial,
15 giving both the State and the Defendant a fair trial?

16 JUROR 14: No, Your Honor, it would not.

17 THE COURT: Thank you.

18 Your name?

19 JUROR 121: Joy Lyle, 121.

20 THE COURT: Ms. Lyle, who on that list did you know?

21 JUROR: Elbert Sweat -- Jason Chapman also.

22 THE COURT: Are you related to either one of those
23 folks?

24 JUROR 121: No, sir.

25 THE COURT: If either one of those folks were to

1 testify during the course of this trial, would that in
2 any way -- would the relationship you have with those folks
3 -- would that in any way affect your ability to be fair
4 and impartial?

5 JUROR 121: No, sir.

6 THE COURT: Thank you very much.

7 Anyone else?

8 (No further response from jurors)

9 Ladies and gentlemen, is there any member of the
10 jury panel who is a contributor either through money or
11 through volunteering your time to any organizations such
12 as Mothers Against Drunk Drivers, Students Against Drunk
13 Drivers, MADD and SADD, Citizens Against Violence, CAVE,
14 the Fraternal Order of Police, South Carolina Troopers
15 Association -- any of those types of organizations?

16 Is there any member of the jury panel who is a con-
17 tributor either financially or with your time in volunteer-
18 ing to any of those organizations? If so, please stand.

19 (No response from jurors)

20 Thank you, there are none.

21 Ladies and gentlemen -- is there someone standing?

22 JUROR 189: I had my license taken.

23 THE COURT: Go ahead.

24 JUROR 189: I got my license taken away from me, so
25 it's getting kind of hard for me, the transportation.

1 THE COURT: I can help you with that. I can send a
2 deputy to pick you up in the morning and someone to take
3 you home in the afternoon.

4 Thank you, sir.

5 Ladies and gentlemen, there are any number of ques-
6 tions I could ask you, but the interest that we have, the
7 Court has, is that we impanel a jury that can be fair and
8 impartial, giving both the State and the Defense a fair
9 trial.

10 As I said, I could ask a hundred questions to try to
11 figure out if you all can do that and still not hit on the
12 one thing that someone may have an issue with.

13 So let me ask this as sort of a catch-all question.

14 The purpose and the reason we ask questions of a jury
15 panel is, as I said, to select a jury that can be fair and
16 impartial, listen to the evidence, forget anything you
17 may have heard outside the Court and base your decision
18 solely on the evidence that is presented during the trial.

19 Is there any member of the jury panel who knows of
20 any reason why you would not be able to sit as a fair and
21 impartial juror? If so, please stand.

22 (No response)

23 Thank you, there are none.

24 Are there any additional questions or further ques-
25 tions from the State?

1 SOLICITOR: No further questions from the State.
2 THE COURT: From the Defense?
3 MR. MATTHEWS: Nothing further.
4 (Whereupon, a jury was drawn as follows:
5 Juror 189, Dishawn Way, seated
6 Juror 87, Paul Harju, excused by Defense
7 Juror 112, Patrick Kittrell, excused by State
8 Juror 16, Joann Bostic, seated
9 Juror 136, Sonya Munion, seated
10 Juror 2, Edgar Akins, excused by State
11 Juror 59, Shirley Driggers, excused by Defense
12 Juror 121, Joy Lyle, excused by Defense
13 Juror 64, Hubert Erwin, Junior, seated
14 Juror 12, John Bennett, excused by Defense
15 Juror 7, Chelsey Barr, seated
16 Juror 148, Lori Polk, excused by Defense
17 Juror 48, Linda Cummings, excused by Defense
18 Juror 22, Teresa Brooks, seated
19 Juror 134, Jerome Mosley, seated
20 Juror 10, Anthony Beach, excused by Defense
21 Juror 36, Gregory Cannon, seated
22 Juror Gabriele Livingston, excused by State
23 Juror 14, Holly Benton, excused by Defense
24 Juror 93, Richard Henderson, seated
25 Juror 129, James McMillan, seated

1 Juror 190, Kevin Wicker, excused by Defense

2 Juror 25, Loxie Brown, excused by Defense

3 Juror 15, William Blanton, seated

4 Juror 137, Brian Nash, seated)

5 (Alternate Juror selected was Number 116, Dustin

6 Lemacks)

7 THE COURT: All right, are there any motions regarding
8 jury selection?

9 SOLICITOR: None from the State.

10 THE COURT: Any motions from the Defense regarding
11 jury selection?

12 MR. MATTHEWS: Yes, Your Honor.

13 THE COURT: Ladies and gentlemen, let me get those of
14 you who are in the jury box at this point -- take them
15 back into their jury room, please.

16 (Selected jurors excused to jury room)

17 THE COURT: Ladies and gentlemen, I have to take up
18 this motion before we go any further. I'm going to
19 ask you to please follow the bailiff, and we'll be either
20 with you shortly or send you downstairs with the jury
21 again.

22 (Jurors not selected excused from Courtroom)

23 THE COURT: All right, Mr. Matthews. I'll be happy
24 to hear from you.

25 MR. MATTHEWS: Thank you, Your Honor. I'd make a

1 Batson Motion. I'd ask that you remember -- on our list
2 of those jurors called, the State used three strikes, one
3 a black male. A black male was one of them, and I would
4 make a motion to ask him to explain why . .

5 THE COURT: I'd ask you all to step up here real
6 quick.

7 (Discussion at the bench between counsel and the
8 Court as follows:

9 SOLICITOR: Juror 2 was previously charged with crim-
10 inal sexual conduct in the second degree. I don't know if
11 any of the officers involved in this case could have made
12 the arrest. I don't have the information, and that is why
13 I struck him.

14 Number 2 I also dismissed because of the records.

15 MR. MATTHEWS: I'd like to see the records.

16 THE COURT: I find there was no bias, and the reason
17 given by the State was racially gender-neutral. Therefore,
18 I think the State has met their burden under Batson.

19 Anything else?

20 MR. MATTHEWS: No, sir.

21 THE COURT: Anything further with regard to jury
22 selection?

23 MR. MATTHEWS: No, sir.

24 SOLICITOR: No, sir.

25

1 THE COURT: I thought I would have to take up a mo-
2 tion that might have an effect on the jury selection process
3 in this case, but it does not, so everything is good.

4 The panel that we selected is in place.

5 (Jurors not selected for the trial of the within
6 case was excused by the Court)

7 (Jury panel selected for the trial brought into the
8 Courtroom)

9 THE COURT: Ladies and gentlemen, I'm going to give
10 you some instructions because I'm about to let you go, and
11 we're going to start this case first thing in the morning.
12 I'm going to send you home with some instructions. We
13 are going to let you knock off early today.

14 Ladies and gentlemen, as I told you when we had the
15 whole panel here, your job as a jury is to listen to the
16 facts and evidence that is presented and to base your
17 decision in this case solely on the facts and evidence in
18 the course of the trial.

19 When you are not in Court, it is very important that
20 you do not have conversation with anyone about the case,
21 and the reason for that is that is simple. For example,
22 when you leave here today, someone, a friend or family
23 member -- someone is going to be curious -- well, did you
24 get selected to be on a jury? You can tell them, yeah,
25 I'm on a jury; I've got to be back in the morning.

1 Of course, the next question, they're going to want
2 to know what kind of case is it or who's involved.

3 Saying something as innocent as, it's a forgery case,
4 or it involves Ms. Dinkins -- saying something as inno-
5 cent as that may elicit a response that may somehow affect
6 your ability to be fair and impartial.

7 So what I ask jurors to do is, you can tell your fam-
8 ily members or friends or loved ones or whoever that you
9 are on a case and you're going to have to be back here
10 tomorrow but, again, they are going to be curious, and
11 what you tell them is this, listen, the Judge says I can't
12 talk about it; I can't even tell you what this case is
13 about; can't even tell you the charge. All I can tell you
14 is that when it's over I'll tell you everything.

15 Once the case is over, you can share with anyone
16 whatever you want to share, but it is important that until
17 that time you have no conversation with anyone about this
18 case.

19 You are going to be placed under oath to try the case
20 and decide the case based on the evidence that appears in
21 this Courtroom.

22 Now, having said that, I don't anticipate there will
23 be anything in the newspaper or on television; you need
24 to not read it or turn that off. Radio, anything. Like I
25 said, I don't anticipate there will be, but if there is

1 please don't read, don't look at, don't listen to any-
2 thing. Protect your ability to remain fair and impartial
3 because if you were sitting in that same chair you would
4 want the jury on your case to do the exact same thing,
5 to judge the case solely on the evidence in the Courtroom.

6 Okay, so please do that for me. When I say do not
7 discuss the case, that includes amongst yourselves. Some-
8 times jurors look at me like, why -- I thought we were sup-
9 posed to deliberate and talk about it. Well, you are, but
10 not until all of the evidence is in, the lawyers have had
11 an opportunity to address you with their closing remarks
12 and I have given you the law.

13 Only after you have all these things is it time for
14 you to discuss it. So when you come back tomorrow and
15 throughout the trial while you are here, there will be
16 times you will be back in the jury room, things like that.
17 Don't even talk to each other about the case. Talk about
18 anything you want; talk about the weather, sports, what-
19 ever, American Idol, if that's what you're into. Just
20 don't talk about this case until you get the case for de-
21 liberations.

22 So having said that, ladies and gentlemen, I want to
23 thank you again for your service. We're going to start
24 at nine thirty, and if you would be here in your jury
25 room. When you come to the Courthouse, go straight to

1 your jury room.

2 All right, if you'll do that for me and get here so
3 that when nine thirty rolls around you will be ready to
4 go.

5 Thank you, ladies and gentlemen. We'll see you back
6 here tomorrow morning at nine thirty.

7 (Jury excused from Courtroom)

8 THE COURT: Okay, ladies and gentlemen, as I told the
9 members of the jury, we'll start at nine thirty in the
10 morning. Let me ask the attorneys first, are there any
11 pre-trial matters we need to take up?

12 SOLICITOR: None from the State, Your Honor.

13 MR. MATTHEWS: I can't think of any.

14 THE COURT: If you have any Exhibits that you intend
15 to use, could you at least pre-mark those at this point
16 for identification purposes.

17 (Court stood in recess until February 1, 2012)

18 THE COURT: Please have a seat. Thank you.

19 All right, everybody ready to get started here? Is
20 the State ready to proceed?

21 SOLICITOR: Yes, sir.

22 THE COURT: Defense ready?

23 MR. MATTHEWS: Yes, sir.

24 THE COURT: Is there anything we need to take up
25 or address before we bring the jury out?

1 SOLICITOR: Nothing from the State, Your Honor.

2 THE COURT: Anything from the Defense?

3 MR. MATTHEWS: No, sir.

4 THE COURT: If anything comes up, you can bring it
5 to my attention.

6 Let's go ahead and bring the jury in, please.

7 (Jury returned to Courtroom)

8 THE COURT: Good morning, ladies and gentlemen. I
9 hope everyone had a good evening and are ready to go to
10 work this morning

11 Before I get started with my opening remarks, let me
12 mention something to you regarding where you are in the
13 jury box here. There are no assigned seats in the jury
14 box except for two, and that would be the seat for the
15 Foreperson and the seat for the Alternate. Other than
16 that, please feel free to sit wherever you are comfortable
17 sitting.

18 We tend to be creatures of habit. My wife and I have
19 been attending the same church about thirteen years, and,
20 of course, there is no assigned seating in church, but if
21 we walk in and someone is sitting in our seat we look
22 around like we're lost, and we're not lost; we just need
23 to grab a seat.

24 There is no assigned seating in the jury box except
25 for the two I told you about, and later on I will deal with

1 the Foreperson issue and get a Foreperson in place.

2 Like I said, feel free to flow in and out as is most
3 comfortable for you. Don't think you have to sit where
4 you are right now. Some people may take a hankering to
5 where they're at and don't want to move, and if you like
6 the place you're sitting and don't want to give it up
7 that's fine too. I'm not going to force you to do any-
8 thing but I just want you to know as you come in and out
9 to sit where you are comfortable sitting.

10 Ladies and gentlemen, we are now about to begin the
11 trial of the case of the State of South Carolina versus
12 Elizabeth Dinkins.

13 Before we begin this trial, I want to tell you that
14 this trial more than likely is going to be very different
15 from what you may have expected if you have never sat
16 in on a real trial.

17 Most peoples' experience with regards to jury trials
18 is what they've read in books or what they've seen on tel-
19 evision. Those trials are always full of high drama and
20 tense action and riviting circumstances because they are
21 there to entertain you.

22 While any number of those things may occur during
23 the course of a trial, I have no idea what is going to
24 occur, but what I want you to understand and know is that
25 this trial is not for your entertainment.

1 This trial is a fundamental part of our democracy.
2 It is a search for the truth in an effort to make sure
3 justice is done between the parties before the Court.

4 Searching for the truth and making sure justice is
5 done oftentimes can be slow, deliberate, sometimes repe-
6 titive. In other words, very different from what you
7 have seen or experienced on television, movies or in books.

8 This Courtroom is a place of honor that is dedicated
9 to the protection and the preservation of citizens' rights
10 through what many have called the greatest justice system
11 ever created.

12 The attorneys who appear before you during the case
13 are advocates for the parties they represent, but, first
14 and foremost, they are officers of the Court, sworn to
15 uphold the integrity and fairness of our judicial system
16 and help you in a search for the truth.

17 You should expect them to be professional, competent
18 and ethical in the performance of their duties.

19 Now, in just a moment you are going to take an oath
20 to try this case and to reach a fair and a just verdict.
21 You are also expected to be professional, reasonable and
22 ethical in the performance of your duties. I have no
23 doubt you will do just that, and I want to thank you again
24 for your service to Colleton County and to the State of
25 South Carolina.

1 Now, before we go any further, I'm going to ask Madam
2 Clerk to place you under oath.

3 (Whereupon, jury was sworn by the Clerk for the trial
4 of this case)

5 THE COURT: Ladies and gentlemen, what I'm going to
6 say to you now is intended to serve as an introduction to
7 the trial of this case. These remarks are not a charge
8 on the law. I will instruct you on the law that is appli-
9 cable to this case at the end of the trial before you
10 consider your verdict, before you deliberate.

11 What I'm going to go over with you now is simply an
12 explanation of the procedures that we're going to follow
13 as we go through this case, so you may better understand
14 what's happening as we go through the case.

