

STATE OF SOUTH CAROLINA

In The Court of Appeals

 ORIGINAL

APPEAL FROM LEXINGTON COUNTY

Clifton Newman, Circuit Court Judge

THE STATE,

RECEIVED

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SC Court of Appeals
RESPONDENT

V.

OSCAR LEE DANTZLER,

APPELLANT

APPELLATE CASE NO. 2015-000192

RECORD ON APPEAL

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INDEX

INDEX.....	i
TRIAL TRANSCRIPT (dated January 12-13, 2014)	1
OPENING STATEMENT BY MS. PATTERSON	3
OPENING STATEMENT BY MR. PHILLIPS	5
TESTIMONY	
DENISE O'NEAL	8
Direct Examination by Ms. Radlein	8
Cross-Examination by Mr. Drylie	28
JOHN COVERT	30
Direct Examination by Ms. Patterson	30
JASON MERRILL	36
Direct Examination by Ms. Radlein	37
Cross-Examination by Mr. Drylie	52
Redirect Examination by Ms. Radlein	60
Recross Examination by Mr. Drylie	63
MARIE WEARING	65
Direct Examination by Ms. Patterson	65
Cross-Examination by Mr. Phillips	78
MOTIONS	81
CLOSING ARGUMENT BY MS. RADLEIN	86
CLOSING ARGUMENT BY MR. DRYLIE	95
JURY CHARGE	105
VERDICT	120
SENTENCING	132
INDICTMENT	133
CERTIFICATE OF COUNSEL	135

1 **THE CLERK:** Would you raise your right hands,
2 please.

3 (Whereupon, the jury was sworn in by the Clerk of
4 Court at 11:49 AM.)

5 **THE COURT:** All right, ladies and gentlemen. I
6 guess a few weeks ago you got a summons saying that you
7 had to come be on jury duty. You responded to that
8 summons by appearing here this morning, at which time
9 you went through a juror qualifications process that
10 you're qualified to be on jury duty, then you came
11 into this room and went through a voir dire, or jury
12 selection process, in which a number of questions were
13 asked of you and both parties selected you all to be
14 the jury in the trial of this case; so, therefore, you
15 are the ones who will decide this case.

16 Out of all the people who live in Lexington County,
17 out of all the people who were summoned to appear on
18 jury duty, only the twelve of you who will deliberate
19 can decide the facts of this case, so you play a very
20 important role in our judicial system in that you will
21 be called upon to decide whether the Defendant is guilty
22 or not guilty of forgery.

23 Now you will make that determination after
24 listening to all of the evidence presented in this
25 case by the State and any evidence presented by the

1 defense if the defense opts to present evidence. The
2 State has the burden of proof. The State must prove
3 the Defendant guilty beyond a reasonable doubt. The
4 Defendant has no burden. Your role as jurors will be
5 to evaluate and to determine the credibility of the
6 evidence that is presented and the credibility of the
7 witnesses who testify.

8 Now just as only you can determine the facts of
9 this case based on your evaluation of the credibility
10 of the evidence, as the presiding judge I am the sole
11 judge of the law of this case. So you will take the
12 facts as you determine them to be and apply the law
13 as I will give it to you and determine whether the
14 Defendant is guilty or not guilty.

15 As I stated to you earlier, you're not to discuss
16 the case in any form or fashion until I tell you that
17 it's time to do so. That will be after you have heard
18 all of the testimony and received all of the evidence.
19 It will be a violation of your oath as a juror to engage
20 in any form of preliminary or premature discussion or
21 deliberations concerning the facts of this case because
22 under our system you are to listen to the entire case,
23 listen to the arguments of the lawyers, listen to the
24 instructions on the law and then decide the case. I
25 look forward to working with you on this case can and

1 to getting the case to you as quickly as possible.

2 Now in just a moment, the State, through the
3 Solicitor's Office, will make an opening statement in
4 which the State will outline what they anticipate the
5 evidence will be in the case. After that, the defense
6 will have an opportunity to do so, though they are not
7 required to do so, then we will hear from the witnesses
8 who will testify. After hearing from all of the
9 witnesses, you will get closing arguments and jury
10 instructions and the case will be given to you.

11 We'll press on now with opening statements by the
12 State. Ms. Radlein. Ms. --

13 **MS. PATTERSON:** Patterson.

14 **THE COURT:** -- Patterson.

15 **MS. PATTERSON:** Thank you, Your Honor. May it
16 please the Court?

17 **THE COURT:** Yes, ma'am.

18 **MS. PATTERSON:** Mr. Drylie, Mr. Phillips. I was
19 gonna say good morning, but it's almost afternoon.

20 Everyone has the right to feel safe in their
21 banking. People work hard for their money, they put
22 it in a financial institution and it should stay there
23 unless, and only unless, they authorize someone to get
24 it out.

25 Unfortunately, for Mr. John Covert on October 23,

1 2013, this was not the case. He received the call
2 that no one wants to receive from their financial
3 institution; the call telling him that his account had
4 been compromised, that there had been some suspicious
5 activity going on.

6 Later on in the trial, the judge will instruct you
7 as to the law and you follow anything that the judge
8 say, but I want to present to you some of the law right
9 now so that you will have it in your head as you listen
10 to the testimony in this case.

11 It's unlawful to falsely make, forge, counterfeit,
12 cause or procure to be falsely made, forged or
13 counterfeited, or utter or publish as true, any false,
14 forged or counterfeited writing or instrument of writing
15 with an intention to defraud any person.

16 That is what this case is about. The Defendant,
17 Oscar Dantzler, is accused of forgery. He presented
18 and cashed a forged check on the business account of
19 John Covert at a First Citizens Bank in Cayce, South
20 Carolina. Now you're gonna hear from some -- you're
21 gonna hear from witnesses in this case. You're gonna
22 hear from Mr. Covert, who was the victim, who owned
23 Covert Homes, and you're gonna hear about how it came to
24 his attention that this suspicious activity was going on
25 with his account. You're also gonna hear from Denise

1 O'Neal, who is the fraud investigator at First Citizens,
2 and you're gonna hear about her involvement in this
3 case. You'll also hear from Investigator Jason Merrill
4 with the Cayce Department of Public Safety, who
5 identified this person who had presented the forged
6 check. And you're also gonna hear from Marie Wearing.
7 She is the supervisor of driving records from the
8 Department of Motor Vehicles.

9 Now this won't be a long case, but it's important.
10 It's important because people work hard for their money
11 and they have the right to have their money stay at
12 their financial institution that they put it in and on
13 behalf of the State of South Carolina we are certain
14 by the end of this trial we'll have met our burden of
15 proof beyond reasonable doubt that the Defendant, Oscar
16 Dantzler, is guilty of forgery. Thank you.

17 **THE COURT:** For the defense.

18 **MR. PHILLIPS:** May it please the Court?

19 **THE COURT:** Yes, sir.

20 **MR. PHILLIPS:** Opposing counsel, members of the
21 jury. This is an undisputable truth. On October 23,
22 2013, an African-American male entered a First Citizens
23 Bank with Oscar Dantzler's driver's license and cashed
24 a check in his name. Because of this the Government
25 has charged Mr. Dantzler with forgery. Mr. Dantzler

1 has denied from day one that he cashed that check.

2 Based on the evidence that will be presented during
3 the trial, you'll see that the Government took the easy
4 route, arrested the wrong man, because they didn't
5 properly investigate this case. There wasn't a full
6 investigation.

7 Ladies and gentlemen, this is Oscar Dantzler. He's
8 sitting there before you. Mr. Dantzler is a forty-five
9 year old father, and he's not the only one on trial
10 here. The indictment reads the State versus Oscar
11 Dantzler. That means the Government's also on trial.
12 That means that you have the duty, each of you, to
13 scrutinize the Government's case.

14 Mr. Dantzler is presumed innocent. Now this isn't
15 just a phrase, an idea. This a fundamental right that
16 Americans have blood, sweat and tears over to preserve.
17 This means that Mr. Dantzler sits before you an innocent
18 man and he will remain innocent throughout this trial.
19 That's what the presumption of innocence is. He has to
20 prove nothing during this trial. The Government alone
21 has the burden of proof in this case and they have to
22 prove his guilt beyond a reasonable doubt.

23 Now before you were sworn in this case, you probably
24 had seen countless stories on the news of someone who
25 was arrested and you, like most people, even my wife and

1 I, did a very common thing.

2 **MS. RADLEIN:** Objection, Your Honor.

3 **THE COURT:** Basis for the objection?

4 **MS. RADLEIN:** This is a case against State versus
5 Oscar Dantzler and not what the jury has seen on TV or
6 the defense attorney has.

7 **THE COURT:** Objection's overruled.

8 **MR. PHILLIPS:** And you, like most people, have
9 done a very common thing. You presumed the worst. You
10 believed that person was guilty based on what you saw
11 on the news; yet you did that without even knowing the
12 person or all of the facts of the case. Now this flaw
13 in human nature has no place in this courtroom. You
14 swore to give Mr. Dantzler a fair trial, you swore to
15 hold the burden of proof to the Government, you swore
16 not to make assumptions in this case.