15 The Defendant in this case, Ms. Dinkins, is charged
16 by the Indictment which was filed with this Court with
17 the crime of forgery.

18 The elements of that crime will be explained to you
19 later when I charge you on the law. What I said to you on
20 yesterday I'm going to go over with you again, and that is
21 this. The Indictment in this case is simply the charge
22 which brings this case into Court. It is not in any sense
23 evidence of any of the allegations contained in this Indict-
24 ment.

25 The Defendant has pled not guilty to this Indictment.

1 and the State therefore has the burden of proving each of
2 the elements of the Indictment beyond a reasonable doubt.

3 It is going to be your duty, ladies and gentlemen,
4 to decide whether the State has met that burden. Your pur-
5 pose as jurors is to find and determine the facts of the
6 case.

7 You, ladies and gentlemen, are the sole judges of the
8 facts in this case. If at any time I make a comment re-
9 garding the facts, you must disregard those comments.

10 You are to determine the facts and the testimony you
11 hear and any other evidence that is presented during the
12 trial of this case.

13 It is going to be up to you to determine what infer-
14 ences you feel may properly be drawn from the evidence.
15 It is especially important that you perform your duty of
16 determining the evidence diligently and conscientiously
17 because ordinarily there is not any mechanism -- there
18 is no way we can correct an erroneous determination of
19 facts by a jury.

20 Now, on the other hand, but with equal emphasis, the
21 same law that makes you the judges of the facts makes me
22 the judge of the law. The law as given to you by the
23 Court is the only law that you can consider. You must
24 accept and follow it, even though you may disagree with
25 it.

1 I am not allowed to tell you about the facts in this
2 case or make a comment on the facts, and you, on the
3 other hand, are not allowed to disagree with me about what
4 the law is or what you think the law should be.

5 Your job is to take the law as we give it to you,
6 apply it to the facts as you find the facts to be, from
7 the evidence that is introduced. After doing that, you
8 will return a verdict in this case, a verdict which speaks
9 the truth under the solemn oath that you took.

10 Now, until I tell you begin deliberations, you are
11 not to discuss this case with anyone, and that includes
12 your fellow jurors. After you have gotten the case, or
13 after the case has been submitted to you, you must then
14 confine your conversations about the case solely to the
15 jury room and nowhere else.

16 Ladies and gentlemen, during the trial of this case,
17 you will be in and out of the Courtroom. At lunchtime
18 we will break for lunch. You will go and take care of
19 that.

20 If you should in coming in and out of the Courtroom
21 or the Courthouse run into any of the attorneys or the
22 parties in the case and they don't speak to you, they are
23 not being rude. They are nice folks.

24 They are just doing what they are instructed to do,
25 and that is to not have any communication with the jurors.

1 So please do not hold that against them. They are just
2 doing what they are supposed to do.

3 What is important in the trial of this case is that
4 you keep an open mind and do not decide any issue in this
5 case until all the evidence has been presented, the parties
6 have had an opportunity to make their closing arguments
7 to you, and then I have charged you on the law.

8 It is your solemn responsibility to determine the
9 guilt or innocence of the Defendant, and your verdict must
10 be based solely on the evidence presented to you here in
11 this Courtroom and on the law as I instruct it to you at
12 the close of the trial.

13 Now, in just a moment the Solicitor will have an op-
14 portunity to make what we call an opening statement in
15 this case. In this statement, he will basically explain
16 to you the issues -- what the issues are in the case or
17 at least what he believes the issues are in this case.

18 After he concludes his opening remarks, then the at-
19 torney for the Defendant, Mr. Matthews, will have an oppor-
20 tunity to also make an opening statement although he is
21 not required to do so.

22 What you need to understand about the opening state-
23 ments of the lawyers, ladies and gentlemen, is that what
24 they tell you in their opening statements is not evidence.
25 It is only their contentions as to what they believe the

1 evidence will show.

2 The evidence in this case, the things that you are
3 going to consider in determining the facts of the case,
4 will be presented to you in a couple of ways, the testi-
5 mony by witnesses who are sworn and placed under oath and
6 take the witness stand, their testimony, and then any exhibits
7 which may come in during the course of the trial. That is
8 the evidence in this case.

9 From time to time during this trial you may hear one
10 of the lawyers say something along these lines, Judge, I
11 believe we have a question of law we need to take up with
12 the Court, or, Your Honor, may we approach the bench.

13 During those times, ladies and gentlemen, I might find
14 it necessary to ask you to step back into your jury room
15 for a moment. If I do that -- if I can handle the matter
16 over here at side bar, I will try to do that, but if I
17 need to send you to your jury room the reason I would do
18 that is simply this.

19 As I have told you earlier, I am not to have any
20 influence over you about the facts of the case. I am not
21 supposed to make any comments about evidence or anything
22 that is presented

23 Sometimes when I'm having to make a ruling on the
24 law, it is necessary for me to make a comment about either
25 the testimony or some of the evidence which has been

1 put into the trial in connection with a ruling that I am
2 required to make.

3 So in an effort to protect you from those comments,
4 I may have to ask you to step into your jury room so I
5 can hear whatever the motion is or whatever the issue is.
6 to make my decision. Then once I've done that I will
7 bring you back out and let the trial resume.

8 So if I ever ask you to step back to your jury room,
9 that would be the reason, simply to protect you as the
10 fact-finders.

11 Now, in determining what the facts are in this case,
12 you are going to have to decide whether the testimony of
13 a witness is believable or not.

14 It is going to be my responsibility to rule as a mat-
15 ter of law whether any testimony is admissible into this
16 Court, but once testimony is admitted, once a witness is
17 allowed to testify, whether or not you believe that wit-
18 ness is going to be solely up to you to decide.

19 In deciding whether to believe a witness, you have
20 the right to consider the interest of a witness, the bias
21 of any witness, the opportunity for the witness to have
22 seen the matters and the things about which the witness
23 testified, the way the witness acts on the witness stand.

24 You have the right, ladies and gentlemen, to consider
25 anything that is in this record that will help you in

1 evaluating the testimony of the witnesses. That means
2 that it is your duty to pay close attention to the witnes-
3 ses, observe them, listen carefully to the witnesses, and
4 pay close attention the attorneys and to the Court.

5 Please do not let your thoughts wander, but give care-
6 ful and strict attention to all the testimony and the evi-
7 dence in this case, so that at the end of this trial after
8 the attorneys have presented their closing arguments to
9 you and I've given you the law you will then be in a pos-
10 ition to take all that, discuss the case and deliberate, to
11 reach a verdict in this case.

12 Now, before I turn it over to the attorneys, let me
13 first ask of the State, are there any exceptions or objec-
14 tions to the Court's opening remarks?

15 SOLICITOR: None from the State, Your Honor.

16 THE COURT: Anything from the Defense?

17 MR. MATTHEWS: No, sir.

18 THE COURT: Thank you, ladies and gentlemen. Now I
19 am going to recognize the State for their opening state-
20 ment. Please, if you would, give the attorneys your undi-
21 vided attention.

22 SOLICITOR: May it please the Court, Your Honor?

23 Ladies and gentlemen of the jury, this case is about
24 forgery, and essentially His Honor will charge you much
25 better than I can tell you right now.

1 What we've got to prove is that the Defendant know-
2 ingly uttered and published as true a document that was
3 forged, a writing or document, on October 26 of 2011, here
4 in the City of Walterboro.

5 We allege and intend to prove that the Defendant
6 took in a forged satisfaction of title from Title Max and
7 presented it to the South Carolina Highway Department up
8 here right down the road.

9 The Highway Department has its responsibility to check
10 and see if in fact this lien was satisfied, so that is
11 what they did.

12 You will also hear testimony from the lender, Title
13 Max, that it wasn't satisfied; that it was an open account.
14 That's the testimony you will hear.

15 The police officer will testify, but this is not a
16 long trial. Let me stop right here and tell you just be-
17 cause it is not long, does not have a lot of witnesses,
18 it is not important.

19 This is an important case to the State of South
20 Carolina, and this is an important case to the Defendant.

21 Now, you all are here in a search for the truth. You
22 are not searching for anything else. (Portion inaudible)
23 You were given an oath which also has some other things
24 underneath it.

25 Number one, that you would listen. Number two, that

1 two, you would look, and, most importantly, that you would
2 remember all the testimony and evidence that comes in this
3 trial. That's your obligation.

4 How would you do that? Please, listen, look and re-
5 member. Thank you.

6 MR. MATTHEWS: Ladies and gentlemen of the jury, Mr.
7 Knight is right. This isn't a particularly complicated
8 case. I think the evidence is going to show and I believe
9 the evidence is going to show that the one element that
10 the State is not going to be able to prove beyond a doubt
11 is knowingly.

12 Unless the State can prove that, which I do not be-
13 lieve they will be able to, who wrote this document and
14 whether or not Ms. Dinkins knew that it was forged when
15 it was presented -- I think the evidence will show, the
16 circumstance will indicate, that she probably did not, in
17 which case you have to find the Defendant not guilty.

18 Listen carefully to the evidence, listen carefully
19 and consider the inferences from the evidence.

20 Listen carefully.

21 Thank you.

22 THE COURT: Call your first witness.

23 SOLICITOR: Laurie Minus.

24 LAURIE MINUS, being duly
25 sworn, testified as follows:

1 CLERK: State your name, please.

2 WITNESS: My name is Laurie Minus.

3 DIRECT EXAMINATION

4 BY SOLICITOR:

5 Q. Ms. Minus, where do you reside?

6 A. In Reevesville, South Carolina.

7 Q. Where are you employed?

8 A. At the Department of Motor Vehicles here in Walter-
9 boro.

10 Q. Is that in the City of Walterboro?

11 A. Yes, sir.

12 Q. Is that in the County of Colleton?

13 A. Yes, sir.

14 Q. How long have you been employed there?

15 A. I've been at the Walterboro DMV since November of
16 1999, so a little bit over ten years.

17 Q. And as a part of your responsibilities, are you re-
18 sponsible for accepting satisfactions of liens and titles?

19 A. They are actually presented at the front counter to
20 the clerks, but it is policy that if they come up with a
21 form 450 we do have to call and verify with the lien
22 holder

23 Q. Were you working here in Walterboro at the DMV on
24 October 26, 2011?

25 A. I was.

MS. MINUS ON DIRECT

1 Q. I ask you if you can identify what is marked as
2 State's Exhibit 1. Tell me whether or not you can iden-
3 tify that?

4 A. That's the form 450, which is a satisfaction of
5 lien.

6 Q. And who presented that Exhibit Number 1 to you?

7 A. Ms. Elizabeth Dinkins. She actually presented it
8 to my CSR there at the front counter.

9 Q. Did you observe her present it to your CSR?

10 A. Yes, sir.

11 Q. And your CSR gave it to you?

12 A. Yes, sir.

13 Q. And what is your CSR's name?

14 A. I believe it was actually Darlene Herndon.

15 SOLICITOR: The State would move State's Exhibit
16 1 into evidence.

17 THE COURT: Any objection?

18 MR. MATTHEWS: No, sir.

19 THE COURT: Without objection, State's 1 is in
20 evidence.

21 (Satisfaction of lien form admitted in evidence as
22 State's Exhibit 1)

23 BY SOLICITOR:

24 Q. I show you State's Exhibit Number 1, and
25 that was presented to you?

MS. MINUS ON DIRECT

1 A. Yes, sir.

2 Q. And what is it actually called?

3 A. It's a form 450, which is a satisfaction of a lien?

4 A. And the name that is the form 450?

5 A. Elizabeth M. Dinkins.

6 Q. Does it show who the lien holder is?

7 A. Title Max.

8 Q. And what date is on it?

9 A. October 25, 2011.

10 Q. Is the person who presented State's Exhibit Num-
11 ber 1 in the Courtroom today?

12 A. Yes, sir.

13 Q. Who is it?

14 A. The Defendant -- the lady sitting next to Mr.
15 Matthews.

16 Q. Once you received State's Exhibit 1, the satisfac-
17 tion of lien, what did you do?

18 A. I went to my assistant to find out which Title Max
19 and verified it was Title Max of Hampton.

20 I then contacted them, who advised me that it was
21 not a true lien release; that there was still an open
22 account.

23 Q. And at this point what did you do?

24 A. I contacted my fraud unit, which is the policy of
25 DMV, and the Walterboro PD arrived.

MS. MINUS ON DIRECT

1 Q. Do you recall which officer came?

2 A. There were several officers. The gentleman in the
3 suit -- I can't remember his name. He was the first one
4 who got there.

5 Q. Okay, anybody else?

6 A. And Sergeant Sweat then was the one who came in
7 and actually did a report. That's this gentleman here.

8 Q. Did you personally talk to the Defendant, Ms. Dinkins?

9 A. I didn't actually talk to her at her seat. Once
10 the PD had got there, they (inaudible).

11 Q. Did Ms. Dinkins make any inquiries of you?

12 A. Actually, when I was at the counter talking to the
13 officer she did come up and asked if we ewre talking
14 about her lien release.

15 Q. So the Defendant, Ms. Dinkins, was there when the
16 police arrived?

17 A. She was in the lobby the whole time.

18 Q. To the best of your recollection, was she by her-
19 self?

20 A. Yes, to my knowledge. Yes, sir.

21 Q. Did you see her where she was seated? Did you
22 observe that?

23 A. Yes, sir. She was the only one there, so to my
24 knowledge she was the only one there.

25 Q. Thank you, Ms. Minus. If you would answer any

MS. MINUS ON DIRECT

1 questions Mr. Matthews has.

2 A. Yes, sir.

3 (State's Exhibit 1 published to the jury)

4 MR. MATTHEWS: I'm going to give the jury a chance
5 to look at that document so I can ask the witness some
6 questions about it.

7 THE COURT: The State has requested the opportunity
8 to ask another question.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR:

11 Q. I ask you if you can identify State's Exhibit Num-
12 ber 2?

13 A. Yes, sir.

14 Q. What is that?

15 A. A title application, a form 400.

16 Q. Where did you receive that?

17 A. From Ms. Dinkins along with the lien release.

18 SOLICITOR: I would move State's Exhibit 2 into
19 evidence.

20 MR. MATTHEWS: I don't think a proper foundation
21 has been laid, but I don't object to her looking at it.
22 I have some problem with admissibility.