17 Now it's been said the only way to prevent from
18 making an assumption is to ask questions. During this
19 trial there are three questions that should be answered.
20 First, what investigation did law enforcement actually
21 do in this case? Second, was the investigation
22 adequate? In other words, was there anything that law
23 enforcement should have done that's more than what they
24 did before they arrested Oscar Dantzler? And, third,
25 are you firmly convinced that Oscar Dantzler was the one

1 who cashed that check?

2 Now this trial is a journey and when it's over
3 Oscar Dantzler has faith because the evidence will lead
4 you to render a verdict of not guilty. Thank you.

5 **THE COURT:** First witness.

6 **MS. RADLEIN:** Thank you, Your Honor. The State
7 calls Denise O'Neal.

8 DENISE O'NEAL,
9 after being duly sworn by the Clerk of Court, testified
10 as follows:

11 **THE CLERK:** Would you have a seat and state your
12 name and spell your last for the record.

13 **THE WITNESS:** Denise O'Neal.

14 DIRECT EXAMINATION

15 BY MS. RADLEIN:

16 Q. Thank you, Ms. O'Neal. How are you doing today?

17 A. I'm doing fine.

18 Q. Okay. Where are you currently employed?

19 A. First Citizens Bank.

20 Q. Okay. And how long have you been employed at First
21 Citizens?

22 A. Fifteen years.

23 Q. And in what capacities have you been employed at
24 First Citizens?

25 A. I've done the teller leader and I've done operations

1 consultant and my current role is fraud investigator.

2 Q. And in your current role as fraud investigator,
3 what exactly are your job responsibilities?

4 A. I investigate all fraud claims that come through
5 the bank. I investigate, I interview, I pull evidence,
6 I get my case file together to turn over to law
7 enforcement.

8 Q. Okay. And what -- let's say in the last month or
9 maybe even -- at this point it's 2015. So in 2014, how
10 many cases would you say you've investigated for First
11 Citizens?

12 A. Probably at least 350, if not more.

13 Q. Okay. Are you a qualified witness that can attest
14 to the records kept by First Citizens?

15 A. Yes, ma'am.

16 Q. So you're essentially familiar with the storage of
17 records at First Citizens?

18 A. Yes, ma'am.

19 Q. Where is your actual office located?

20 A. It's in Columbia on Park Street.

21 Q. Okay. So are you responsible for all the branches
22 in Columbia?

23 A. Yes, I do Columbia and -- or I do South Carolina
24 and Georgia.

25 Q. Oh, so not just Columbia, the entire state of South

1 Carolina?

2 A. That's correct.

3 Q. And so are you responsible for investigating the
4 fraud that occurs at each location within the State?

5 A. Yes, ma'am.

6 Q. And just in general, I know you touched on the type
7 of cases you see, what -- what are the most common types
8 of fraud cases you investigate?

9 A. Forgery and counterfeits.

10 Q. Okay. Now this case today involves the Defendant,
11 Oscar Dantzler.

12 A. Yes.

13 Q. How did you become involved in this case?

14 A. On 10-23, we received an alert from our Dentsville
15 branch in Columbia that there was suspicious activity on
16 Covert Homes' account and once I receive that alert we
17 always pull up his activity to see if any other activity
18 happened that day and earlier that day there was another
19 check cashed at our Cayce office and when we contacted
20 Mr. Covert, he stated he did not issue that check.

21 **MS. RADLEIN:** Permission to approach, Your Honor?

22 **THE COURT:** Yes.

23 BY MS. RADLEIN:

24 Q. I'm gonna show you what's been marked as State's
25 Exhibit 2. Do you recognize this?

1 A. Yes, ma'am.

2 Q. And how do you recognize it?

3 A. This is the alert that our branches have access to.
4 They send out an e-mail, it's actually a state-wide
5 e-mail, and I received this e-mail. It's an alert from
6 South Carolina stating that there's suspicious activity
7 on this particular account.

8 Q. Now is that a document that you keep in the normal
9 course of business at First Citizens or as part of your
10 investigation in this case?

11 A. Yes, ma'am.

12 Q. Okay. And is that the original e-mail?

13 A. Yes, ma'am.

14 Q. I guess the question is, is it a copy?

15 A. Yes, it's a copy.

16 Q. Okay. Does it appear to be manipulated in any way?

17 A. No, ma'am.

18 **MS. RADLEIN:** At this time, Your Honor, I move to
19 have State's Exhibit Number 2 entered into evidence.

20 **MR. DRYLIE:** Without objection.

21 **THE COURT:** Admitted without objection.

22 (State's Exhibit Number 2, an E-mail Alert, was
23 admitted into evidence.)

24 BY MS RADLEIN:

25 Q. Now you mentioned another -- an alert went out on

1 the account. The check that we are here today in court
2 for, what branch location was that?

3 A. It was our Cayce location.

4 Q. And do you have the address?

5 A. Not right off. It's on Knox Avenue, but I don't
6 know the physical address.

7 Q. Okay. Do you know if that's in Lexington County?

8 A. Yes, it is.

9 Q. Okay. In addition to requiring your presence here
10 today, did you receive a subpoena to provide the State
11 with certain documents in this case?

12 A. Yes.

13 **MS. RADLEIN:** Your Honor, request to approach the
14 witness?

15 **THE COURT:** Yes.

16 BY MS. RADLEIN:

17 Q. I'm gonna show you what's been previously marked as
18 State's Exhibit 1, and I want to have you identify it.
19 Do you recognize that document?

20 A. Yes, I do.

21 Q. And how do you recognize it?

22 A. This is a certified copy of the check that was
23 presented in the Cayce location.

24 Q. Okay. You mentioned it's a certified copy.
25 Where's the original check?

1 A. It's destroyed.

2 Q. And is that something you guys do in the normal
3 course of business?

4 A. Yes, ma'am. We keep them for ninety days.

5 Q. Okay. How are the copies made?

6 A. We have -- on our system it catches every check.
7 We scan every item that's ran through the bank on an
8 image archive system and this is off of our image
9 archive system.

10 Q. Okay. Does that check appear to be manipulated in
11 any way?

12 A. No, ma'am.

13 Q. And do you identify that as an actual certified
14 true copy of the check in this case?

15 A. Yes, ma'am.

16 **MS. RADLEIN:** At this time, Your Honor, I'd move
17 to have this check, State's Exhibit 1, entered into
18 evidence.

19 **MR. DRYLIE:** Without objection.

20 **THE COURT:** It's admitted without objection.

21 (State's Exhibit Number 1, a Check Copy, is
22 admitted into evidence.)

23 **MS. RADLEIN:** Permission to move about the
24 courtroom, Your Honor?

25 **THE COURT:** Yes.

1 BY MS. RADLEIN:

2 Q. Ms. O'Neal, this is State's Exhibit 14 marked just
3 for demonstrative purposes. Do you recognize this?

4 A. Yes.

5 Q. What does it appear to be?

6 A. It's the image archive of the check that was cashed.

7 Q. And is that identical to the check that you have
8 before you?

9 A. Yes.

10 MS. RADLEIN: Okay. Your Honor, just for
11 demonstrative purposes, State's Exhibit 14. Your
12 Honor, I request that the witness be able to step
13 down.

14 THE COURT: You can.

15 MS. RADLEIN: Ms. O'Neal, I'm gonna have you step
16 down.

17 (Whereupon, the witness leaves the witness stand.)

18 BY MS. RADLEIN:

19 Q. Now this is the check in question. Can you identify
20 on that check whose account that check belongs to?

21 A. Yes, Covert Homes.

22 Q. And where's that located on the check?

23 A. Well, this is his name up here, but this would be
24 his account number that's for him, that's issued to him.

25 Q. Okay. And do you know who the owner of Covert

1 Homes, LLC, is?

2 A. Yes, John Covert.

3 Q. Okay. What information can be found on that
4 document, on the certified copy of the check? And we
5 can start from the top. What amount was this check
6 cashed in?

7 A. \$1,561.30.

8 Q. Okay. And who was the check made out to?

9 A. Oscar Dantzler.

10 Q. Okay. Is there any other information about Oscar
11 Dantzler on that check? I know it might be hard to see.

12 A. Yes, his address that's printed up here and then
13 as you can see he signed it in two different locations,
14 and my teller actually recorded his ID information, the
15 issue date and the expiration date.

16 Q. Okay. And how do you know it's the teller that
17 recorded that information?

18 A. That's our policy where they always record it once
19 it's presented to them.

20 Q. Okay. And you mentioned the ID number. What ID
21 number is that?

22 A. South Carolina ID .

23 Q. And you mentioned it was an ID. Would there be a
24 difference if it was a driver's license number versus an
25 ID number?

1 A. It would say SCDL instead of SCID.

2 Q. Okay. The authorized signature on the account,
3 who's the authorized signature on that account?

4 A. John Covert.

5 Q. Okay. The information in the top that appears to
6 be handwritten in the top center of the check, what
7 information would that be?

8 A. Our policy, if the check's over a certain amount,
9 our teller is to pull up a check that's appeared in his
10 account in the last thirty days and they verify that
11 his signature and the items on the check appear to be a
12 legit check from Mr. Covert's account.

13 Q. Okay. So that information would mean that the
14 teller pulled --

15 A. Yes.

16 Q. -- the check number?

17 A. Yes, the teller reviewed Check Number 3444 from
18 Mr. Covert's check and it cleared on 8/23.

19 Q. Okay. And that would have been a valid or -- a
20 valid transaction?

21 A. Yes, that -- the logic is that that check cleared
22 his account within the last thirty days -- or the past
23 thirty days, so Mr. Covert would have already received
24 that statement and if there was an issue with that check
25 he would have already had time to present that to the

1 bank.

2 Q. Now you mentioned there's a signature printed
3 twice. Is there something that needs to be signed at
4 the bottom of that check on the back?

5 A. No, ma'am. Oscar Denzel {sic} signed it in the
6 wrong place, so when he presented the check to the
7 teller, the teller asked him to resign because this
8 signature here was actually -- actually done in the
9 presence of the teller.

10 Q. Okay. And is there a way -- from this copy of
11 the check, is there a way to tell what branch location?
12 Is there an identifying number on this check that
13 identifies the branch location?

14 A. Yes, this encoding here tells us what date it was
15 cashed, what branch number, 120 would be the branch
16 number, and last three sets of digits would be the
17 teller number, and then it would give us the sequence
18 number of her journal. It's also recorded -- and you
19 can't see it, but it would also be the account number is
20 what's on there.

21 Q. Okay. And then just to be clear, the top portion
22 of this is the front of the check and the bottom portion
23 would be the back of the check?

24 A. That's correct.

25 Q. Is there any valuable information at the bottom of

1 this document?

2 A. No, just when it goes through the image archive
3 system, as I told you earlier, this gets printed onto
4 the paper and it gives us the account number, the
5 posting date, again, the amount of the check, the
6 serial number, which would be the check number, what
7 it was, a debit, and how it cleared.

8 Q. Okay. All right. Thank you.

9 Thank you, Ms. O'Neal. I'll have you re-take your
10 seat.

11 A. Here or --

12 Q. Back up there. I apologize.

13 (Whereupon, the witness returns to the stand.)

14 **MS. RADLEIN:** Request to approach the witness, Your
15 Honor?

16 **THE COURT:** Yes.

17 BY MS. RADLEIN:

18 Q. I'm gonna hand you what's been marked as State's
19 Exhibit 3. It's been previously marked as State's
20 Exhibit 3 and I want you to tell me if you recognize
21 that?

22 A. Yes.

23 Q. And how do you recognize that?

24 A. This is the business signature card that we give
25 all our customers that opens an account, whether it's

1 business or personal, but this is the signature card
2 that Mr. Covert signed when he opened his account with
3 First Citizens.

4 Q. Okay. Is that a original signature card?

5 A. No, this would be a copy.

6 Q. And how would the copy have been made?

7 A. Through the same image archive system.

8 Q. Okay. Does it appear to be manipulated in any way?

9 A. No, ma'am.

10 **MS. RADLEIN:** At this time, Your Honor, the State
11 would request to move State's Exhibit 3 into evidence.

12 **MR. DRYLIE:** No objection.

13 **THE COURT:** So noted.

14 (State's Exhibit Number 3, Covert Homes Signature
15 Card, was admitted into evidence.)

16 BY MS. RADLEIN:

17 Q. On that -- whose signature card is that?

18 A. It's Covert Homes, LLC, and the owner of the -- it's
19 signed by John Covert.

20 Q. Okay. Is his signature actually on that signature
21 card?

22 A. Yes.

23 **MS. RADLEIN:** Your Honor, I would request to publish
24 this to the jury briefly.

25 **THE COURT:** You may.

1 BY MS. RADLEIN:

2 Q. And where on this is the signature?

3 A. Right here at the bottom.

4 Q. Okay. When you received the fraud alert and
5 determined -- well, let me ask you this. Were you able
6 to determine in this case that the check was actually a
7 fraudulent check?

8 A. Yes.

9 Q. In your investigation, did you have -- what, if
10 anything, did you gather to turn over to law
11 enforcement?

12 A. We were able to -- we pulled the signature -- we
13 turned over the signature card, we turned over the
14 actual check that he -- or not the -- a copy of the
15 check, the certified check, and the alert and photos at
16 the time, the teller journal.

17 Q. Okay. And when you mentioned photos, are these
18 actually photos that the bank takes or where do these
19 photos come from?

20 A. A still image from our -- it's called a March
21 system and that's -- all the cameras that's in South
22 Carolina and Georgia are recorded onto this one system
23 and we can go in and pull what camera we need photos
24 off.

25 Q. Okay. So in this case, I guess this would be a

1 video that you pulled. Did you turn that video over to
2 law enforcement?

3 A. Yes.

4 **MS. RADLEIN:** Permission to approach, Your Honor?

5 **THE COURT:** Yes. And you can approach the witness
6 continuously without permission.

7 **MS. RADLEIN:** Okay. Thank you, Your Honor.

8 BY MS. RADLEIN:

9 Q. This has been previously marked as State's Exhibit
10 4. I'm gonna hand it to you, and you can take it out if
11 you need to, and let me know if you recognize that.

12 A. I do recognize this.

13 Q. And how do you recognize it?

14 A. This is the CD I made for Cayce PD of the
15 transaction that was done in the branch on 10/23.

16 Q. Okay. And how do you recognize that as the actual
17 CD that you made?

18 A. This is my handwriting up here and I record the
19 bank, First Citizens Bank, and then I also record what
20 case that I'm working on, and these are my initials and
21 dates from when I made and watched the video.

22 Q. Okay.

23 **MS. RADLEIN:** At this time, Your Honor, I'd request
24 to move that video into evidence.

25 **THE COURT:** Request to move the video into evidence?

1 **MS. RADLEIN:** I move to mark -- I apologize, Your
2 Honor. To move State's Exhibit 4 into evidence.

3 **THE COURT:** All right. What says the defense?

4 **MR. DRYLIE:** We'd object for lack of foundation,
5 Your Honor.

6 **THE COURT:** All right. You object for lack of
7 foundation. Response by the State?

8 **MS. RADLEIN:** Your Honor, I can clarify and ask
9 some more questions.

10 **THE COURT:** All right.

11 BY MS. RADLEIN:

12 Q. Ms. O'Neal, when you pulled the video in this case
13 and turned it over to law enforcement, did you watch the
14 video?

15 A. I did.

16 Q. And were you able to actually watch the fraudulent
17 transaction in this case?

18 A. I was.

19 Q. And in preparing this case to turn over to law
20 enforcement, did you pull from the system and make --
21 and burn onto a CD the entire fraudulent transaction
22 from the individual -- where the individual could be
23 seen on camera entering the bank until he left the bank?

24 A. That is correct, yes, ma'am.

25 Q. At that time, is that when you burned it and turned

1 it over to law enforcement?

2 A. Yes.

3 Q. And is this -- access to the video and the video
4 itself, is this something you have access to in your
5 position as fraud investigator?

6 A. Yes.

7 Q. And is this video something that's kept in the
8 normal course of business?

9 A. Yes.

10 Q. And you mentioned that you initialled that video
11 and dated it. What date did you initial the video and
12 date it?

13 A. 5-1-2014.

14 Q. Would that have been the date that you actually
15 burnt it and sent it over to law enforcement?

16 A. No.

17 Q. So what date would that indicate?

18 A. That is the date that I watched it with law
19 enforcement when we was preparing for trial.

20 Q. When you were preparing for trial?

21 A. Uh-huh.

22 Q. And when you watched it on -- what date did you say,
23 again, you watched it on?

24 A. 5/1/2014.

25 Q. On May 1, 2014, when you watched that video again

1 for the second time, were you able to verify that that
2 is the actual video that you turned over to law
3 enforcement back in October of 2013?

4 A. Yes, that's correct.

5 **MS. RADLEIN:** At this time, Your Honor, I move
6 State's Exhibit 4 into evidence.

7 **MR. DRYLIE:** No objection, Your Honor.

8 **THE COURT:** It's admitted without objection.

9 (State's Exhibit Number 4, Surveillance DVD, was
10 admitted into evidence.)

11 **MS. RADLEIN:** Thank you, Your Honor. I request to
12 publish at this time.

13 **THE COURT:** You may publish anything that's in
14 evidence.

15 **MS. RADLEIN:** Okay. I beg the Court's indulgence.

16 **THE COURT:** Let's stand for a moment while they're
17 hooking that up to get a chance to get the blood
18 flowing. Sir, do you need a break?

19 **JUROR:** No.

20 **THE COURT:** All right. We'll be seated.

21 (Whereupon, State's Exhibit Number 4, the
22 surveillance DVD, was played in its entirety for the
23 Court and jury starting at 12:19 PM and ending at
24 12:29 PM.)

25 BY MS. RADLEIN:

1 Q. Ms. O'Neal, is that the video you watched in your
2 investigation of this fraud at your bank?

3 A. It is.

4 Q. And it appears to be in the same -- that's the same
5 exact video that you watched at that time?

6 A. Yes, ma'am.

7 Q. The video was a little blurry, but everything you
8 testified to earlier regarding the information on the
9 check, the -- specifically the Defendant signing his
10 name twice, was that apparent on the video?

11 A. Yes, ma'am.

12 Q. And the teller providing the Defendant, Oscar
13 Dantzler, with cash, was that apparent on the video?

14 A. It was, yes.

15 Q. And I may have asked you this earlier, but I just
16 want to reiterate, looking at the check and the
17 signature card, were you able to verify that the bank
18 account number that was printed on the check, the
19 account number and routing number, was actually a
20 First Citizens routing and account number?