23 BY SOLICITOR:

24 Q. Who did you receive this from?

25 A. Ms. Dinkins.

MS. MINUS ON DIRECT

1 MR. MATTHEWS: No objection.

2 THE COURT: State's Exhibit Number 2.

3 (Title application admitted without objection
4 as State's Exhibit 2 in evidence)

5 BY SOLICITOR:

6 Q. Was it filled out like it is when you received it?

7 A. Yes, sir.

8 Q. And does it have the address of Ms. Dinkins on it?

9 A. It has an address on it.

10 Q. Does it have her telephone number?

11 A. It has a telephone number.

12 Q. And what is the telephone number?

13 A. It's 843 .

14 Q. Does it have anything about the vehicle?

15 A. It has the vin number, the make, the style.

16 Q. And what is the vin number?

17 A. F foxtrot, M Mike, D Delta, K kilo, 46, C Charlie,
18 0813, A alpha, 76800.

19 Q. On the back of it, it has a line that says signature
20 of owner. Is it signed like it was when you received
21 it?

22 A. Yes.

23 Q. What name appears above the signature?

24 A. It's definitely Elizabeth -- Well, I guess that's
25 Dinkins -- it's not legible.

MS. MINUS ON DIRECT

1 Q. Thank you. That's all I have.

2 CROSS EXAMINATION

3 BY MR. MATTHEWS:

4 MR. MATTHEWS: May it please the Court? May I ap-
5 proach the jurors to get those copies?

6 THE COURT: Yes.

7 Q. Ms. Minus, I'm handing you back State's 1 and 2
8 and asking you on State's 1 . .

9 MR. MATTHEWS: May I approach the witness?

10 Q. On State's 1, you said that's the form 450?

11 A. Yes, sir.

12 Q. Do you know who signed that?

13 A. I have no clue who this is.

14 Q. And is it your job to know who signed it?

15 A. No.

16 Q. And you say you were not the person who waited on
17 Ms. Dinkins? You were or were not the person who waited
18 on Ms. Dinkins?

19 A. I was not the CSR, customer service rep. I'm the
20 manager in the back. Any time there is a lien release
21 they come and get me, which is, like I said, office pol-
22 icy, and it was turned in to me at that time right there
23 at the counter.

24 Q. And that was Darlene Herndon?

25 A. I believe it was Darlene. I'd have to go back and

MS. MINUS ON CROSS

1 look at my paperwork to see. I think it was Darlene Herndon
2 who had her that day but I could be wrong. We see three
3 hundred customers a day so I'm really not sure.

4 Q. Your ability to identify Ms. Dinkins obviously comes
5 from the fact that she's sitting here at the defense table?

6 A. Yes, sir.

7 Q. There is no way that you can identify her, is there?
8 There's no way you would be able to say that?

9 A. I do not know her personally, no, sir.

10 Q. You said your office is here in Walterboro, and in the
11 back of the building?

12 A. My office is the front counter and there's a doorway.
13 I sit right there. I can actually see the front counter
14 from my desk.

15 Q. And this Ms. Herndon, is she an African-American or
16 what is her . . .

17 A. She's caucasian.

18 Q. So your testimony here is that there was a caucasian
19 woman that dealt with Ms. Dinkins?

20 A. I could be wrong, like I said. We handle 300 custo-
21 mers a day. I'd have to go back and look at my paperwork.
22 I just happen to remember this because we've locked up
23 I think four for the same thing, and I'd have to see who
24 actually was the one who waited on her, because it is not
25 on this form. We never got that far.

MS. MINUS ON CROSS

1 Q. You . .

2 A. We didn't actually process the transaction so on the
3 back of the form when we process it it would be who had
4 actually processed the transaction.

5 Q. So noone ever actually accepted it?

6 A. We never made it that far once I confirmed it was
7 not a true release of lien we could not process it. Like
8 I said, . .

9 Q. So you didn't see Ms. Dinkins or anyone else sign
10 those forms?

11 A. She's the one presented them.

12 Q. And you know that from Ms. Herndon telling you that?

13 A. No. Actually, when she came in I just -- I'm not
14 always in my office. I'm everywhere in the office.

15 Any time we have a disgruntled customer or have some
16 sort of problem I come to the counter.

17 Q. Was she disgruntled?

18 A. No, but any time we have these it is our office policy
19 that I have to call and confirm them.

20 Q. And I think you testified that this second form,
21 State's 2, you received it -- these were both there at the
22 counter when you came to the counter so you did not receive
23 those from Ms. Dinkins?

24 A. They were presented at the counter.

25 Q. They were on the counter?

MS. MINUS ON CROSS

1 A. But I didn't take them out of her hands.

2 Q. And as far as any comments made, you weren't there
3 so you couldn't know?

4 A. No.

5 Q. And at the time you say you came back out, at some
6 point, you told Ms. Dinkins . .

7 A. We told her then at that time. The customer service
8 representative had already told her to have a seat; that
9 we had to check some paperwork.

10 I went in the back, made the phone call, and I never
11 actually talked to Ms. Dinkins.

12 Q. But at some point somebody told her that you had
13 to check on something, check on the paperwork?

14 A. We told her to have a seat while we were checking
15 on the paperwork. We didn't tell -- we don't tell custo-
16 mers what we are trying to learn so they won't get dis-
17gruntled.

18 Q. But I think you indicated you had to check something
19 as she went and sat down?

20 A. Yes.

21 Q. And she waited how long? Ten minutes, fifteen?

22 A. I don't know how long it actually took but it wasn't
23 very long.

24 Q. Ten minutes?

25 A. Maybe, yeah.

MS. MINUS ON CROSS

1 Q. And she was there when the officers arrived or an
2 officer arrived?

3 A. Yes.

4 Q. And I guess initially you were talking to Officer
5 Chapman and she walked up at that point?

6 A. Yes, and she asked was anything wrong, and I think
7 it was Mr. Chapman that told her that we'd talk to her
8 in a minute.

9 Q. Well, she didn't run or anything like that?

10 A. No.

11 Q. She just stayed sitting. Correct?

12 A. Yes, which I had not notified her either that they
13 were there for her. We just . .

14 Q. I understand, but nothing you saw indicated a guilty
15 conscience or anything like that?

16 A. Not really.

17 MR. MATTHEWS: Your Honor, that may be it, if I may
18 have just a moment.

19 (Brief pause in proceeding)

20 MR. MATTHEWS: Nothing further, Your Honor.

21 THE COURT: Anything on Redirect?

22 SOLICITOR: Briefly.

23 REDIRECT EXAMINATION

24 BY SOLICITOR:

25 Q. I know Mr. Matthews asked you but I just want to

MS. MINUS ON REDIRECT

1 make sure. Is it my understanding you saw the Defendant
2 hand forms 450 and 400 to your customer service repre-
3 sentative?

4 A. Yes, sir.

5 Q. And you got it in turn?

6 A. Correct.

7 Q. That's all I have. May she be excused, Your Honor?

8 THE COURT: Any objection?

9 MR. MATTHEWS: No, sir.

10 THE COURT: Thank you very much.

11 (Witness excused by the Court)

12 THE COURT: Next witness.

13 SOLICITOR: Tamika White.

14 TAMIKA WHITE, being duly sworn,
15 testified as follows:

16 CLERK: State your name, please.

17 WITNESS: Tamika White. Tamika Sherie White.

18 DIRECT EXAMINATION

19 BY SOLICITOR:

20 Q. Where do you reside?

21 A. Varnville, South Carolina.

22 Q. Who are you employed with?

23 A. Title Max of Hampton.

24 Q. How long have you been with them?

25 A. Almost five years.

MS. WHITE ON DIRECT

1 Q. In what capacity are you employed? Explain what
2 your job description is.

3 A. I'm the store manager.

4 Q. Is a part of your duties when a customer pays off
5 a lien for you to sign that satisfaction?

6 A. Yes, sir.

7 Q. Is there any other person in your office that can
8 satisfy a lien?

9 A. Yes, one.

10 Q. Who?

11 A. Sonya Williams.

12 Q. Does Ms. Williams work with you everyday?

13 A. Most of the time, yes.

14 Q. Do you see her signature often?

15 A. Yes.

16 Q. Would you recognize her signature based on the
17 number of years you and Ms. Williams have worked to-
18 gether?

19 A. Yes, sir.

20 Q. Do you know the Defendant? Other than business-wise,
21 do you know the Defendant?

22 A. No, sir.

23 Q. Did you know her from her coming into Title Max?

24 A. Just that one time.

25 Q. On or about October 25, 2011, did Ms. Dinkins owe

MS. WHITE ON DIRECT

1 Title Max any money?

2 A. Yes.

3 Q. On October 26, 2011, did Ms. Dinkins owe Title
4 Max any money?

5 A. Yes.

6 Q. And what was the amount that she owed Title Max?

7 A. It was a little over Four Thousand.

8 Q. And was that loan secured by a lien on the vehicle?

9 A. Yes, sir.

10 Q. What type of vehicle?

11 A. A 2008 Ford Edge.

12 Q. Let me ask if you can identify this? Can you
13 identify this lien that you recorded with the South
14 Carolina Department of Motor Vehicles?

15 A. Yes, sir.

16 SOLICITOR: Offer State's 3 into evidence.

17 THE COURT: Objection?

18 MR. MATTHEWS: No objection.

19 THE COURT: Admitted without objection.

20 (Lien on vehicle admitted in evidence without ob-
21 jection as State's Exhibit 3)

22 BY SOLICITOR:

23 Q. Can you identify the vehicle you had the lien on
24 by title number?

25 A. It's a 2008 Ford Edge, 770250238504634.

MS. WHITE ON DIRECT

- 1 Q. And in your capacity as manager, you filed that
2 lien with the Department of Motor Vehicles?
- 3 A. Yes, sir.
- 4 Q. Let me show you State's Exhibit Number 1, and ask
5 you if you can identify it?
- 6 A. Yes, this is a satisfaction of a title lien form.
- 7 Q. And is your signature on there?
- 8 A. No, sir.
- 9 Q. Is Sonya Williams' signature on there?
- 10 A. No, sir.
- 11 Q. How many employees work there at Title Max with
12 you?
- 13 A. There are three.
- 14 Q. And those are who? Yourself and who else?
- 15 A. Sonya Williams and Sharika Smart.
- 16 Q. Can Ms. Sharika Smart satisfy a lien?
- 17 A. No.
- 18 Q. And Ms. Sharika Smart -- how long has she worked
19 for you?
- 20 A. Since August of 2011.
- 21 Q. And have you had an occasion to see her signature?
- 22 A. Yes.
- 23 Q. On a daily or weekly basis?
- 24 A. Daily.
- 25 Q. So you would recognize her signature?

MS. WHITE ON DIRECT

1 A. Yes.

2 Q. On State's Exhibit 1 where it says the name of
3 the manager, is that Sharika's signature?

4 A. No, sir.

5 Q. On State's Exhibit 1 it indicates that person is
6 a manager at Title Max of Hampton. Does that person
7 work for Title Max of Hampton?

8 A. No.

9 Q. Did that person work there effective October 25th
10 of 2011?

11 A. No, sir.

12 SOLICITOR: Your Honor, please indulge us one
13 moment. We won't be long.

14 (Brief pause in proceeding)

15 BY SOLICITOR:

16 Q. Do you recall whether or not Ms. Dinkins' account
17 was current?

18 A. It was current, yes.

19 Q. Please answer any questions Defense may ask.

20 CROSS EXAMINATION

21 BY MR. MATTHEWS:

22 Q. Ms. White, if you were to take a lien on a car for
23 a loan that you make, is the person seeking the loan
24 required to fill out a contract?

25 A. Yes.

MS. WHITE ON CROSS

1 MR. MATTHEWS: Your Honor, may I approach the
2 witness?

3 THE COURT: Yes.

4 BY MR. MATTHEWS:

5 Q. Ms. White, are you familiar with the terms of the
6 contract which is Defendant's Exhibit 1?

7 A. Yes, sir.

8 Q. And you review that at any time you make a loan
9 and get a lien on a contract?

10 A. Yes.

11 Q. So any time you issue or get a lien on something,
12 you have to have a contract?

13 A. Yes.

14 Q. What were the -- who were the signatories on this
15 particular loan?

16 A. Elizabeth Dinkins and Sharika Smart.

17 Q. And were you present when Ms. Smart negotiated this?

18 A. Yes.

19 Q. And what was the amount of the loan annual percent-
20 age rate? Ten percent, twenty percent . .

21 A. One hundred nineteen percent.

22 Q. Is one of the terms of the loan that the person
23 hold title to the car that you take the lien on, and you
24 look at the title?

25 A. Yes.

MS. WHITE ON CROSS

1 Q. And I show you the title -- I think this is
2 State's 3.

3 MR. DINKINS: May I approach?

4 I show you State's 3. Is that a copy or photocopy
5 of the title?

6 A. Yes.

7 Q. Once the South Carolina form 400 has been sent to
8 the Department of Motor Vehicles -- who owned the car?

9 A. Elizabeth Dinkins or Leroy Dinkins.

10 Q. And Ms. Dinkins was current on her loan as of
11 October 25, 2011?

12 A. Yes.

13 Q. And in fact even after she was arrested she made
14 another payment?

15 A. No, sir.

16 Q. But she was current on that date?

17 A. Yes.

18 Q. Was Mr. Dinkins a signatory?

19 A. No, sir.

20 Q. And in fact, the contract requires that you be
21 the owner of the motor vehicle?

22 A. Correct.

23 Q. If you'll look at the last line of the form if
24 it says and, he would have to be a signatory?

25 A. Yes.

MS. WHITE ON CROSS

1 Q. And read what it says there on the line just
2 above the signature?

3 A. . .

4 Q. The fine print just above the signature.

5 A. Owners and S is in parenthesis.

6 Q. Okay. In fact, it says you verify that you are
7 the rightful owner of the motor vehicle. Is that not
8 in fact what it says?

9 A. No, it does not.

10 Q. Does not?

11 A. No.

12 Q. I'm looking at right above Sharika Smart's name.
13 Look at where it says Title Max of South Carolina,
14 Sharika Smart, and then there's one paragraph beside
15 there.