21 A. It is, yes.

22 Q. Okay. And I'll hand you what's been marked as
23 State's Exhibit 5, 6 and 7, and tell me if you recognize
24 them.

25 A. I do.

1 Q. And how do you recognize them?

2 A. These are still photos that I captured from the
3 video.

4 Q. Those are the same stills you were referring to
5 earlier when you mentioned sending stills over to law
6 enforcement?

7 A. That's correct, yes.

8 Q. And how do you recognize those as being the actual
9 stills connected to this video that we just watched?

10 A. It's dated from the date that the check was
11 presented and the time it was presented, which is based
12 off that same check when I pull her journal, it will
13 tell me when the check was cashed and what time that
14 check was cashed, and these are the stills -- or the
15 still photos from that transaction.

16 Q. And did you create these stills yourself?

17 A. I did, yes.

18 Q. And, again, the access to creating stills is
19 something you can do as fraud investigator at First
20 Citizens?

21 A. That is correct.

22 **MS. RADLEIN:** Your Honor, at this time I'd request
23 to move State's Exhibit 5, 6 and 7 into evidence.

24 **MR. DRYLIE:** Without objection, Your Honor.

25 **THE COURT:** Be admitted.

1 (State's Exhibit Number 5, 6 and 7, Still
2 Photographs, were admitted into evidence.)

3 BY MS. RADLEIN:

4 Q. And one quick question. What branch location is
5 printed on these stills?

6 A. Cayce.

7 Q. And that's evident on all of the stills?

8 A. Yes, it has First Citizens Bank slash Cayce on
9 every one of them.

10 Q. Okay.

11 **MS. RADLEIN:** Request to publish to the jury, Your
12 Honor?

13 **THE COURT:** Okay.

14 BY MS. RADLEIN:

15 Q. And these four stills, are they in sequential order
16 based on time?

17 A. Yes.

18 Q. And this would be the individual cashing the check
19 at the teller's counter?

20 A. That's correct.

21 **MS. RADLEIN:** I beg the Court's indulgence.

22 BY MS. RADLEIN:

23 Q. Once you'd completed your investigation, what did
24 you do next?

25 A. I called Detective Merrill and told him that we had

1 a counterfeit check presented in his jurisdiction and I
2 needed his help with it.

3 **MS. RADLEIN:** Okay. Thank you, Ms. O'Neal. No
4 further questions. I ask you to answer any questions
5 the defense counsel may have for you.

6 **THE COURT:** All right.

7 **MR. DRYLIE:** Thank you. May it please the Court?

8 **THE COURT:** Yes.

9 CROSS-EXAMINATION

10 BY MR. DRYLIE:

11 Q. Now I just want to walk through this with you real
12 quick. So you get an alert of a fraudulent check on
13 Mr. Covert's accounts, correct?

14 A. That's correct.

15 Q. Okay. Before you got that alert, did you have any
16 idea who Oscar Dantzler was?

17 A. No, sir.

18 Q. You didn't know what he looked like?

19 A. No, sir.

20 Q. Wouldn't know him if you saw him on the street?

21 A. No, sir.

22 Q. And now when you got that alert, you started to
23 investigate?

24 A. That's correct.

25 Q. And what we know from your investigation is that

1 an African-American male walked into the bank, correct?

2 A. That's correct.

3 Q. And that he presented Mr. Dantzler's ID?

4 A. That's correct.

5 Q. And that he signed Mr. Dantzler's name on that
6 check?

7 A. That's correct.

8 Q. Okay. But we don't know who that man was?

9 A. That's correct.

10 Q. Okay. Now you stated that you kept the checks for
11 ninety days, right?

12 A. Uh-huh.

13 Q. Anyone ever call you from law enforcement and ask
14 to see the check?

15 A. No.

16 Q. If they had, would you have given it to them?

17 A. Yes.

18 **MR. DRYLIE:** No further questions.

19 **THE COURT:** Any redirect?

20 **MS. RADLEIN:** No redirect, Your Honor.

21 **THE COURT:** All right. Thank you. You may step
22 down.

23 (Witness excused.)

24 **MS. RADLEIN:** The State requests that this witness
25 be excused.

1 **THE COURT:** All witnesses are excused once they
2 step down. Next witness.

3 **MS. PATTERSON:** Your Honor, the State calls John
4 Covert.

5 JOHN COVERT,
6 after being duly sworn by the Clerk of Court, testified
7 as follows:

8 **THE CLERK:** If you'll have a seat right here.
9 State your name and spell your last, please, for the
10 record.

11 **THE WITNESS:** My name is John Covert. My last name
12 is spelled C-O-V-E-R-T.

13 DIRECT EXAMINATION

14 BY MS. PATTERSON:

15 Q. And, Mr. Covert, what type of business are you in?

16 A. Excuse me. I am a residential home builder. I do
17 remodeling, new home construction.

18 Q. And what's the name of your business?

19 A. Covert Homes.

20 Q. And how long have you been in business?

21 A. I have been in the building business for about
22 twelve years. Covert Homes since 2008.

23 Q. And what did you do prior to owning Covert Homes?

24 A. I was a South Carolina state trooper for ten years.

25 Q. And with respect to your business, which bank do

1 you use for your business?

2 A. First Citizens. First Citizens Bank.

3 Q. And how long have you used First Citizens Bank with
4 your business?

5 A. Oh, gosh, probably -- probably at least five years,
6 six years.

7 Q. And do you remember on October 23, 2013, receiving
8 a call from someone at First Citizens Bank?

9 A. Yes. I got a -- I received a call from a teller
10 that was questioning me about a check that had been
11 cashed and she indicated that after she cashed it she
12 had a question about it and was not sure about its
13 legitimacy.

14 Q. And what did you do after you got this call?

15 A. The teller that called me -- of course, it was
16 startling at first and she had a heavy, like, Asian,
17 Oriental accent and I happened to be close to my branch
18 I use most often, which is on Killian Road kind of right
19 at I-77, so I just told her that I would go to my branch
20 and, you know, talk to the folks that I'm, you know,
21 used to dealing with there about what was going on.

22 Q. And did you ever go to the Cayce location branch?

23 A. I did not go to the Cayce branch. I did not, no,
24 ma'am.

25 Q. Okay. Did you ever receive any information about a

1 check at the Cayce -- at a Cayce branch First Citizens?

2 A. Yes.

3 Q. And did you ever find out who the person was that
4 was involved with this -- this suspicious activity at
5 the Cayce branch?

6 A. They actually saw a copy of the check and explained
7 to me that the check had been cashed in this name of
8 Oscar Dantzler.

9 Q. Speaking of check, let's look at the check. I'm
10 gonna show you what's been entered as State's Exhibit
11 Number 1, and ask you if you recognize this?

12 A. Yes, I have seen this.

13 Q. And what is that?

14 A. It was a copy of the check that -- that the bank
15 was asking me if it was a check that I had issued.

16 Q. So you saw that check at the bank?

17 A. I saw this check at the Killian branch, yes, ma'am.

18 Q. And does that check contain the information about
19 your business?

20 A. It does.

21 Q. And does it contain the correct account number?

22 A. It -- all of that information is my information;
23 the address, the account number, all of that is my
24 information.

25 Q. What about your signature?

1 A. That is a signature. I have, of course, obviously
2 my daily signature. I also have a stamp that I use
3 that is in my desk at my office that is -- obviously
4 when I made the stamp, I signed a little neater than
5 sometimes I do and so I frequently will stamp -- I issue
6 a large number of checks obviously, so I will frequently
7 use that stamp to stamp multiple checks at the same
8 time, and that is definitely a copy of the signature
9 that's on my stamp.

10 Q. And do you know Oscar Dantzler?

11 A. I do not.

12 Q. Has he ever been employed with your company, Covert
13 Homes?

14 A. No, ma'am.

15 Q. Do you know if your company ever issued a check to
16 Oscar Dantzler?

17 A. I issue all of the checks personally and that is --
18 that has never happened.

19 Q. And during your course of business, about how many
20 checks do you issue?

21 A. Oh, gosh. A lot. Probably as many as maybe twenty
22 a week sometimes.

23 Q. And the check that we're talking about that I
24 showed you, you did say is very similar to the checks
25 that --

1 A. It is. It is very similar.

2 Q. Was there anything that caught your eye that was
3 different about that check?

4 A. When they first showed me the check, I thought it
5 was interesting that my cell phone number was not on
6 the check. Other than that, it looked -- it looked very
7 similar.

8 Q. So your cell phone number is listed on your other
9 checks?

10 A. Yes, it is. It's just under the -- where it says
11 Blythewood, South Carolina, .

12 Q. So is your testimony in this court that that is a
13 fraudulent check from your business account?

14 A. This is not a check that I issued, no, ma'am.

15 **MS. PATTERSON:** I beg the Court's indulgence, Your
16 Honor.

17 BY MS. PATTERSON:

18 Q. And I'm gonna show you what's been entered as
19 State's Exhibit Number 3, and ask you if you recognize
20 this?

21 A. Yes, ma'am, I do. It's the signature card when I
22 first opened this particular account.

23 Q. And that's your signature on that signature card?

24 A. It is.

25 Q. Okay.

1 **MS. PATTERSON:** I beg the Court's indulgence, Your
2 Honor.

3 Mr. Covert, please answer any questions the defense
4 attorney may have for you.

5 **MR. PHILLIPS:** No further questions, Your Honor.

6 **THE COURT:** All right. Thank you.

7 (Witness excused.)

8 **THE COURT:** Next witness.

9 **MS. RADLEIN:** Your Honor, may we approach?

10 **THE COURT:** All right. Do you want to break for
11 lunch or do you just want to approach?

12 **MS. RADLEIN:** I'd ask both, Your Honor. I have a
13 matter. If you're gonna break for lunch, we can wait
14 until the jury --

15 **THE COURT:** All right. Ladies and gentlemen, we're
16 gonna break for lunch now and we're gonna start back at
17 2:15. We need you back at 2:15. Please do not discuss
18 the case. We'll see you back at 2:15.

19 (Whereupon, the jury was excused for lunch at
20 12:42 PM.)

21 **THE COURT:** Yes, ma'am.

22 **MS. RADLEIN:** Yes, Your Honor. The State at this
23 time would like to inquire if the Defendant -- I know
24 he's in a wheelchair, but I would like to know if he's
25 able to walk.

1 the case and not the Court.

2 **MR. PHILLIPS:** Thank you, Your Honor.

3 **THE COURT:** All right. So we're out until 2:15.

4 **MS. RADLEIN:** Thank you, Your Honor.

5 **THE COURT:** Okay.

6 (Whereupon, a luncheon recess was taken at
7 12:57 PM.)

8 **BAILIFF:** All rise. Court's back in session. The
9 Honorable Judge Newman presiding.

10 **THE COURT:** All right. Thank you. Be seated.
11 All right. Are you all ready for the jury?

12 **MS. RADLEIN:** The State's ready, Your Honor.

13 **MR. DRYLIE:** The defense is ready, Your Honor.

14 **THE COURT:** Okay. Let's bring them on.

15 (Whereupon, the jury returns to the courtroom at
16 2:28 PM.)

17 **THE COURT:** All right. Welcome back. Your next
18 witness.

19 **MS. RADLEIN:** Thank you, Your Honor. The State
20 calls Detective Jason Merrill.

21 JASON MERRILL,
22 after being duly sworn by the Clerk of Court, testified
23 as follows:

24 **THE CLERK:** If you'll have a seat and state your
25 name for the record, please.

1 **THE WITNESS:** My name is Jason Merrill. Last name
2 spelled M-E-R-R-I-L-L.

3 DIRECT EXAMINATION

4 BY MS. RADLEIN:

5 Q. Thank you, Detective Merrill. Where are you
6 currently employed?

7 A. I work for the Cayce Department of Public Safety.

8 Q. Okay. And how long have you been employed with the
9 Cayce Department of Public Safety?

10 A. Eleven years this month. And prior to that I was
11 a law enforcement officer at the University of South
12 Carolina for approximately three years prior to that.

13 Q. Okay. And what is your current position?

14 A. My current position is an investigator. I've been
15 in that position for approximately eight years.

16 Q. Eight years. And what are your duties now as an
17 investigator?

18 A. I investigate crimes. Mainly I focus on financial
19 crimes involving fraud and other financial crimes.

20 Q. Okay. Would that be commonly called what we would
21 like to call "white collar" crimes?

22 A. Yes, it is commonly referred to as that.

23 Q. Okay. And what would your -- I know it varies from
24 case to case, but today we're here on a forgery. What
25 would your investigation usually entail?

1 A. The initial report would be done. That could take
2 place between various means. The victim could report
3 it to us, as in the individual victim. In this case,
4 it would be Mr. Covert. It could also be reported to us
5 through a bank if they're also a victim and suffered a
6 financial loss, but basically what it boils down to is
7 there's an initial report done by a patrol officer.
8 That report is forwarded to me and assigned to me for
9 a follow-up investigation where I try to gather the
10 evidence in the case and identify the person or persons
11 who might be responsible.

12 Q. Okay. So you mentioned a patrol officer or -- so
13 you're not the first point of contact on these cases?

14 A. Not usually. Sometimes. I do have a lot of
15 contacts in the banking industry because of the -- the
16 nature of the cases I work. Sometimes they will call
17 me directly and I can also do a report for them and
18 initiate an investigation.

19 Q. Okay. Speaking specifically about the case we're
20 here about today involving State versus Oscar Dantzler,
21 how did you become involved in this particular case?

22 A. The initial report was taken by one of our patrol
23 officers, I believe, and it was forwarded to me the next
24 day after the report was taken.

25 Q. Okay. And what did you do next after you received

1 the report from the initial officer?

2 A. I contacted Ms. O'Neal over at First Citizens Bank,
3 who I dealt with on some previous cases and I knew her
4 and her position, and I requested some documentation
5 from the bank, which included a copy of the check and
6 some pictures that accompanied the transaction.

7 Q. Let me back up and ask you one quick question.
8 It's too early in 2015, but let's say in 2014 about how
9 many cases like this would you say you'd investigated?
10 You can give me a ball park estimate.

11 A. As far as forgery cases?

12 Q. Yes.

13 A. No less than twenty or thirty.

14 Q. For what time span was that?

15 A. Probably 2014.

16 Q. And, in general, white collar crimes?

17 A. In my eight years, we're talking hundreds.

18 Q. Okay. So once you made contact with Ms. O'Neal,
19 did you receive everything involving the case from your
20 officer or did you make contact with Ms. O'Neal for that
21 purpose?

22 A. I made contact with Ms. O'Neal for that purpose, to
23 get that documentation.

24 Q. Okay. And what exactly did you obtain from her
25 again?

1 A. At that time, I obtained some pictures that she
2 sent to me. There were still shots taken from inside
3 the branch at the time the check was passed and also a
4 copy of the check that was passed.

5 Q. Okay. Request to approach. I'm gonna show you
6 what has previously been entered at State's Exhibit 1,
7 as well as 5, 6 and 7, and I want you to let me know if
8 you recognize them.

9 A. Yes, I do recognize these.

10 Q. And how do you recognize them?

11 A. They appear to be the same pictures that Ms. O'Neal
12 sent to me of the transaction and a copy of the check
13 that was also provided to me.

14 Q. Okay. And would those be the same photos that you
15 reviewed in this case?

16 A. They appear to be, yes.

17 Q. Okay. Once you received the photos and the check,
18 what did you do next?

19 A. I looked at the check and I noticed there was some
20 information on the check. There was an ID number or
21 what appeared to be an ID number on there. As an
22 investigator, I have access to South Carolina DMV files,
23 so I went on there and put that ID number in and found
24 out that it did come back to Mr. Oscar Dantzler, which
25 also, you know, his name is on the check, so that piece

1 kind of fell into place. Elsewhere on the check I just
2 kind of looked to see the routing number. I believe I
3 checked that and it came back to First Citizens, so that
4 kind of matched up. Sometimes people use a different
5 routing number to a different bank and that's kind of
6 an indicator that it might be a counterfeit check as
7 well. I noticed the amount, you know, \$1,561.30.

8 Q. Okay. And then once you reviewed that information,
9 what -- where did that investigation lead you?

10 A. Well, like I said, using this ID number and looking
11 at the name, looking at the DMV files, I also have
12 access to peoples' driver's license photos and what I
13 did was I pulled a picture of Mr. Dantzler, his DMV
14 photo for his ID, and I compared it to these pictures
15 and it -- it looked like him to me. It looked like the
16 same person, so based on that I decided to go ahead and
17 charge against Mr. Dantzler.

18 Q. Okay. Also in this case, did you receive anything
19 else from First Citizens?

20 A. Yes, I also received a video from the branch in
21 Cayce on the date of the transaction that showed the
22 transaction.

23 Q. Okay. I want to get you to identify this video.
24 This has been marked as State's -- entered into evidence
25 as State's Exhibit 4. Do you recognize that?

1 A. Yes, I do.

2 Q. And how do you recognize it?

3 A. My initials appear on it with today's date. That's
4 when I reviewed it to make sure that it was the same
5 video that I watched previously as part of the case.

6 Q. Okay. And when you reviewed the video today, did
7 you determine that it was the same video?

8 A. Yes, it was.

9 Q. Now when you met with the Defendant in this case
10 -- or you mentioned you pursued charges. What did you
11 do next?

12 A. I obtained a warrant for forgery. He was arrested
13 by another jurisdiction on that warrant that same day
14 that I got the warrant issued and I had an opportunity
15 to sit down with Mr. Dantzler upon his arrest or shortly
16 after his arrest and speak with him.

17 Q. Okay. And when you -- when you spoke with him, did
18 you advise him of his Miranda rights?

19 A. I did, yes.

20 Q. Okay. And did he appear to understand those
21 rights?

22 A. Yes, he did.

23 Q. And when you met with him, did you notice anything
24 about his physical appearance or his demeanor or
25 anything that -- that you noted in this case that was

1 significant?