16 By signing this loan agreement you acknowledge that
17 it was filled in before you did so, and that you have
18 received an exact copy of it. You also warrant and re-
19 present that you are not a debtor under any proceeding
20 in bankruptcy and have no intention to file a petition
21 for relief under any chapter of the United States Bank-
22 ruptcy Code.

23 A. . .

24 Q. Really, if you read along with me, does it in fact
25 say by signing this loan agreement you acknowledge that

MS. WHITE ON CROSS

1 it was filled in before you did so and that you did re-
2 ceive an exact copy of it?

3 Does it say that?

4 A. Yes.

5 Q. And then does it also say that you warrant and
6 represent that you are not a debtor under any proceed-
7 ing in bankruptcy and have no intention to file a peti-
8 tion for relief under any chapter of the United States
9 Bankruptcy Code?

10 A. Yes.

11 Q. You verify that you are the rightful owner of the
12 motor vehicle?

13 A. Yes.

14 Q. You verify you are eighteen years of age or older?
15 You further acknowledge that you have read, understand
16 and agree to all of the terms of this loan agreement,
17 including the waiver of jury trial and arbitration pro-
18 vision above?

19 A. Yes.

20 Q. Okay, having had a chance to review that, do you
21 agree that it says that you are the rightful owner of
22 the motor vehicle?

23 A. Yes, it does.

24 Q. And in fact she was one of the owners?

25 A. Yes.

MS. WHITE ON CROSS

1 Q. So obviously you sent a copy of this agreement to
2 Mr. Dinkins?

3 A. No.

4 MR. MATTHEWS: One moment, Your Honor.

5 Nothing further, Your Honor.

6 THE COURT: Redirect, Mr. Knight?

7 REDIRECT EXAMINATION

8 BY SOLICITOR:

9 Q. Briefly, Mr. Matthews presented you with the con-
10 tract and copy of the title?

11 A. Yes, sir.

12 Q. The contract was entered into by who? Who en-
13 tered the contract for Title Max?

14 A. Sharika Smart.

15 Q. And who is the borrower?

16 A. Elizabeth Dinkins.

17 Q. And did you have any dealings with Leroy Dinkins?

18 A. No, sir.

19 Q. Thank you, maam. That's all I have.

20 THE COURT: Mr. Matthews?

21 MR. MATTHEWS: Yes, sir.

22 RECROSS EXAMINATION

23 BY MR. MATTHEWS:

24 Q. Ms. White, do you care who makes payments on the
25 loans that you make?

MS. WHITE ON RECROSS

1 A. No, sir.

2 Q. So if Mr. Dinkins had sent in a payment, you would
3 take that?

4 A. Yes.

5 THE COURT: Let's take just a short break, ladies
6 and gentlemen, so if you would return to your jury
7 room.

8 Remember, no conversation about the case. We'll
9 take a short break.

10 (Jury excused from Courtroom)

11 (Court stood in recess for brief period, after
12 which the matter resumed)

13 THE COURT: If you would bring in our jury.

14 (Jury returned to Courtroom)

15 THE COURT: All right, ladies and gentlemen, we
16 will continue with this case. As you recall, we are
17 still in the State's case.

18 All right, Mr. Knight.

19 SOLICITOR: The State would call Jason Chapman.

20 JASON CHAPMANT, being duly
21 sworn, testified as follows:

22 CLERK: Please state your name for the record.

23 WITNESS: Sergeant Jason Walker Chapman.

24 DIRECT EXAMINATION

25 BY SOLICITOR:

SGT. CHAPMAN ON DIRECT

- 1 Q. Mr. Chapman, who are you employed with?
- 2 A. Walterboro Public Safety.
- 3 Q. Is that the police department?
- 4 A. Yes, sir.
- 5 Q. How long have you been employed with the Walterboro
- 6 Police Department?
- 7 A. This is my fifteenth year.
- 8 Q. Were you employed by them on October 26, 2011?
- 9 A. Yes, sir.
- 10 Q. Did you receive a call to come to the Department
- 11 of Motor Vehicles in the City of Walterboro on that
- 12 day?
- 13 A. Yes, sir, I did.
- 14 Q. When you got there, who did you speak with?
- 15 A. When I first got on scene, I spoke with a customer
- 16 service representative at the counter. She advised me
- 17 that she would get the office manager, Ms. Minus, and I
- 18 got with Ms. Minus and began talking about the case.
- 19 It went on from there.
- 20 Q. Was the Defendant, Ms. Dinkins, there?
- 21 A. Yes, sir, she was.
- 22 Q. Elizabeth Dinkins?
- 23 A. Yes, sir.
- 24 Q. Can you point her out for us, please?
- 25 A. She is seated next to Mr. Matthews.

SGT. CHAPMAN ON DIRECT

1 Q. Subsequently, did you make an inquiry as to what
2 type of vehicle she was driving?

3 A. Yes, sir.

4 Q. And what type of vehicle was she driving?

5 A. A 2008 Ford Edge that was parked outside the De-
6 partment of Motor Vehicles.

7 Q. Was Ms. Dinkins alone inside the Department of
8 Motor Vehicles?

9 A. Yes, sir, she was.

10 Q. Please answer any questions the Defense may have.

11 MR. MATTHEWS: May it please the Court?

12 CROSS EXAMINATION

13 BY MR. MATTHEWS:

14 Q. Sergeant Chapman, how you doing today?

15 A. All right. (portion inaudible)

16 Q. All right, were there other people in the Depart-
17 ment of Motor Vehicles when you went in there on this
18 occasion?

19 A. Just Ms. Dinkins.

20 Q. And what did you do?

21 A. I spoke with Ms. Minus and looked at the paper-
22 work.

23 Q. Did you ask Ms. Dinkins where she got the paper-
24 work?

25 A. I did.

SGT. CHAPMAN ON CROSS:

1 Q. And what did she say?

2 A. She said her husband had given it to her that
3 morning.

4 Q. And in a case like this -- let me ask you this.
5 Had the results come back from SLED on the handwriting
6 analysis?

7 A. No, sir, not to my knowledge.

8 Q. Nothing further.

9 SOLICITOR: That's all. May he be excused?

10 THE COURT: Any objection?

11 MR. MATTHEWS: No objection.

12 THE COURT: You are excused.

13 (Witness excused)

14 SOLICITOR: Elbert Sweat.

15 ELBERT SWEAT, being duly
16 sworn, testified as follows:

17 CLERK: Please state your name for the record.

18 WITNESS: Elbert Sweat.

19 DIRECT EXAMINATION

20 BY SOLICITOR:

21 Q. Obviously, you are employed by law enforcement?

22 A. Yes, sir. Walterboro Public Safety.

23 Q. How long have you been employed by the Walterboro
24 Public Safety?

25 A. Fourteen years.

OFR. SWEAT ON DIRECT

1 Q. On or about October 26, 2011, were you on duty?

2 A. Yes, sir.

3 Q. Did you respond to a call at the Department of
4 Motor Vehicles

5 A. Yes, sir.

6 Q. When you got there, what did you find?

7 A. I spoke with Ms. Minus from the Department of
8 Motor Vehicles and Sergeant Chapman, and also was told
9 that Ms. Dinkins was on scene.

10 Q. Ms. Dinkins -- would you point her out for the
11 jury?

12 A. She's the female sitting next to Mr. Matthews.

13 Q. Was she by herself?

14 A. Yes, sir.

15 Q. What type of vehicle was she driving?

16 A. She had driven a black 2008 Ford Edge to the Depart-
17 ment of Motor Vehicles.

18 Q. Did she have the keys to that vehicle?

19 A. Yes, sir.

20 Q. Was anyone in the vehicle waiting for her?

21 A. No, sir.

22 Q. Please answer any questions the Defense may have
23 for you.

24 THE COURT: Mr. Matthews?

25 MR. MATTHEWS: No questions.

1 SOLICITOR: May he be excused, Your Honor?

2 MR. MATTHEWS: No objection.

3 THE COURT: You are excused.

4 (Witness excused)

5 SOLICITOR: Your Honor, the State rests.

6 THE COURT: Ladies and gentlemen, the State has
7 rested their case, so at this time I have to take up
8 motions at the close of the State's evidence, so I am
9 going to -- I hate to do this again. I know it can seem
10 you are like a yo yo going back and forth, back and
11 forth, but I do need to take up these motions.

12 Please step to your jury room. Of course, have
13 no conversation about this case, please, while you
14 are back there.

15 I'm going to give you a task so that way you will
16 have something to do while you're back there.

17 I'm going to ask you, if you would, to elect amongst
18 you a Foreperson. Now, let me tell you a little bit
19 about the Foreperson and the role of that position.

20 A Foreperson of a jury is basically the person that
21 communicates between the jury panel and the Court. Bas-
22 ically when you are dealing with a group of folks, it
23 is easier to deal with one person to speak for the
24 group than to have to deal with individuals.

25 So the Foreperson, any time the jury needs to

1 communicate with the Court or the jury has a question for
2 the Court, then the Foreperson would just write the ques-
3 tion out on a piece of paper and pass it out to me. I
4 would take the question and look at it, and, depending
5 on the question, I may have just the Foreperson come out
6 and respond. I may actually write my answer and pass
7 it back into the jury room, or I may have you all come
8 back into the Courtroom as a panel and answer the ques-
9 tion.

10 It all depends on what the question might be, but
11 that is the main role of the Foreperson, to be the per-
12 son who communicates between the jury panel and the Court.

13 Usually whenever you have a group of folks that are
14 discussing a matter, you need someone who can start and
15 stop the deliberations. So the Foreperson would start
16 the deliberations; say, okay, let's begin the delibera-
17 tions, and you will get started.

18 I will tell you now that whenever you are deliber-
19 ating -- when you reach that point in this case where you
20 are going to be deliberating, it is very important that
21 you understand that all of you must be present.

22 So if someone, for example, has to use the restroom,
23 and they excuse themselves to use the restroom, the Fore-
24 person would say, okay, let's stop conversation; let's
25 stop deliberations, and then when that person returns

1 you would go ahead and start back.

2 So that's kind of the role of the Foreperson. Also,
3 you will have a verdict form when you go back there, and
4 the Foreperson will be in charge of the verdict form
5 and will record on the verdict form whatever your ver-
6 dict is of the jury.

7 What is important for you to understand is this. You
8 all are equal members of this jury panel, and no one
9 person's decisions or opinions or vote carries any more
10 weight than the other person.

11 Your verdict in this case must be unanimous, so what
12 that tells you is that every person's vote carries the
13 same weight.

14 A Foreperson has no more authority than any other
15 person on the jury. You are all equal. When the Court
16 is dealing with a jury panel is it always easier to deal
17 with one person than it is with every individual, so that
18 is kind of what it is.

19 I used to appoint the Foreperson. I would -- it's
20 not rocket science. I would get your forms that you
21 turn in and look at them and try to ask somebody to serve
22 as the Foreperson, and a couple of years ago I had a jury
23 where the -- I asked this young lady would she serve as
24 the Foreperson, and she said she would rather not, so
25 that was fine. Then I asked a gentleman would he serve,

1 as he was my backup, and he said he would rather not. I did
2 not have a backup to my backup, so I said, well, listen,
3 here's the thing. We've got to have a Foreperson, so
4 go back there and elect one.

5 So from that day forward I have let jurors elect
6 their own Foreperson. I don't want to force anybody to
7 do something they don't want to do.

8 So I will tell you the only thing you need to under-
9 stand when you go back to elect a Foreperson is that the
10 Alternate is not eligible to serve as the Foreperson but
11 everyone else is eligible.

12 I know that people sometimes need fresh air, so if that
13 becomes an issue just let me know.

14 What I need you to do first is elect a Foreperson,
15 and then after that -- Mr. Padgett, do you have a way to
16 take the jury out so they can stretch their legs a little
17 bit?

18 Any time that you do that, ladies and gentlemen, you
19 must stay together. I'm not talking about bundled up, but
20 no one can wander off. You've got to stay together as a
21 group.

22 But I will let you do that after you elect a Foreper-
23 son. Okay.

24 (Jury excused from Courtroom)

25 THE COURT: All right, at this time I will take up

1 any motions there may be at the close of the State's
2 case.

3 MR. MATTHEWS: I would make a motion for directed
4 verdict. There is no evidence whatsoever that this was
5 a knowing forgery. There was no evidence that my client
6 ever wrote anything, no evidence that there was knowledge
7 that any document which was presented was forged.

8 So I would move for a directed verdict.

9 MR. KNIGHT: Taking the evidence in the light that
10 is most favorable to the State, I think we have presented
11 evidence that a forged document was presented by her, and
12 there was evidence the lien had not been released.

13 THE COURT: As Mr. Knight pointed out, at this stage
14 of a trial, the existence or non-existence of evidence
15 is what the Court must consider.

16 I think there is. Depending on how the jury views it,
17 there is evidence in the case that the signature on the
18 document was, in fact, not the signature of the person
19 it purports to be, and it was presented.

20 So I think it is a factual question and is appropriate
21 for the jury. I am going to respectfully deny your motion.

22 Anything else?

23 MR. MATTHEWS: Since the jury is out, I don't in-
24 tend to put up any witnesses, and would close.

25 Just for the record, I would go ahead and renew

1 that motion.

2 I've talked with Ms. Dinkins. She does not desire
3 to testify, and this would probably be a good time if
4 the Court wants to address that with her.

5 THE COURT: Ms. Dinkins, let me speak with you for
6 just a moment with regard to that.

7 I ask if you would please stand.

8 You have talked with your attorney with regards to
9 whether or not you intend to testify, is that right?

10 DEFENDANT: Yes, sir.

11 THE COURT: All right. Now, Mr. Matthews has indi-
12 cated to the Court that you have expressed your decision to
13 not testify, is that correct?

14 DEFENDANT: Yes, sir.

15 THE COURT: What I want to do is I just want to make
16 sure that you understand what rights you do have. Ob-
17 viously, you have the right to remain silent. Everyone
18 has the right, so the fact that you chose to exercise the
19 right is absolutely appropriate.

20 You also need to understand though that you do have
21 the right to testify. You do understand that?

22 DEFENDANT: Yes, sir.

23 THE COURT: And that if you wanted to testify the
24 State -- well, obviously your lawyer would ask you ques-
25 tions, and then the State's attorney would have an opportunity

1 to ask you questions, and you would be required to re-
2 spond to those questions truthfully. Do you understand
3 that?

4 DEFENDANT: Yes, sir.

5 THE COURT: I don't know if you have a prior criminal
6 history or not, and if you don't, of course, that would
7 not be a factor.

8 If you did, depending on what that history is, it
9 may be appropriate for the State to ask you whether or
10 not you have been convicted of certain crimes, if you
11 have.

12 Do you understand that?

13 DEFENDANT: Yes.

14 THE COURT: Of course, all that comes into play if
15 you testify. You have indicated to the Court that you
16 wish to exercise your right to remain silent, and I cer-
17 tainly would honor that.

18 Also, let me point out that if you do go forward with
19 your decision to not testify I would instruct the jury
20 that they cannot in any way hold that against you. I will
21 tell the members of the jury that the burden of proof is on
22 the State to prove guilt and that you don't have to prove
23 anything.

24 The fact that you have chosen not to testify cannot
25 even be discussed in the jury room, and I would instruct

1 them of that. Do you understand?

2 DEFENDANT: Yes, sir.

3 THE COURT: Your lawyer has a duty to give you his
4 advice and thoughts on it, but the bottom line is that it
5 is a constitutional right that you possess, and so the
6 only person who can really make the call is you.

7 Am I correct in assuming that you have made this de-
8 cision of your own free will?

9 DEFENDANT: Yes.

10 THE COURT: And no one has forced you, of course,
11 into that?

12 DEFENDANT: No, they haven't.

13 THE COURT: Thank you very much.

14 BAILIFF: May I approach?

15 THE COURT: Yes, sir.

16 (The Court speaking with Bailiff)

17 THE COURT: All right. Just for your information, the
18 ladies and gentlemen of the jury have elected Juror 137
19 as the Foreperson of the jury, Brian Nash.

20 Mr. Matthews, after the jury takes a break, you can
21 close in front of them, and we can then move on to clos-
22 ing arguments, and you have renewed your motion for a
23 directed verdict at the close of all the evidence in the
24 case. I will recognize you when the jury returns to the
25 Courtroom.

1 Now, having said those things, if you have any specific requests to charge you wish me to consider, I will
2 be happy to do that. From what I've already got here, it
3 won't take but a few minutes to finish my charge. I'm
4 going to try to print out a copy of that so you can look
5 at it.
6

7 I'll try to get that together shortly, and while I'm
8 doing that we will remain at ease.

9 (The Court took brief recess, after which the case
10 was resumed)

11 THE COURT: I'm going to pass this to you and ask
12 if you would look at it.

13 SOLICITOR: No objections from the State.

14 THE COURT: Any objections from the State?

15 MR. MATTHEWS: Your Honor, I'd like it if the Court
16 would charge the criminal intent element of knowing and
17 the different levels of intent. In this case it must be
18 knowing and differentiating between negligent, reckless
19 or negligent or reckless, but knowing.

20 The Court's charge -- whatever the standard charge
21 is on the element of intent, knowingly.

22 THE COURT: Anything else, Mr. Matthews? I will, of
23 course, give you an opportunity to re-read it, especially
24 the intent charge that I have.

25 Anything else?

1 MR. MATTHEWS: As far as the intent charge is con-
2 cerned ..

3 THE COURT: I'll read it to you right now. This is
4 what I have.

5 In order establish criminal liability, criminal in-
6 tent is required. Criminal intent must be proven by the
7 State beyond a reasonable doubt.

8 Criminal intent is always a matter that must be de-
9 termined by the jury from the circumstances surrounding
10 the situation. There is no way to prove intent to a mathe-
11 matical certainty. There is no way medical science can
12 dissect a person's brain and determine what the person
13 had in mind, so the law says that criminal intent may be
14 inferred from the circumstances shown to have existed.

15 This is how you make a determination of whether or
16 not the element requiring intent was present. It is not
17 necessary to establish intent by direct and positive evi-
18 dence, but intent may be established by inference in the
19 same way as any other fact, by taking into consideration
20 the acts of the parties and all the facts and circumstances
21 of the case.

22 Criminal intent is a mental state, a conscious wrong-
23 doing. It is up to you to determine what the Defendant
24 intended to do based on the circumstances shown to have
25 existed.

1 Criminal intent can arise from from actions or a fail-
2 ure to act. It may arise from negligence, recklessness or
3 an indifference to duty, or to consequences that is consid-
4 ered by the law to be the equivalent of criminal intent.

5 MR. MATTHEWS: And, Your Honor, obviously I want a
6 charge on intent. However, my fear is the difference is
7 (portion inaudible) in the different levels of intent.

8 It is no longer just a ^{general} criminal intent. I think the
9 General Assembly changed things a little bit in 2010, and
10 that charge would actually be a little bit worse because it
11 would imply that negligence would be enough; that criminal
12 negligence is obviously a different standard in negligence.
13 It is a higher intent

14 You might have an idea that something is wrong, but it
15 is different from intending something is wrong, and I think
16 it is important that the jury understand the difference
17 between knowing -- a knowing act -- I know that is worse
18 than they might should have known.

19 THE COURT: I don't know how to make it -- criminal
20 intent is a mental state, a conscious wrongdoing . . .

21 MR. MATTHEWS: It may be negligence, indifference to
22 duty, but that is where the different layers of it gets
23 mixed together.

24 THE COURT: Any objection to removing that list.

25 SOLICITOR: I don't have any problem with it.

1 I've got one potential request to charge. You may
2 not give it to me but I'm going to ask for it.

3 THE COURT: All right.

4 SOLICITOR: There was testimony by the Officer that in
5 response to questions he addressed to Ms. Dinkins that Ms.
6 Dinkins said, my husband gave me this satisfaction. Her
7 husband was listed as a witness by the Defendant.

8 What I want is if the Defense goes on to reference that
9 statement to the jury -- then I want a charge that says a
10 failure to call that witness -- you know what I'm asking
11 for -- is not favorable to the Defendant. It's been used
12 against me over the years.

13 Again, it's something to think about. If he doesn't
14 use it, I don't have a problem, but if he uses it then I
15 think since he listed Mr. Dinkins, her husband, as a wit-
16 ness, that I'm entitled to it since he didn't call him.

17 MR. MATTHEWS: The Defense is not obligated to put up
18 anything.

19 THE COURT: I understand that and when I call out the
20 witnesses, or potential witnesses, in a case, in a crim-
21 inal case, I never reference which are State's witnesses and
22 which are Defense witnesses. I just call out the names of
23 possible witnesses.

24 SOLICITOR: I understand that.

25 THE COURT: The jury has no idea that they listed Mr.

1 Dinkins, her husband, as a potential witness.

2 SOLICITOR: I understand that.

3 THE COURT: So I'm not understanding what it is you're
4 asking for.

5 SOLICITOR: What I'm asking for is -- that statement
6 that was made by the Defendant to law enforcement -- law
7 enforcement truthfully testified, and I don't have any
8 problem with that.

9 My problem is that Dr. Leroy Dinkins, her husband, was
10 called as a potential witness, and that failure to call
11 him to substantiate what she told Officer Sweat obviously . .

12 THE COURT: She doesn't have any obligation to substan-
13 tiate what anybody says, and there is nothing to prevent
14 the State from calling Mr. Dinkins.

15 SOLICITOR: I understand that. I just thought I'd
16 ask, Your Honor.

17 THE COURT: I'm going to deny that.

18 What I'm going to do is -- I've taken that paragraph
19 out, Mr. Matthews, regarding the negligence and left it as
20 criminal intent, conscious wrongdoing -- it's up to you to
21 determine the intent based on the circumstances.

22 MR. MATTHEWS: Thank you.

23 THE COURT: Now, let me -- I'm going to have to send
24 this downstairs to be printed because the printer up here
25 isn't made for something like that.

1 I believe it's run out of ink or something. So take
2 a few minutes while I do that. When they bring it back
3 up you can take a look at that portion that I've added
4 and then let me know.

5 Anything else?

6 MR. MATTHEWS: No, sir.

7 SOLICITOR: No, Your Honor.

8 (Whereupon, the Court took a brief recess and the
9 matter then resumed).

10 THE COURT: Let me mention this to you. I didn't
11 think there was anything complicated about the verdict
12 form. It's just one of two options. She's either guilty or
13 she's not guilty.

14 It's a little after twelve so I'm going to let the
15 jury go to lunch until one thirty.

16 (Jury returned to Courtroom)

17 THE COURT: All right, ladies and gentlemen. I appre-
18 ciate your patience. I've taken up the motions I need to
19 take at the close of the State's case.

20 Having said that, I notice it is lunchtime and I
21 don't want you all sitting in here with your stomachs growl-
22 ing and you getting upset with me because you're hungry.

23 We're going to break at this time for lunch, and we'll
24 start back after lunch. I'm going to ask you, if you would,
25 to be back in your jury room at two forty-five, which

1 gives you an hour and a half for lunch. Sorry, one forty-
2 five. Not two forty-five. Quarter to two, so please be
3 back and we'll get started then.

4 You have information on the case but you only have
5 some information, so what I need you to do is really guard
6 and protect your ability to be fair and impartial. Have no
7 conversation with anybody about this case when you are at
8 lunch. Just forget this matter, go to lunch, enjoy your
9 lunch.

10 If anyone tries to speak with you about it, you tell
11 them you are a member of the jury and you can't talk about
12 it. If they continue to try to talk to you about it, you
13 get their name and let me know who it is. I've got a place
14 I can send them where they won't be so inquisitive.

15 So please do that for me. Enjoy your lunch and don't
16 discuss the case. Be back at one forty-five.

17 (Jury excused for lunch period)

18 THE COURT: All right, Ms. Dinkins, technically when
19 the jury is sworn, your bond is extinguished so you are no
20 longer on your bond and you remain in custody until the
21 case is over.

22 However, I'm going to let you go to lunch. You need
23 to be back at one forty-five. I just have to tell you out
24 of an abundance of caution if you don't return the case
25 will proceed in your absence.

1 I would also issue a bench warrant for your arrest and
2 hold you in contempt. I know you'll be back, but I have
3 to tell you that on the record.

4 At this point we'll adjourn until one forty-five.

5 (Court stood in recess until the matter was resumed
6 after the lunch break)

7 THE COURT: Gentlemen, I will ask you to look at this
8 charge again regarding intent.

9 (Brief pause)

10 THE COURT: Mr. Knight, any objections or exceptions
11 to the charge?

12 SOLICITOR: No, sir.

13 THE COURT: Mr. Matthews?

14 MR. MATTHEWS: Judge, just what I've said -- I think
15 it's better. I would like a charge on what knowingly
16 means, the different levels -- I understand the Court
17 has ruled and I'm not going to belabor the point.

18 THE COURT: All right, sir. As I mentioned before
19 we broke for lunch, whenever we get everyone here we will
20 bring them out, and I will recognize you, Mr. Matthews,
21 so you can rest on the record.

22 Then rather than send them back out, you have already
23 renewed your motions at the close of all the evidence, and
24 that's noted for the record as well.

25 Then I will explain to the jury that we are entering

1 into the phase of closing argument.

2 (Jury returned to Courtroom)

3 THE COURT: All right, ladies and gentlemen, if you
4 recall when we broke for lunch the State had rested their
5 case, and I have taken up motions at the closing of the
6 State's case.

7 So we are ready to proceed now, and I would recognize
8 Mr. Matthews for the Defendant.

9 MR. MATTHEWS: Thank you, Your Honor. The Defense
10 rests.

11 THE COURT: Thank you, Mr. Matthews.

12 Ladies and gentlemen, the Defense has rested their
13 case, and the next thing that would occur at this point ner-
14 mally is that I would send you back out and take up any
15 motions at the close of all the evidence. Mr. Matthews was
16 kind enough to inform the Court during the break that the
17 Defense was going to rest, so we have already taken up those
18 motions.

19 Since that has been taken care of, we are now at the
20 portion of the trial where all the evidence is in. The
21 evidence that you will have to decide this case is in evi-
22 dence; that is, the testimony you heard from witnesses and
23 any exhibits which came in during the course of the testi-
24 mony.

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1 So now we are at the point in time for the lawyers to
2 argue to you what they perceive this evidence has shown.

3 Once they have completed their arguments -- remember
4 what I told you earlier about their opening statements? I
5 told you that what the lawyers tell you in their opening
6 statements is not evidence. What they tell you in their
7 closing arguments is not evidence either, but it is import-
8 ant that you give it your attention because it is their
9 opportunity to argue to you and share with you what they
10 believe the evidence has shown.

11 Once they have concluded their remarks I will then
12 give you the law that is applicable to this case, and once
13 you have that you will be in a position to deliberate and
14 make your decision.

15 Now, if you will, please give your attention to the
16 attorneys as they give you their closing remarks.

17 SOLICITOR: May it please the Court, Your Honor.

18 Mr. Foreman, ladies and gentlemen of the jury, it was
19 not a long trial, but it was an important trial, and I
20 know you listened intently to the witnesses.

21 I observed you, and I thank you in behalf of the
22 State of South Carolina. I'm sure Ms. Dinkins does also.

23 So what do we know, what was presented to you from
24 the witness stand?

25 Number one, Ms. Dinkins arrived at the Department of

1 motor vehicles on October 26th, somewhere around twelve
2 o'clock during the daytime.

3 She presented to the customer service representative
4 who, in turn, presented to Ms. Minus a satisfaction of title
5 which has been introduced into evidence as State's Exhibit
6 Number 1, which you have seen, saying that the
7 lien on the title of her vehicle, a 2008 Edge, was satis-
8 fied.

9 In addition, she filled out, while she was at the
10 Department of Motor Vehicles, State's Exhibit Number 2.

11 No one else was there with her, assisting her, prod-
12 ding her, coaching her, or telling her what to do.

13 Of her own volition, she took this to the Department
14 of Motor Vehicles to get another title, to get it satis-
15 fied.

16 If you recall, Ms. Minus said she was there, she was
17 waiting, and she only talked to Ms. Minus one time, to
18 ask if there was a problem, and Ms. Minus said--I think she
19 said I'm checking now.

20 That is a part of the program, what the Department of
21 Motor Vehicles does with satisfactions of liens.

22 No one was sitting out there with her at all. She
23 was by herself.

24 Even when law enforcement arrived, she was still sit-
25 ting there.

1 She drove to the Department of Motor Vehicles in her
2 2008 Ford Edge. No one was with her.

3 Of course, Ms. White testified, you know, there are
4 only two people who can satisfy titles. I'm one of them
5 and I didn't sign it.