2 A. I did. His general appearance, he was dressed in a
3 manner that was similar to the pictures from the bank.
4 Not the exact same clothing obviously, but just having
5 like -- I believe he was wearing a button-down shirt
6 that was tucked in, much like you see in the video and
7 in the pictures from the bank, and I remember thinking
8 that's kind of similar to the way the person in the
9 bank dressed. I also noticed that he had a pretty
10 significant, profound limp of his right leg, if I recall
11 correctly. It seemed to me by watching -- like his leg,
12 he couldn't bend it very well, so when you can't bend
13 your leg, you kind of swing your leg out when you walk,
14 and that was very reminiscent of the bank video and
15 pictures.

16 Q. So you said it was reminiscent, so when you watched
17 the video you noticed the limp as well audiovisually on
18 the video?

19 A. Yes, I did.

20 Q. I want you to identify where exactly on the video
21 you saw the limps, so I'm gonna play this video for you.

22 (Whereupon, State's Exhibit Number 4 was played for
23 the Court and jury.)

24 BY MS. RADLEIN:

25 Q. Okay. Detective Merrill, I'm gonna play this

1 video. Please identify in the video -- tell me when to
2 stop when you notice the limp. Where on the video
3 exactly?

4 A. Right there you can notice it a little bit as he
5 walks up the line where he's favoring that leg a little
6 bit and there you can see it again.

7 Q. Okay. And this is the video you reviewed and
8 determined that that was the pronounced limp that you
9 saw?

10 A. Yes. There may be other times in the video that
11 you can also observe it, but --

12 Q. Okay. Well, let me know if you see it again.

13 A. Yeah, definitely right there, although the view's
14 blocked a little bit by that other gentleman, but you
15 notice how he shifts his body weight back and forth as
16 he's walking.

17 Q. Okay. And do you recall seeing it again on this
18 video?

19 A. No, not on this one. I believe it stops right
20 there and then the other one picks up where he's
21 actually at the counter.

22 Q. Do I need to play that? Do you recall if it's on
23 there?

24 A. If it's on the other one, it would be as he's
25 walking out, but I don't recall specifically.

1 (Whereupon, State's Exhibit Number 4 was played for
2 the Court and jury.)

3 BY MS. RADLEIN:

4 Q. Okay. Were you able to see it again?

5 A. As he walked up, you could see the left to right
6 kind of indication of the gait, but, no, you can't
7 really see it on that video.

8 Q. Okay. So during your investigation -- you watched
9 that entire video, correct?

10 A. Yes.

11 Q. Okay. And so you were able to verify that this
12 was the actual fraudulent transaction based on the
13 information you received?

14 A. Yes.

15 Q. When -- you mentioned earlier that you had an
16 opportunity to meet with Oscar Dantzler in this case.
17 Do you see him now in the courtroom?

18 A. Yes, I do. He's seated at Defendant's table wearing
19 a yellow shirt.

20 Q. Was he in a wheelchair when you met with him?

21 A. No, he was not.

22 Q. What date did you meet with him?

23 A. I believe it was October 29th of 2013.

24 Q. And what date was the check cashed?

25 A. I believe that was the 23rd of October, 2013.

1 Q. So was he able to walk when you met with him?

2 A. Yes.

3 Q. And you mentioned that you noticed the limp at that
4 time when you met with him?

5 A. Yes, I did. Like I said, it was a very obvious
6 limp. It wasn't something that I really had to sit
7 there and examine him or look for. It was a pretty
8 pronounced limp.

9 Q. Was there anything else that he was wearing that
10 was significant to you that you may have noticed in the
11 video?

12 A. Just, like I said before, the manner of his dress
13 was very similar to the video and in the pictures as far
14 as what type of clothing he was wearing. It wasn't the
15 same clothing that in the video or the pictures.

16 Q. Okay. And in addition to his clothing, anything
17 else?

18 A. As far as his general appearance or are we still
19 talking about clothing?

20 Q. His attire when you met with him. Anything else
21 that was similar to how he appeared on the video
22 compared to when you met with him?

23 A. Not that I can recall.

24 Q. Okay. When you -- you mentioned earlier that you
25 advised him of his rights. Did you question him

1 regarding this particular forgery?

2 A. I did.

3 Q. And what, if anything, did the Defendant tell you?

4 A. He told me a few things after I gave him his
5 rights and he agreed to speak with me and answer some
6 questions. It kind of started out with just a general,
7 you know, do you want to tell me about what's going on?
8 I remember I did ask him about if he had ever been to
9 that bank before, which he stated he had not. I showed
10 him a picture -- one of the pictures from the bank and
11 asked him to explain to me, you know, that I believed
12 that was him in the picture and he denied that was him.
13 I then asked him -- I said well, do you have a twin
14 brother and he told me he did at that point, so I kind
15 of got some more information or asked some more
16 questions about this twin brother. I don't quite
17 recall what he mentioned. I know he never mentioned a
18 name, but at some point he then told me he didn't have
19 a twin brother, but he had an actual brother, but he's
20 not a twin. Again, he never gave me a name of that
21 brother. We continued on talking a little bit and,
22 let's see, I asked him if he had cashed any other checks
23 in the past month or so just to kind of get a feel for,
24 you know, how many checks he cashes and he stated he
25 hasn't cashed any checks in the last month. Again, he

1 denied being in the First Citizens in Cayce at any
2 point. He also mentioned, too, when we talked about
3 his ID because I asked him -- I said well, you know,
4 how did this check get cashed with your name on it and
5 everything and he told me that some other people must
6 have gotten his ID and I kind of asked for some more
7 information regarding that and he mentioned that he
8 had been paid previously to open up a bank account for
9 somebody and when he finished doing that and had an
10 envelope full of information, he must have left his ID
11 in that envelope of information that he gave them
12 after opening the account for them, so that was his
13 explanation of how somebody might have gotten his
14 identification in order to cash this check.

15 Q. Let me ask you a question about that. The day he
16 was arrested and the day that you met with him, did he
17 have his ID with him?

18 A. He did.

19 Q. And you were able to verify that?

20 A. Yes.

21 Q. Do you know whether it appeared to have been
22 reissued, I guess, within the week following this
23 incident or sometime around that time period?

24 A. I don't know that there's a definitive way to tell,
25 but looking at the ID, it didn't look like it had been

1 issued recently. It looked like it had some wear to it,
2 like it had been in a wallet for a while, but, again, I
3 can't say definitively.

4 Q. But that is something you followed up on or you
5 inquired about since identification was an issue?

6 A. Yeah, part of the DMV files, I believe, shows
7 reissue dates and I don't recall seeing a recent reissue
8 date around that time.

9 Q. Okay. Now regarding his brother, or his twin
10 brother, you mentioned that he later denied having a
11 twin brother, but admitted to having a brother; is that
12 correct?

13 A. Well, initially he said he had a twin brother,
14 but --

15 **MR. DRYLIE:** Objection; asked and answered.

16 **THE COURT:** Objection's overruled.

17 A. Initially he said he had a twin brother and then
18 after a few more questions and conversation, then it
19 changed to I have a brother, but he's not a twin.

20 Q. Okay. So during your questioning of him, he didn't
21 make a joke about it being a twin brother, he initially
22 said he had a twin brother, then later on --

23 A. No, actually, if anything, it was me kind of making
24 a joke, being I was showing him a picture of himself and
25 him saying it wasn't him, I kind of -- it was kind of an

1 offhand comment, well, do you have a twin brother and
2 that's when he said well, yeah, I do.

3 Q. And then later denied it?

4 A. Yeah, after further questioning.

5 Q. Okay. I beg the Court's indulgence. When you
6 noticed his -- his pronounced limp in person, what, if
7 anything, did you inquire about it or did you ask him
8 about his limp?

9 A. I did. If I recall correctly, it came up kind of
10 during small talk at the beginning of when I started
11 talking to him after the Miranda rights. I kind of -- I
12 might have asked him in passing hey, you know, what's
13 going on with your leg, are you okay, and at some point
14 he told me that he had just had some pins placed in it,
15 I believe is what he said, so he didn't -- he couldn't
16 bend it very well.

17 Q. So an actual medical procedure, is that what you're
18 saying?

19 A. That's what he told me, yes.

20 Q. Okay. You mentioned you recognized him in the
21 courtroom today. I neglected to ask you was he wearing
22 glasses the day that you met him or do you recall?

23 A. I don't believe so.

24 Q. Okay. Did he indicate any ability to understand or
25 see you on that day?

1 A. Yes, he did mention to me as well that he had just
2 had cataract surgery, I believe is what he said, so his
3 eyes weren't quite a hundred percent.

4 Q. But he didn't have any glasses on at that time
5 though --

6 A. Not that I recall.

7 Q. -- on October 29, 2013?

8 A. (Shakes head.)

9 Q. I'm gonna show you State's Exhibit 7 again. What
10 is this an image of?

11 A. That appears to be the Defendant standing at the
12 counter of the bank.

13 Q. Okay. And you described earlier his attire. What
14 is he wearing in this photo?

15 A. It looks like a button-down shirt with a white
16 T-shirt underneath and a white hat.

17 Q. Can you tell if there's anything written on the
18 hat?

19 A. There's some kind of emblem or letter or something,
20 but I can't make it out.

21 Q. Okay. And when you mentioned he was dressed
22 similarly the day that you met with him, is it because
23 he was wearing a similar button-down and pants? Was
24 there anything else?

25 A. Mainly. That's mainly what I noticed about the

1 similar manner of dress.

2 **MS. RADLEIN:** No further questions at this time.