6 Ms. Sonya Williams is the other one, and she didn't sign
7 it. There were only three employees who worked there dur-
8 ing this time period. This person, whoever she may be,
9 didn't work there.

10 So it makes it pretty clear as to what occurred. In
11 addition, and this is interesting -- the loan was current
12 at the time this was done. They weren't in default, they
13 weren't behind. They were current at that time.

14 So we get to the issue at hand. Knowingly -- I've got
15 to prove that she knowingly presented this document knowingly;
16 that she uttered a document she said was true but it was a
17 forged document.

18 Now knowingly -- I can't look into her mind and you
19 can't look into her mind. You have to look at her actions,
20 and her actions were what?

21 Here it is; I want to satisfy this on my title. No-
22 thing else.

23 There is not a scientific method I know of -- and if
24 I'm wrong the Court will correct me in the charge to the
25 jury -- by which you can look at somebody and know what

1 their intentions are. Say, we know what you did.

2 Then we move to criminal intent. Criminal intent is
3 another mind thing, you know. Science cannot determine
4 what is in somebody's mind when they are doing something,
5 like in this instance.

6 What you must do is you must infer from his or her ac-
7 tions. In this case, it's a lady -- from her actions in
8 presenting this document to the Department of Motor Vehic-
9 les. Now, what is an inference?

10 An inference is a piece of evidence that you can deal
11 with any way you want to. You can agree or disagree with
12 it. Give it whatever weight you want to. That's up to
13 you.

14 The Judge will tell you that it is in your province
15 to make that decision. That's just the way it is.

16 When one presents a forged instrument -- that's what
17 this is, an instrument -- there is an inference that the
18 Defendant either forged it or knew that it was forged --
19 again, inference. Again, inference.

20 It's like any other piece of evidence. You can give
21 it any weight you want.

22 So that is the bottom line in this case. You can't
23 look in her mind. There is no scientific method for you
24 to determine what her intentions were, other than to get her
25 a clear title, because no one was there prodding her or

1 assisting her, telling her what she should or shouldn't
2 do. She's on her own, and this occurred, as we know, here
3 in Colleton County on the 25th of October of 2011.

4 I ask you to consider more than inferences that actions
5 speak louder than words, and in this instance Ms. Dinkins
6 is guilty of forgery.

7 Thank you.

8 MR. MATTHEWS: Mr. Foreman, ladies and gentlemen of
9 the jury, thank you very much.

10 In any case, the State has to prove beyond a reason-
11 able doubt each of the elements of the case.

12 At the beginning of this case, Mr. Knight told you he
13 would be able to prove beyond a reasonable doubt that Ms.
14 Dinkins knowingly forged a document and presented it for
15 payment -- not payment -- there's no payment.

16 The Judge will tell you what the law is and that one of
17 the things the State has to prove is that the Defendant had
18 the intent to defraud any person -- any person.

19 Now, whose signature was forged, and for what purpose?

20 And is there any information at all that Ms. Dinkins
21 knew what she was presenting -- there is no evidence she
22 forged anything, no testimony from any person that she forged
23 it; no person saw her sign anything.

24 In fact, when Jason Chapman appeared on the scene,
25 what did she tell him? She said my husband gave me this.

1 Now, were her actions the actions of someone who knew that
2 she was doing something wrong?

3 She went there to the Department of Motor Vehicles
4 with a paper. She presented it and she waited. They
5 said there is a problem.

6 Ms. Minus said she approached her, have a seat; I've
7 got to look at the paperwork. Now, she knew she was hold-
8 ing a forged document? Did she know she was holding a
9 forged document, trying to get away with something?

10 If that's the case, would she have just sat down and
11 waited? Okay. Waited for the police to come?

12 And when the police got there, when she sees Jason's
13 car pull out, did she say, excuse me; I've got to go? I've
14 got to walk out the door? I've got to get something?

15 No, she sat there and she waited and after a little
16 while she walked up and said, is there a problem? She
17 walked up to them -- my husband gave me this. Is there a
18 problem?

19 She was current on her payments. Mr. Knight brought
20 that up because he knew I was going to bring it up. Why?
21 She was current.

22 Now, look at the document, the contract, first entered.
23 Ms. White told you the terms, the awful terms in that awful
24 contract. There are two names on the title even though the
25 contract says that you have to be the owner of the title.

1 The owner of the motor vehicle. It's right there on
2 the title -- two names, not one. Her husband's name -- he is
3 not a member of the contract, but Ms. White says that they
4 will be happy to take his money, so they probably weren't
5 in too big a hurry at a hundred nineteen percent interest.
6 Not ten or fifteen but 119 percent interest. They were in
7 a hurry to get that back.

8 So she's current, and she goes there and she presents
9 a document. There is no indication she signed it. No in-
10 dication she signed this other section -- no indication
11 of it again. No indication -- is it even a person? We don't
12 know.

13 And, you see, Ms. Dinkins doesn't have to prove a
14 thing. She doesn't have to prove a thing. She is here
15 being charged with this, and it's up to the State to prove
16 beyond a reasonable doubt.

17 Sergeant Chapman also plainly admitted that that he
18 didn't send this off to SLED for the signatures to be ana-
19 lyzed. That might have been helpful. We don't have that
20 information, and it might have been helpful.

21 There is simply nothing here to suggest that Ms.
22 Dinkins knowingly tried to defraud any person of anything.
23 She was current. She stayed, she didn't leave. Nobody
24 saw her sign anything.

25 The Court will tell you to use your common sense when

1 you go back there to talking about this. Using your com-
2 mon sense, why would anybody try to get away with something
3 like this?

4 (Portion not audible)

5 That's a reasonable doubt right there. That's all you
6 need, and every single one of you has to decide whether the
7 State has proved its case beyond a reasonable doubt.

8 The Judge will tell you what the law is, and he will
9 tell you any reasonable doubt that you have you must give
10 to the Defendant.

11 Never do any of us have to prove anything in a crim-
12 inal case. I don't have to prove I didn't do something.

13 I've got papers in my pocket. Do I know what they're
14 about, do I know what they're like? I don't know. I don't
15 know. She said she got it from her husband. We don't know
16 she didn't. We don't know who signed the papers.

17 We don't know -- there has been absolutely no proof,
18 none. Even Ms. Minus on the stand -- I asked her, did she
19 act in a way that her conscience was bothering her; that
20 she had done something wrong, and what did she say? No.
21 No.

22 Take as long as you need to decide this case, but,
23 really, there is nothing here. Each and every one of you
24 look at this, because it takes all twelve of you on the jury,
25 and when you do I am confident you will come back and find

1 that the State has not proven its case beyond a reasonable
2 doubt, and that Ms. Dinkins is not guilty of the charge.

3 THE COURT: Ladies and gentlemen, I'm coming around
4 to give you the charge on the law.

5 As I told you when we got started here, ladies and
6 gentlemen, you are the judges of the facts in this case,
7 and throughout the trial I have attempted to not weigh into
8 that area.

9 So it is appropriate that the Judge sits on the bench
10 away from the area where the witnesses are testifying or
11 giving you the evidence because that is your job.

12 We now come to the portion of this trial where you and
13 I are in this together. You as the judges of the facts,
14 and me as the judge of the law.

15 So I am going to give you the charge. I'm going to
16 read it to you verbatim so I don't miss anything.

17 Mr. Foreman and members of the jury, you have heard
18 all the evidence and heard the arguments of both parties.
19 I will now explain to you the law which applies to this
20 action.

21 The Indictment charges the Defendant, Elizabeth Dinkins,
22 with the charge of forgery. I remind you that the fact
23 that the Defendant was arrested, charged and indicted in
24 this case is not evidence in this case, and it cannot be
25 construed by you as evidence of guilt in this case, nor does

1 it create any presumption or inference of guilt.

2 The Indictment is simply the formal written instru-
3 ment which contains the charge made against the Defendant.
4 It is the formal document by which this case is brought into
5 the Court.

6 Now, I will give you a copy of these instructions in
7 written form to have with you in the jury room. During
8 your deliberations, you may refer to the instructions to
9 guide you in your decision-making. You must, however, con-
10 sider the instructions as a whole and not follow some and
11 ignore others.

12 The Defendant has pled not guilty to this Indictment,
13 and that plea puts the burden on the State to prove the
14 Defendant guilty. A person charged with committing a crim-
15 inal offense in South Carolina is never required to prove
16 him or herself innocent.

17 I charge you that it is an important rule of law that
18 the Defendant in a criminal trial, no matter what the ser-
19 iousness of the crime charged, will always be presumed to
20 be innocent of the crime for which the Indictment was is-
21 sued, unless guilt has been proven by evidence satisfying
22 you of that guilt beyond a reasonable doubt.

23 This presumption of innocence does not end when you
24 begin your deliberations but it accompanies the Defendant
25 throughout the trial until you reach a verdict of guilt

1 based on evidence satisfying you of that guilt beyond a
2 reasonable doubt.

3 The presumption of innocence is not a mere legal
4 theory. It is not just a legal phrase, but it is a sub-
5 stantial right to which every Defendant is entitled unless
6 you, the jury, are satisfied from the evidence of the De-
7 fendant's guilt beyond a reasonable doubt.

8 The State has the burden of proving the Defendant
9 guilty beyond a reasonable doubt.

10 Some of you may have served as jurors in civil cases
11 where you were told that it is only necessary to prove
12 a fact is more likely true than not true, such as by the
13 greater weight or preponderance of the evidence.

14 In criminal cases, the State's proof must be more
15 powerful than that. It must be beyond a reasonable doubt.

16 Proof beyond a reasonable doubt is proof that leaves
17 you firmly convinced of the Defendant's guilt. Now, there
18 are very few things in this world that we know with abso-
19 lute certainty, and in criminal cases the law does not re-
20 quire proof that overcomes every possible doubt.

21 If, based on your consideration of the evidence, you
22 are firmly convinced that the Defendant is guilty of the
23 crime charged, you must find the Defendant guilty. If,
24 on the other hand, you think that there is a real possi-
25 bility that the Defendant is not guilty, then you must give

1 the Defendant the benefit of the doubt and find her not
2 guilty.

3 I remind you that during the trial you and I have
4 certain duties to perform. As the trial judge, it is my
5 responsibility to preside over the trial of this case, and
6 I also have the duty to rule on the admissibility of the
7 evidence that's offered during the trial.

8 You are to consider only the competent evidence that's
9 before you. You are to consider only the testimony which
10 has been presented from this witness stand, any exhibits
11 which may have been made a part of this record in this
12 case, and any stipulations of counsel.

13 I have the additional duty to charge you the law ap-
14 plicable to this case. As the presiding judge, I am the
15 sole judge of the law of this case, and it is your duty to
16 accept as jurors and apply the law as I now state it to you.

17 If you already have an idea as to what the law is or
18 what the law ought to be and it does not agree with what I
19 now tell you the law is, you must abandon your idea because
20 you are sworn to accept the law and apply the law exactly
21 as I state it to you.

22 In every case that's tried in this Court before a jury,
23 the jury becomes the sole and exclusive judges of the facts
24 in a case. A trial judge cannot intimate, state, comment
25 on or make any statement to a trial jury about the facts in

1 the case. The law does not allow me to have an opinion
2 about the facts of this case. This is a matter solely for
3 you, the jury, to determine. As jurors, it is your duty
4 to determine the effect, value, weight and truth of the
5 evidence presented during the trial.

6 Necessarily, you must determine the credibility of
7 witnesses who have testified in this case, and credibility
8 simply means believability. It becomes your duty as jurors
9 to analyze and to evaluate the evidence and determine which
10 evidence convinces you of its truth.

11 In evaluating ~~eye-witness testimony~~, you should remem-
12 ber that the State must prove the identity of the Defendant
13 as the person who committed the crime beyond a reasonable
14 doubt.

15 In determining the believability of witnesses who have
16 testified in this case, you may believe one witness over
17 several witnesses or several witnesses over one witness.

18 You may believe a part of the testimony of a witness
19 and reject the remaining part of the testimony of that
20 same witness, or you may believe the testimony of a witness
21 in its entirety or reject the testimony of a witness in its
22 entirety.

23 You may consider whether any witness has exhibited to
24 you any interest, bias, prejudice or other motive in the
25 case. You may also consider the appearance and the manner

1 of a witness while on the witness stand.

2 Now, in order to establish criminal liability, crim-
3 inal intent is required. Criminal intent must be proven
4 by the State beyond a reasonable doubt.

5 Criminal intent is always a matter that must be de-
6 termined by the jury from the circumstances surrounding
7 the situation.

8 There is no way to prove intent to a mathematical
9 certainty. There is no way medical science can dissect a
10 person's brain and determine what the person had in mind,
11 so the law says that criminal intent may be inferred from
12 the circumstances shown to have existed. This is how you
13 make a determination of whether or not the element requir-
14 ing intent was present.

15 It is not necessary to establish intent by direct or
16 positive evidence, but intent may be established by infer-
17 ence in the same way as any other fact, by taking into
18 consideration the acts of the parties and all the facts
19 and circumstances of the case.

20 Criminal intent is a mental state, a conscious wrong-
21 doing. It is up to you to determine what the Defendant
22 intended to do based on the circumstances shown to have
23 existed.

24 Now, the Defendant is charged with forgery. The State
25 must prove beyond a reasonable doubt that the Defendant with

1 the intent to defraud any person falsely made, forged
2 or counterfeited, or caused to be falsely made, forged or
3 counterfeited; or wilfully acted or assisted in the false
4 making, forging or counterfeiting of any writing or in-
5 strument of writing.

6 Intent may be shown by acts and conduct of the Defen-
7 dant and other circumstances from which you may naturally
8 and reasonably infer intent.

9 Where the Defendant is in possession of a forged in-
10 strument of which the Defendant claims to be the benefi-
11 ciary, and applies it to his or her own use, there is an
12 inference that the Defendant forged the instrument or was
13 aware of the forgery.

14 However, this inference is simply an evidentiary fact
15 to be considered by you, along with the other evidence in
16 this case, and it is to be given the weight that you deter-
17 mine it should receive.

18 It is not necessary that anyone was actually injured
19 or defrauded by the false instrument. The mere possibility
20 of injury is enough if there is an intent to defraud.