3 **THE COURT:** Cross-examination.

4 **MR. DRYLIE:** Thank you, Your Honor.

5 CROSS-EXAMINATION

6 BY MR. DRYLIE:

7 Q. Good afternoon, Detective.

8 A. Good afternoon.

9 Q. So this case just fell into place. Those were your
10 words just now, correct?

11 A. I believe I was referring to a specific piece
12 falling into place when I said that.

13 Q. Okay. I mean, it was open and shut for you, wasn't
14 it?

15 A. It's a pretty good case in my book.

16 Q. It looked like him to you?

17 A. (Nods head.)

18 Q. I need you to answer for her so she can take it
19 down.

20 A. Yes, it looked like him.

21 Q. Okay. So let's talk about what you did. You got
22 notified by -- I believe it was Public Safety Officer
23 Lilly, correct?

24 A. I wasn't notified. I received a report.

25 Q. You received a report from him?

1 A. (Nods head.)

2 Q. And then you got a warrant for Mr. Dantzler?

3 A. There was a little bit in between those two.

4 Q. You got notified by the public safety officer and
5 then you got information from the bank, the stills, the
6 signed check, and you got a warrant on Mr. Dantzler,
7 correct?

8 A. That's kind of a gross simplification, but, yes,
9 that's correct.

10 Q. And you got a warrant on Mr. Dantzler because it
11 looked like him to you in the pictures, correct?

12 A. Yes.

13 Q. Okay. Now let's talk about a couple other things
14 you just said. You said he was dressed similarly when
15 you went to talk to him?

16 A. Yes.

17 Q. He had a button-down and slacks?

18 A. From what I recall, yes, it was a similar manner of
19 dress.

20 Q. So, I mean -- because I watched the video just here
21 now with you and I own clothes that look just like that.
22 I mean, you can go outside and see a ton of people in a
23 button-down and slacks, can't you?

24 A. That's true. That's why it's not a definitive
25 indicator. It's just another consistency.

1 Q. Okay. A button-down and slacks is a consistency?

2 A. It can be. People have a certain manner of dress
3 and they typically, habitually wear similar types of
4 clothing on a day to day basis depending on what they're
5 doing, so it was just something that I notated in my
6 head -- in my notes that he appeared to dress similar
7 to the person at the bank.

8 Q. Now you stated Mr. Dantzler wasn't wearing glasses
9 that day, correct?

10 A. Not that I recall. I don't recall him having
11 glasses.

12 Q. Do you recall if he had contacts or not?

13 A. I don't recall.

14 Q. Okay. Now one of the things you just stated on
15 direct examination was that when Mr. Dantzler was
16 arrested he had his ID with him.

17 A. Yes.

18 Q. Now did you notate that in your report?

19 A. I believe it's in my notes.

20 Q. I mean, in the report that you submitted, did you
21 notate that he had his ID with him?

22 A. Typically what I submit is my investigative notes
23 that get attached to the report.

24 Q. Do you have a copy of your report?

25 A. I have a copy of the report and a summary of my

1 notes, which is a paraphrasing of the notes.

2 Q. Why don't you take a minute and look through it and
3 tell me if anywhere in that you notate he's got his ID
4 with him.

5 A. No, I don't see it in here.

6 Q. Okay. Now you don't just start off as an
7 investigator, do you?

8 A. What do you mean?

9 Q. When you're coming into law enforcement, you don't
10 just start off as an investigator?

11 A. It depends on the agency, but typically, no.

12 Q. Okay. You said yourself you'd been in law
13 enforcement fourteen years?

14 A. Right.

15 Q. And they trained you, right?

16 A. I've received some training, yes.

17 Q. Some training. Have you been to the Criminal
18 Justice Academy?

19 A. I have.

20 Q. Okay. And they train you on certain things. They
21 train you how to write reports, correct?

22 A. Yes, there is some training that covers that.

23 Q. And one of the most important things you want to
24 do when you're writing a report is to include all the
25 pertinent facts; is it not?

- 1 A. Yes.
- 2 Q. Because everyone needs to see those reports?
- 3 A. (Nods head.)
- 4 Q. The Solicitor needs to see them?
- 5 A. (Nods head.)
- 6 Q. I need you to answer out loud.
- 7 A. I'm sorry. I didn't hear a question.
- 8 Q. Does the Solicitor need to see them?
- 9 A. Yes.
- 10 Q. Okay. Do I need to see them?
- 11 A. I would assume so, yes.
- 12 Q. Because sometimes it's years before cases go to
- 13 trial; is it not?
- 14 A. Uh-huh. Yes.
- 15 Q. And you deal with a lot of cases?
- 16 A. It's relative, but, yeah, I mean, we -- we have a
- 17 pretty good workload.
- 18 Q. So you can't recall everything that goes on?
- 19 A. No.
- 20 Q. Okay. And nowhere in your report do you have that
- 21 he had his ID with him?
- 22 A. No, not in the stuff I have with me today.
- 23 Q. Okay. Now you're the chief investigating officer
- 24 in this case?
- 25 A. Yes.

1 Q. What does that mean?

2 A. It's assigned to me. In this case, I'm actually
3 the only investigator assigned to it, so.

4 Q. Essentially it means that you're charged with
5 solving this case?

6 A. Yes.

7 Q. Okay. And you make decisions about what sort of
8 investigation you're gonna do?

9 A. For the most part, yes, within the guidelines of
10 the law and procedures.

11 Q. Absolutely, but you decide what avenues to follow?

12 A. Yes.

13 Q. Okay. Now the avenue that you followed in this
14 case was you had Mr. Dantzler arrested, correct, after
15 getting the information from the bank?

16 A. Yes, after gathering the information that was
17 available to me and looking at the pictures, looking at
18 his DMV pictures, as well as some other pictures I was
19 able to find, I came to the conclusion that that was
20 him.

21 Q. Did you -- did you ever check with the DMV to see
22 how many licenses he might have had since 2008?

23 A. Not at that point, no.

24 Q. Okay. So you didn't check to see if there were
25 multiple ID's out there with his name on it?

1 A. No, and that's not something that in my experience
2 is easy to get an answer on from the DMV. I mean, they
3 show reissue dates on the files, but in my book there's
4 been some confusion over what exactly a reissue is
5 because we don't get access to full information, we just
6 kind of get a summary of the driving history, and it
7 might say reissued on a certain date, but you don't know
8 if it was reissued because it was lost or stolen or
9 reissued because it was previously suspended and so
10 there's some confusion. I don't put a lot of weight
11 into those.

12 Q. Now going back to his ID for just a second, that's
13 something that would be evidence in this case; would it
14 not?

15 A. Possibly.

16 Q. Why didn't you keep the ID?

17 A. To be honest with you, had I thought about it at
18 the time, I would have, but I didn't realize until
19 afterwards and it was one of those ah-ha moments like
20 you kick yourself in the butt and you realize, you know
21 what, a key piece of evidence just walked out the door,
22 but at that point it was too late. He was already weeks
23 -- you know, it was weeks after the arrest, it was too
24 late to go back in time, so all I have is -- is my word
25 that I saw it that day that I talked to him and he had

1 it in his possession.

2 Q. You were aware of it, but it's not written in your
3 report, correct?

4 A. Not in the report that I have here, no.

5 Q. Now you watched the video here in the courtroom.
6 Did you see the person in the video handling the check?

7 A. It appeared to be the check in his hand, but, I
8 mean, from that distance it's hard to say a hundred
9 percent.

10 Q. I mean, everything we're hearing today is -- what
11 we're watching right here is the transaction that we
12 have?

13 A. Yes.

14 Q. Okay. And did you see the person handling a piece
15 of paper and then giving it to the cashier?

16 A. Yes.

17 Q. Okay. So we can assume safely that that is
18 probably the check in question?

19 A. Yes.

20 Q. Okay. Did you ever go get a copy of the check
21 itself?

22 A. A copy of the check?

23 Q. Not a copy of the check. Did you ever go inspect
24 the check itself?

25 A. No, I did not.

1 Q. Did you ever go dust it for fingerprints?

2 A. No, I did not.

3 Q. Okay. And now fingerprints are special, aren't
4 they? As in fingerprints are unique. Yours wouldn't be
5 the same as mine?

6 A. That's correct.

7 Q. So we have a video and we see someone holding
8 something, correct?

9 A. Yes.

10 Q. And you never went and you never got the check to
11 dust it for fingerprints to see who was holding that
12 check, did you?

13 A. No, I did not.

14 Q. Okay. And if Mr. Dantzler's fingerprints were on
15 that check, that could conclusively tell us he held that
16 check, wouldn't it?

17 A. If they were there, yes.

18 Q. Okay.

19 **MR. DRYLIE:** I beg the Court's indulgence. Nothing
20 further, Your Honor.

21 **THE COURT:** Any redirect?

22 **MS. RADLEIN:** Briefly, Your Honor.

23 REDIRECT EXAMINATION

24 BY MS. RADLEIN:

25 Q. Detective Merrill, in this type of case, in this

1 case particularly, would you say you had -- how would
2 you say -- you had a copy of the check, correct?