21 Mr. Foreman and ladies and gentlemen of the jury, as
22 you retire to begin your deliberations, I want to express
23 the hope that each of you will be mindful of the import-
24 ance of your responsibility.

25 You are not called upon to serve as jurors very often,

1 and the proper performance of your duty requires each of
2 you to reach the height of freeing your mind of all improper
3 influences. You and I are acting for the community and
4 that is why we must see to it that the trial is fair and
5 the verdict is just.

6 You have observed that the presiding officer of this
7 Court is always addressed as Your Honor. Well, the reason
8 is not because of the person wearing this robe but that
9 the Court is entrusted with the honor of this community,
10 the honor of this state, and the honor of this country, in
11 seeing that every case tried here receives fair and impar-
12 tial justice.

13 Now, do not get the idea that I am trying to intimate
14 to you how I might think you should decide this case. As
15 I have already told you, under the laws of the State of South
16 Carolina you, the jury, are the sole judges of all questions
17 of fact. It would be highly improper for me to influence
18 you in the performance of that duty.

19 But as the presiding officer of this Court, I am vit-
20 ally concerned that whatever verdict you find will be the
21 result of your going into that jury room and confining your
22 consideration to the evidence and to the law that you've
23 heard in this Courtroom, weighing it fairly and impartially,
24 as I have every confidence that you will.

25 Your verdict in this case cannot be based on sympathy,

1 compassion, prejudice or emotion, or some other considera-
2 tion not found in the evidence. The Court is of the firm
3 opinion that whatever verdict you reach will represent
4 truth and justice for all parties involved.

5 Remember, as I said earlier, your verdict must be unan-
6 imous.

7 I am now going to explain the verdict form or the pos-
8 sible verdicts. You have one of two options as far as your
9 verdict in this case. Either the Defendant is not guilty
10 or the Defendant is guilty. Those are the possibilities you
11 have.

12 Once the jury has deliberated and once you have reached
13 a unanimous decision, Mr. Foreman, if you will then just
14 check the appropriate spot and sign as the Foreperson.

15 Then knock on the door and let the bailiff know you
16 have a verdict. Then we will bring you back out and receive
17 your verdict.

18 I'm going to have the exhibits collected and send them
19 back to the jury room with you. First, I'm going to send
20 you back there, and I'm going to ask that you not begin
21 your deliberations yet.

22 I need to ask the attorneys and make sure I have not
23 left anything out or that there is not anything I need to
24 add to the charge.

25 If there is something I need to correct, I will bring

1 you back out and do that. If not, I will send these items
2 back. When you receive this notebook and these forms, that
3 will be your cue to begin your deliberations.

4 Please, if you would, retire to your jury room.

5 (Jury excused from Courtroom at 2:25 P.M.)

6 THE COURT: All right, are there any exceptions or
7 additions to the charge from the State?

8 SOLICITOR: No, sir.

9 THE COURT: Any from the Defense?

10 MR. MATTHEWS: No, sir.

11 THE COURT: All right, Mr. Matthews, your discussion
12 about knowingly is certainly noted for the record. Please
13 come up here with Debbie and check to make sure that all
14 of the exhibits that came into evidence are there. Then we
15 will send this back.

16 (Jury taken exhibits and verdict form and instructed
17 to commence deliberations)

18 (Alternate juror brought out of jury room and excused
19 by the Court)

20 (Court stood in recess until the matter was resumed)

21 THE COURT: Mr. Knight and Mr. Matthews, the jury has
22 passed out a question. The question I will read to you --
23 do we have a copy of the contract.

24 I have written a response, and what I've written is
25 the only items entered into evidence in this case were

1 were the three items that you have.

2 The contract you referred to was testified to but the
3 document itself was not placed into evidence. You will
4 have to rely on your recollection of the testimony regard-
5 ing the contract.

6 Is that appropriate?

7 SOLICITOR: Yes, Your Honor.

8 MR. MATTHEWS: Yes, sir.

9 THE COURT: We'll send this back there then.

10 (Court again stood in recess until the matter was
11 resumed)

12 THE COURT: I understand the jury has reached a ver-
13 dict. Let me just say this. I say this in every case, whe-
14 ther a criminal case or civil trial, so it is not particular
15 to this case.

16 It is just the way it has to be, and that is, I don't
17 know what the jury's verdict is. I sit here as you all do,
18 and I have no idea.

19 Whatever that verdict, and this is usually always the
20 case -- one side is going to be fine with it and one side
21 is not going to be fine with it. Regardless of what the
22 verdict is, I tell everyone that the jury deserves to have
23 their verdict received in a professional manner.

24 Now, that doesn't mean I am asking anybody to agree
25 with the jury's verdict. I'm not asking anybody to agree

1 with it. All I'm saying is that whether you agree or not
2 at least it should be received in a professional manner.

3 So no outbursts, no emotional actions or whatever.
4 Just allow the verdict to be received, and if you don't
5 think you can do that I would ask that you remove yourself
6 from the Courtroom. I am very serious about that.

7 I have locked people up who do not follow my instruc-
8 tions when it comes to receiving the verdict of the jury, so
9 if you don't want to spend the evening in the Colleton
10 County Hilton here maintain your emotions or let yourself
11 out.

12 Okay, bring the jury.

13 (Jury returned to Courtroom at 3:35 P.M.)

14 CLERK: Mr. Foreman, have you reached a verdict?

15 FOREPERSON: Yes, maam.

16 THE COURT: All right, Madam Clerk, if you would please
17 publish the verdict.

18 CLERK: Indictment Number 2011 GS 15 0769, Stae of
19 South Carolina versus Elizabeth Dinkins. We, the jury, find
20 the Defendant guilty of forgery. Signed by the Foreperson,
21 Brian Nash.

22 If this be your verdict, raise your right hands.

23 (Jurors raising their hands)

24 THE COURT: Ladies and gentlemen, I want to thank
25 you for your service this week.

1 (Jury excused by the Court)

2 THE COURT: All right, proceed. I'll hear from the
3 State as well as the Defense with regard to sentencing.
4 I will do that at this time.

5 You have asked for a pre-sentence investigation, and
6 I would respectfully decline to do that.

7 Mr. Knight, at this time I am happy to hear from the
8 State, if anything, with regard to sentencing.

9 SOLICITOR: The Defendant has two convictions, prior
10 convictions. One in 2009 that appears to be forgery, petit
11 larceny, petit larceny.

12 Then on October 17, some nine days prior to this, she
13 was convicted in Jasper County and sentenced to five years
14 and five years probation.

15 This is the situation, Your Honor, and this is why
16 the State called this case. When you see someone that just
17 gets probation and then they go out and do it again -- it
18 shocked my conscience, although some people would say I
19 don't have a conscience.

20 The long and the short of it is that it does bother
21 me, and I think it bothers the honest citizens of Colleton
22 County.

23 I know that case was disposed of on October 17 of
24 2011 in Jasper, and the same conduct nine days later -- I
25 couldn't believe it.

1 THE COURT: Thank you, Mr. Knight. I'll be happy
2 to hear from you and from anyone else in behalf of Ms.
3 Dinkins.

4 MR. MATTHEWS: Your Honor, Ms. Dinkins is thirty. She
5 was born in Beaufort but Ridgeland has always been her home.

6 She's married to Dr. Leroy Dinkins who is the Vice
7 Principal of Ridgeland High School. She has been married
8 to him for the last five years.

9 She completed high school at Jasper County High
10 School, and is enrolled in (inaudible) Technical College
11 of the Lowcountry.

12 She did spend two days in jail on the prior offense.
13 She has never been to prison. The victim is out of no-
14 thing and, of course, she has contested her guilt and re-
15 mains contesting that.

16 However, there really is not a victim. There's not a
17 victim because there was no criminal intent. It never ac-
18 tually went through. If it had gone through there would have
19 been a victim out some Four Thousand One Hundred Dollars.

20 The lien would have been satisfied, but the debt would
21 have remained, so there are always civil remedies.

22 Title Max has the car so if they are out anything on
23 this hundred and nineteen percent loan, I'm unaware of it.
24 They might be out some interest.

25 THE COURT: I know you asked about the hundred and

1 nineteen percent loan, but, guess what? I heard no tes-
2 timony that someone held a gun to their head and made them
3 take that loan at 119 percent.

4 MR. MATTHEWS: She's got three children, eight years
5 old, five years old, two years old. Her father is here. Dr.
6 Dinkins is here. She is asking the Court for whatever mercy
7 it can find.

8 (Portion not audible)

9 Retribution for a thirty year old -- ninety days would
10 probably be plenty, but whatever the Court orders -- the
11 jury has spoken.

12 I would ask the Court to consider that she is the
13 mother of three and she has a loving father with her, a lov-
14 ing husband with her.

15 There is no restitution. The only victim I guess
16 would be society as a whole, and I would ask the Court to
17 take that into consideration and give her the lightest pos-
18 sible sentence.

19 Thank you.

20 THE COURT: Ms. Dinkins, anything you wish to say?
21 It's not required but I'd be happy to hear from you.

22 DEFENDANT: I just want to say I'm truly sorry. I
23 ask the Court to have mercy in sentencing.

24 THE COURT: I don't understand but there is a lot in
25 this world I don't understand.

1 She seems like a very intelligent young lady, and I'm
2 confident you are. That doesn't mean -- there are a lot
3 of intelligent people that make bad decisions. Typically,
4 intelligent folks learn from their mistakes, and you are
5 just -- six days before you do this, you are actually in
6 Court on another matter, getting the mercy of the Court
7 and being placed on probation.

8 I don't know anything about the facts of that case but
9 the fact that I'm told there's a breach of trust tells me
10 you are -- the nature of that is you were entrusted with
11 something of value and you breached that trust.

12 Then you turn right around and do this. I think that
13 there may be an issue here that you need to deal with. I
14 think there are any number of reasons but I don't know.

15 Did you serve any time in jail on that charge?

16 DEFENDANT: Overnight.

17 THE COURT: On Indictment 2011 GS 15 0769, the sen-
18 tence of the Court is that you be committed to the South
19 Carolina Department of Corrections for a period of two
20 years.

21 You will be given credit for any time served.

22 Good luck to you, maam.

23 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

24

25

1
2 CERTIFICATE

3 I, HARRIET P. BENNETT, Official Court Reporter for
4 South Carolina Court Administration, do hereby certify that
5 the foregoing Transcript was prepared from the records
6 of Deborah Everett to the best of my ability, having been
7 heard in the Court of General Sessions for Colleton County
8 on January 31 and February 1, 2012.

9 FURTHER, I certify that I am neither of kin nor of
10 counsel to any party to this action, nor do I have any
11 interest in the same.

12 March 18, 2013

13 *Harriet P Bennett*
14
15
16
17
18
19
20
21
22
23
24
25

WITNESSES

B. Sweat

ARREST WARRANT NUMBER

1863144

October 27, 2011

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 11/17/2011

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2011GS1500769

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

November Term 2011

THE STATE

VS.

Elizabeth Dinkins

Indictment for

Forgery / Forgery, value less than \$5,000

SC Code: 16-13-0010(B)(2)

CDR Code:2427

COLLETON COUNTY
GENERAL SESSIONS COURT
2011 NOV 17 PM 3:44

STATE OF SOUTH CAROLINA)
COUNTY OF COLLETON)

INDICTMENT

2011GS1500769

At a Court of General Sessions, convened on November 17, the Grand Jurors of Colleton County present upon their oath:

Forgery / Forgery, value less than \$5,000

That in Colleton County, South Carolina, on or about October 26, 2011, the Defendant, Elizabeth Dinkins, with intent to defraud, falsely did make, forge, counterfeit or cause or procure to be falsely made, forged, or counterfeited a writing, or knowingly did utter and publish as true a forged, false or counterfeited writing, or did act or assist in any of the foregoing, to wit: the Defendant did forge the name of the manager of Title Max of Hampton on a Satisfaction of Title Lien to Department of Motor Vehicles and did receive the sum of none; all in violation of Section 16-13-10, Code of Laws of South Carolina, (1976, as amended)

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.



Isaac M. Stone
Solicitor

FGYLTR

TRUE BILL

COUNTY OF Colleton
 STATE VS.
Elizabeth Dinkins
 AKA: _____
 Race: B Sex: F Age: 30
 DOB: _____ SS#: _____
 Address: _____
 City, State, Zip: _____
 DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was
 TO: Forgery

in violation of § 16-13-0010(B)(2) of the S.C. Code of Laws, bearing CDR Code # 2427

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Knight, Steve

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of 2 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections. Credit for 2 days time served.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine: _____ \$
 § 14-1-206 (Assessments 107.5 %) \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 56-1-286 (DUI Breath Test) \$25 \$
 Proviso 47.9 (Public Def/Prob) \$500 \$
 § 14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
 § 14-1-213 (Drug Court Surcharge) \$150 \$
 § 50-21-114 (BUI Breath Test Fee) \$50 \$
 § 56-5-2942(J) (Vehicle Assessment) \$40/ca \$
 Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.00
 3% to County (if paid in installments) \$ 3.90
 TOTAL \$ 133.90

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk: Patricia C. Grant

Court Reporter: Deborah Everett

SCCA/217 (03/2011)

Pending Judge

Judge Code: 2141

Sentence Date: 2-1-2012

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

February 21st, 2014



Carmen V. Ganjehsani
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
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(803) 734-1330

ATTORNEY FOR APPELLANT

RECEIVED

NOV 24 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

S.C. Supreme Court

Appeal from Colleton County

Thomas A. Russo, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ELIZABETH M. DINKINS,

APPELLANT

FINAL BRIEF OF APPELLANT

CARMEN V. GANJEHSANI
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Appellant's conviction for forgery not involving any dollar amount in the Court of General Sessions should be vacated for lack of subject matter jurisdiction where the Legislature placed this offense within the exclusive jurisdiction of the magistrates and municipal court.

STATEMENT OF THE CASE

On November 17, 2011, Appellant Elizabeth M. Dinkins was indicted by the Colleton County Grand Jury for one count of forgery in violation of S.C. CODE ANN. § 16-13-10. The indictment alleged that Appellant “did forge the name of the manager of Title Max of Hampton on a Satisfaction of Title Lien to [the] Department of Motor Vehicles and did receive the sum of *none*.” R.99 (emphasis added).

Appellant was tried before the Honorable Thomas A. Russo and a jury on January 31 – February 1, 2012. R. 1. Appellant was represented by David S. Mathews, and the State was represented by Assistant Solicitor Steven Knight. Id.

The jury found Appellant guilty of forgery. R. 93, ll. 18-21. Judge Russo sentenced Appellant to two years imprisonment. R. 97, ll. 17-20.

This appeal follows.

ARGUMENT

Appellant's conviction for forgery not involving any dollar amount in the Court of General Sessions should be vacated for lack of subject matter jurisdiction where the Legislature placed this offense within the exclusive jurisdiction of the magistrates and municipal court.

Appellant was charged with forgery not involving any dollar amount in violation of S.C. CODE ANN. § 16-13-10(C). R.82. She was tried and convicted in the Court of General Sessions for Colleton County. South Carolina Code section 16-13-10(C) provides:

If the forgery does not involve a dollar amount, the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, *notwithstanding* the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, and upon conviction, must be fined in the discretion of the court or imprisoned not more than three years, or both.

§ 16-13-10(C) (emphasis added).

The plain language of this statute confers exclusive jurisdiction to the magistrates and municipal court for cases of forgery not involving any dollar amount. Therefore, the Court of General Sessions lacked subject matter jurisdiction to hear the case against Appellant.

The South Carolina Constitution provides that “[t]he judicial power shall be vested in a unified judicial system, which shall include a Supreme Court, a Court of Appeals, a Circuit Court, and such other courts of uniform jurisdiction as may be provided for by general law.” S.C. CONST. ART. V, § 1. Article V, Section 11 of the South Carolina Constitution establishes the Circuit Court as the court of original jurisdiction in most cases except those in which exclusive jurisdiction is given to inferior courts such as the magistrates or municipal court:

The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases, *except those cases in which exclusive jurisdiction*

shall be given to inferior courts, and shall have such appellate jurisdiction as provided by law.

S.C. CONST. ART. V, § 11 (emphasis added).

The South Carolina Constitution further provides that the Legislature has the power to establish the jurisdiction of the magistrates:

The Governor, by and with the advice and consent of the Senate, shall appoint a number of magistrates for each county as provided by law. The General Assembly shall provide for their terms of office and their civil and criminal jurisdiction. . . .

S.C. CONST. ART. V, § 26.

In 2010, the Legislature amended the forgery statute to add Section C of the statute, specifically providing that in cases of forgery not involving a dollar amount, “the person is guilty of a misdemeanor under the jurisdiction of the magistrates or municipal court, *notwithstanding* the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65” § 16-13-10(C) (emphasis added). The Legislature’s use of the word “notwithstanding” signals the Legislature’s intent to confer exclusive jurisdiction in the magistrates or municipal court despite the provisions of other statutes defining the jurisdiction of these inferior courts.

“When interpreting a statute, this Court’s primary function is to ascertain the intention of the Legislature. . . . When a statute is clear and unambiguous, the terms of the statute must be given their literal meaning.” Mosteller v. County of Lexington, 336 S.C. 360, 363-64, 520 S.E.2d 620, 622 (1999). In addition, when the Legislature uses the phrase “*notwithstanding* any other provision of the law” in a particular statute, the Legislature clearly intends that the statute to be “exclusive of other provisions of the law.” Id. at 364, 520 S.E.2d at 622 (emphasis added).

Moreover, Code Section 22-3-540, which grants magistrates “exclusive jurisdiction of all criminal cases in which the punishment does not exceed a fine of one hundred dollars or imprisonment for thirty days . . .” further provides that its provisions “shall not be construed to limit the jurisdiction of any magistrate whose jurisdiction has been extended beyond that stated above.” S.C. CODE ANN. § 22-3-540.

By enacting § 16-13-10(C), the Legislature extended, in accordance with the last sentence of § 22-3-540, the exclusive jurisdiction of the magistrates’ court with respect to forgery cases not involving any dollar amount. The Legislature extended the exclusive jurisdiction of the magistrates’ court to forgery case not involving any dollar amount even though the punishment could involve a fine in any amount within the court’s discretion and imprisonment for up to three (3) years.

It is therefore clear in this case that only the magistrates or municipal court had jurisdiction to hear the forgery charge not involving any dollar amount against Appellant. In State v. Castleman, 219 S.C. 136, 64 S.E.2d 250 (1951), this State’s Supreme Court held it was reversible error for the Court of General Sessions to try a defendant for the first offense of unlawful possession of intoxicating liquor where the Court of General Sessions did not have jurisdiction. The Supreme Court found that the General Assembly had statutorily conferred exclusive jurisdiction to the magistrates’ court for the offense for which defendant was charged and therefore, the Court of General Sessions lacked jurisdiction over the case. Id. at 138, 64 S.E. at 251.

Here, the Legislature has expressly placed crimes of forgery not involving any dollar amount within the exclusive jurisdiction of the magistrates and municipal court. Accordingly, it was error for the Court of General Sessions to hear the case against

Appellant. Appellant's conviction for forgery not involving any dollar amount should be vacated for lack of subject matter jurisdiction.

CONCLUSION

Based upon the foregoing reasons, Appellant Elizabeth M. Dinkins respectfully requests this Court to vacate her conviction for lack of subject matter jurisdiction.

Respectfully submitted,



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

This 7th day of March, 2014.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 7th, 2014



Carmen V. Ganjehsani
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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Colleton County
Thomas A. Russo, Circuit Court Judge

THE STATE, _____

RESPONDENT,

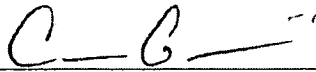
V.

ELIZABETH M. DINKINS,

APPELLANT

CERTIFICATE OF SERVICE

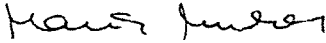
The undersigned attorney hereby certifies that a true copy of the Final Brief of Appellant in the above referenced case has been served upon Julie Kate Keeney, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 7th day of March, 2014.



Carmen V. Ganjehsani
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 7th day of October, 2014.



(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

Final Brief
of Respondent

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<u>State v. Crocker</u> , 366 S.C. 394, 621 S.E.2d 890 (Ct. App. 2005).....	6
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Statutes

S.C. Code Ann. §16-13-10	5, 6, 7
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Other Authorities

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STATEMENT OF ISSUE ON APPEAL

I.

The Court of General Sessions had subject matter jurisdiction over Appellant's forgery charge because the charge involved a value of less than \$10,000.

STATEMENT OF THE CASE

On November 17, 2011, a Colleton County Grand Jury indicted Appellant for "forgery, value less than \$5,000." On January 31, 2012, Appellant proceeded to trial. Dave Matthews represented Appellant at trial, and Steven Knight represented the State. The Honorable Thomas A. Russo presided over the trial. On February 1, 2012, the jury found Appellant guilty of forgery. Judge Russo sentenced Appellant to two years of imprisonment. Appellant filed a timely notice of intent to appeal.

This appeal follows.

STATEMENT OF FACTS

At trial, Laurie Minus testified for the State. (R. p. 30.) Minus testified that she worked at the Walterboro Department of Motor Vehicles ("DMV"). (R. p. 31.) On October 26, 2011, Minus observed Appellant present a Form 450, which is a document showing satisfaction of a lien, to a customer service representative at the DMV. (R. pp. 31-32.) As the manager of the DMV, Minus had the responsibility of confirming the authenticity of the lien release. (R. p. 37.) Minus testified that the lien release form had been signed by someone, but she did not know who signed the form. (R. p. 37.) Minus testified that she contacted the lien holder, Title Max, to verify that it was a true lien release. (R. p. 33.) Upon learning from Title Max that the lien release form was not authentic, Minus contacted the DMV's fraud unit. (R. p. 33.) Thereafter, the Walterboro Police Department arrived at the DMV. (R. p. 33.)

The State also called Tamika White to the stand. (R. p. 42.) White was the store manager of the Title Max of Hampton. (R. pp. 42-43.) White stated that on October 26, 2011, Appellant owed Title Max a little over four thousand dollars on a loan secured by a lien on Appellant's 2008 Ford Edge. (R. p. 44.) In addition, White testified that the Title Max of Hampton had three employees at the time of the crime, and the signature on the lien release form did not belong to any of those three employees. (R. pp. 45-46.)

The State also called Sergeant Jason Chapman of the Walterboro Police Department to testify. (R. pp. 52-53.) Sergeant Chapman testified that Appellant told him she drove a 2008 Ford Edge to the DMV, which was parked outside of the DMV. (R. p. 54.) Sergeant Chapman also testified that at the time he arrived at the DMV, Appellant was the only customer inside. (R. p. 54.) Further, Officer Elbert Sweat testified that

Appellant drove a 2008 Ford Edge to the DMV, she had the keys to the car, and there was not anyone in the vehicle waiting for her. (R. p. 56.)

ARGUMENT

I.

The Court of General Sessions had subject matter jurisdiction over Appellant's forgery charge because the charge involved a value of less than \$10,000.

Contrary to Appellant's assertion, the Court of General Sessions had subject matter jurisdiction over Appellant's forgery charge. The State indicted Appellant under S.C. Code Ann. §16-13-10 (B)(2), which pertains to forgeries in an amount less than \$10,000.¹ At trial, the State presented evidence that Appellant forged a document, which had a value of approximately \$4,000. Thus, Appellant's contention that her forgery charge did not involve a dollar amount is without merit.

Subject matter jurisdiction is the power of a court to hear and determine cases of the general class to which the proceedings in question belong. Pierce v. State, 338 S.C. 139, 150, 526 S.E.2d 222, 227 (2000). "The jurisdiction of a court over the subject matter of a proceeding is determined by the Constitution, the laws of the state, and is fundamental." Anderson v. Anderson, 299 S.C. 110, 115, 382 S.E.2d 897, 900 (1989). Under the South Carolina Constitution, circuit courts in South Carolina have subject matter jurisdiction to try criminal matters. State v. Gentry, 363 S.C. 93, 101, 610 S.E.2d 494, 499 (2005); see S.C. Const. art. V, § 11 ("The Circuit Court shall be a general trial court with original jurisdiction in civil and criminal cases, except those cases in which exclusive jurisdiction shall be given to inferior courts, and shall have such appellate jurisdiction as provided by law." (emphasis added)). "Generally, the requirements of

¹ Although S.C. Code Ann. §16-13-10 (B)(2) pertains to forgeries involving a value less than \$10,000, the State indicted Appellant for "forgery, value less than \$5,000[.]" which was the appropriate value in Appellant's case before the 2010 amendment to the statute. (R. p. 101.) However, value less than \$5,000 is necessarily encompassed in S.C. Code Ann. § 16-13-10 (B)(2) under the amended statute because an amount of \$5,000 or less constitutes an amount less than \$10,000.

subject matter jurisdiction are satisfied when appropriate charges are filed in a competent court.” State v. Crocker, 366 S.C. 394, 402, 621 S.E.2d 890, 894 (Ct. App. 2005).

Section 16-13-10 of the South Carolina Code provides the following:

(A) It is unlawful for a person to:

(1) falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or wilfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing;

(2) utter or publish as true any false, forged, or counterfeited writing or instrument of writing;

(3) falsely make, forge, counterfeit, alter, change, deface, or erase; or cause or procure to be falsely made, forged, counterfeited, altered, changed, defaced, or erased any record or plat of land; or

(4) willingly act or assist in any of the premises, with an intention to defraud any person.

S.C. Code Ann. §16-13-10 (A).

Further, subsection B of section 16-13-10 of the South Carolina outlines the penalties a trial judge may impose if a defendant is convicted of forgery:

(B) A person who violates the provisions of this section is guilty of a:

(1) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than ten years, or both, if the amount of the forgery is ten thousand dollars or more;

(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years, or both, if the amount of the forgery is less than ten thousand dollars.

S.C. Code Ann. §16-13-10 (B).

Unquestionably, the Court of General Sessions has jurisdiction in forgery cases involving the value of \$10,000 or less. In this case, the State indicted Appellant under section 16-13-10 (B)(2) of the South Carolina Code. As a result, Appellant's case was properly tried in the Court of General Sessions.

In arguing to the contrary, Appellant claims her forgery charge involved no dollar amount. Although Appellant did not actually receive any value as the result of her forgery because she got caught, one does not have to actually receive money in order for a forgery to involve a dollar amount. The State presented evidence that Appellant forged a document in order to be clear of the lien on her vehicle. The amount of the lien on Appellant's vehicle was approximately \$4,000. The amount of the forgery in this case was not speculative. See State v. Brandt, 393 S.C. 526, 548, 713 S.E.2d 591, 602 (2011) (holding that in order for a forgery to involve a dollar amount the amount cannot be speculative). Rather, if Appellant had not gotten caught, she would have received an approximate value of \$4,000. Thus, Appellant's reliance on the fact that the indictment stated Appellant "did receive the value of none" is misplaced.²

Accordingly, Appellant's forgery conviction, which involved a value less than \$10,000, was properly tried in the Court of General Sessions.

² Notably, the trial judge sentenced Appellant pursuant to section 16-13-10 (B)(2), which pertains to forgeries in an amount less than \$10,000. (R. p. 101.)

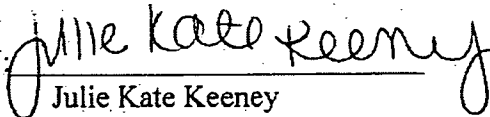
CONCLUSION

For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

March 7, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Colleton County
Honorable Thomas A. Russo, Circuit Court Judge
Appellate Case No. 2012-208407

THE STATE,

Respondent,

vs.

ELIZABETH M. DINKINS,

Appellant.

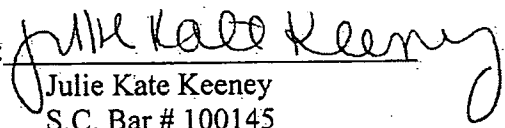
CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

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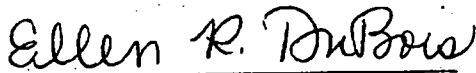
Appellant.

PROOF OF SERVICE

I, Ellen R. DuBois, certify that I have served the within Final Brief of Respondent and Designation of Matter on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to:

Carmen V. Ganjehsani, Esquire
S.C. Commission on Indigent Defense
Division of Appellate Defense
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I further certify that all parties required by Rule to be served have been served.
This 7th day of March, 2014.


ELLEN R. DuBOIS
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