3 A. Yes, I did.

4 Q. You had videos of the fraudulent transaction?

5 A. I had photos at that point, yes.

6 Q. You had photos. Did you eventually obtain a video
7 in this case?

8 A. Yes, I did eventually obtain a video.

9 Q. Did you have enough -- throughout your
10 investigation, did you have enough evidence in this
11 case to go forward and bring a charge against
12 Mr. Dantzler?

13 A. Yes, certainly.

14 Q. When you watched the video in this case, did you
15 just watch it one time?

16 A. From beginning to end at least one time, but I
17 remember sitting there at my computer for at least an
18 hour kind of rewinding, going back and forth watching,
19 particularly as he was walking, and you could observe
20 the gait and that side to side and just, you know,
21 replaying in my head when I talked to him previously
22 only to me that looked like the same walk that I saw.

23 Q. Okay. And in white collar cases in general when
24 there's a check involved, is it customary for you to
25 obtain an original check or a certified copy of the

1 check?

2 A. In my experience, no, because many banks don't even
3 keep a copy of the original, so it's not something that
4 I typically as a matter of practice pursue in the case.
5 I rely mainly on the copies of the checks, which -- I
6 mean, they're exact copies. They have all the same
7 information as far as where, when, amounts, all that
8 stuff, account information, the signatures, all that
9 stuff.

10 Q. Okay.

11 A. For my purposes, that works for me.

12 Q. And defense counsel asked you about fingerprints.
13 Is that something you commonly do in white collar cases,
14 test for fingerprints?

15 A. Not commonly, no.

16 Q. Is that something you've ever done in a -- is
17 that something you normally do in a forgery case
18 particularly?

19 A. I can't recall any forgery case where I've done
20 fingerprints on a check before.

21 Q. Okay. And one last point, one last question.
22 When you received this case, did you take the time to
23 go through the DMV records and verify his ID, his
24 identification, that the same ID number was on the check
25 as belonging to Mr. Dantzler?

1 A. Yes, I did. It's the same number that's on the
2 check. It's also his ID number according to the DMV
3 files.

4 Q. Okay.

5 **MS. RADLEIN:** I beg the Court's indulgence. No
6 further questions.

7 **MR. DRYLIE:** Briefly.

8 **RE CROSS EXAMINATION**

9 **BY MR. DRYLIE:**

10 Q. You rely on the certified true copies of the checks
11 that you get from the bank, correct?

12 A. I don't always get certified true copies at the
13 time of the initial investigation, sometimes those come
14 later, but I rely on a bank investigator providing me
15 with a reliable copy of the checks.

16 Q. You rely on a copy that the investigator gives you
17 because they're almost exactly the same, right?

18 A. Yes.

19 Q. With one small difference. The copy wouldn't have
20 any fingerprints on it, would it?

21 A. No, it would not.

22 **MR. DRYLIE:** I beg the Court's indulgence. Nothing
23 further, Your Honor.

24 **THE COURT:** Thank you, sir. You may step down.

25 **THE WITNESS:** Thank you.

1 (Witness excused.)

2 **THE COURT:** Call your next witness.

3 **MS. RADLEIN:** Your Honor, may we approach?

4 **THE COURT:** Ladies and gentlemen, I'm going to have
5 you go to the jury room for a short break. Please do
6 not discuss the case. When you come back -- let's hold
7 on for a minute there. Mr. Stephen Keene, you will be
8 the foreperson. I'm appointing you to serve as the
9 foreperson of the jury. You will take the foreperson's
10 seat up here in the front and have the responsibility of
11 serving as the spokesperson for the jury and presiding
12 over the jury proceedings and completing the verdict
13 form at the end.

14 All right. We'll take a break for a moment.

15 (Whereupon, the jury retires to the jury room at
16 3:11 PM.)

17 **THE COURT:** Yes, ma'am.

18 **MS. RADLEIN:** Your Honor, I would approach and
19 request a five minute break.

20 **THE COURT:** All right.

21 (Recess taken.)

22 **BAILIFF:** All rise, please. Court's back in
23 session.

24 **THE COURT:** Thank you. All right. Ready for the
25 jury? Are we ready?

1 **MS. RADLEIN:** The State's ready, Your Honor.

2 **MR. DRYLIE:** The defense is ready, Your Honor.

3 **THE COURT:** All right. Bring them on.

4 (Whereupon, the jury returns to the courtroom at
5 3:25 PM.)

6 **THE COURT:** All right. The jury is back. Next
7 witness.

8 **MS. PATTERSON:** Thank you, Your Honor. The State
9 calls Marie Wearing.

10 MARIE WEARING,
11 after being duly sworn by the Clerk of Court, testified
12 as follows:

13 **THE CLERK:** Have a seat, please, and state your
14 name, spelling your last for the record.

15 **THE WITNESS:** Marie Wearing, W-E-A-R-I-N-G.

16 DIRECT EXAMINATION

17 BY MS. PATTERSON:

18 Q. Ms. Wearing, where are you employed?

19 A. At South Carolina Department of Motor Vehicles.

20 Q. And what's your title at the South Carolina
21 Department of Motor Vehicles?

22 A. I'm a supervisor of drivers records.

23 Q. Supervisor of drivers records?

24 A. Yeah.

25 Q. Okay. And I'm gonna call it DMV for short.

1 A. Okay. DMV.

2 Q. And how long have you been employed with the DMV?

3 A. For twenty-five years.

4 Q. And as your -- part of your duties as the
5 supervisor of vehicle records --

6 A. Yes.

7 Q. -- are you in a position to access DMV files?

8 A. That's correct.

9 Q. And is this for the whole state of South Carolina?

10 A. For the whole state of South Carolina.

11 Q. And are you familiar with the storage and keeping
12 of these files?

13 A. That's correct.

14 Q. And how are your files kept?

15 A. It's kept on electronic hard drives.

16 Q. And do you have custody and control of these
17 records?

18 A. That's correct.

19 Q. And did you get served a subpoena by my office to
20 access records on Oscar Dantzler?

21 A. Yes.

22 Q. And did you provide these records to our office?

23 A. Yes.

24 Q. And did you bring your records with you today?

25 A. Yes.

1 Q. And what is the process for generating copies of
2 the records?

3 A. Excuse me?

4 Q. How did you process -- how did you get the copies
5 of the records that we requested?

6 A. It's kept on a DMV hard drive, so we just research
7 it and provide the things that you needed. We key in
8 the information on the DMV hard drive and it's stored
9 there indefinitely.

10 Q. And are they stamped to be certified true copies of
11 the records kept by your business?

12 A. Yes.

13 Q. And I want to show you, first of all, what's been
14 marked as State's Exhibit 8. I'm gonna show you what's
15 been marked as State's Exhibit 8 for identification
16 purposes. And you can pull the microphone down if you
17 want to adjust it. It will bend.

18 A. Okay.

19 Q. Thank you. Do you recognize that document?

20 A. Yes.

21 Q. And is that the document that you provided to our
22 office for -- regarding Oscar Dantzler?

23 A. Yes.

24 Q. And is that a certified true copy of the records
25 that's kept by the DMV?

1 A. Yes.

2 MS. PATTERSON: Your Honor, at this time I ask that
3 State's Exhibit Number 8 be moved into evidence.

4 THE COURT: Any objection?

5 MR. PHILLIPS: No objection, Your Honor.

6 THE COURT: It will be admitted without objection.

7 (State's Exhibit Number 8, a DMV Record, was
8 admitted into evidence.)

9 BY MS. PATTERSON:

10 Q. And, Ms. Wearing, what's the information that's
11 contained on that document?

12 A. Do you want me to read the name?

13 Q. Yes, ma'am.

14 A. It's Oscar Lee Dantzler.

15 Q. And what is the address that's provided on this
16 document?

17 A. It's , South Carolina, .

18 Q. And go on down a little bit. What kind of
19 information is this regarding? What kind of
20 identification information is this regarding?

21 A. It's an ID.

22 Q. So Mr. Dantzler had an identification card at this
23 time?

24 A. That's correct.

25 Q. And what was the renewal -- the first renewal date

1 on his identification card?

2 A. December 5, 2013, and expired December 5, 2018.

3 Q. And so what is -- what does the issue date mean?

4 A. The date that it was issued to him.

5 Q. To him. And that would have been, I'm sorry,
6 again?

7 A. December the 5th, 2013.

8 Q. And prior to that issue date, is there another issue
9 date on there?

10 A. Yes.

11 Q. And what is that issue date?

12 A. November 28, 2012.

13 Q. And is there another issue date prior to that?

14 A. April the 8th, 2011.

15 Q. And prior to that?

16 A. January 7, 2008.

17 Q. And prior to that?

18 A. March 26, 2002.

19 Q. So he would have had six issue dates regarding this
20 identification card?

21 A. Five.

22 Q. Five. And let me show you another document. I'm
23 gonna show you two at one time. I'm gonna show you
24 what's been marked as State's Exhibit Number 9 and 10.
25 Do you recognize those documents?

1 A. Yes, yes.

2 Q. And are -- those two documents, did you provide
3 those to our office pursuant to the subpoena?

4 A. Yes.

5 Q. And are they certified true copies of the documents
6 that's kept on file at the Department of Motor Vehicles?

7 A. Yes.

8 **MS. PATTERSON:** Your Honor, at this time we move
9 that State's Exhibit 9 and 10 be admitted into evidence.

10 **MR. PHILLIPS:** No objection, Your Honor.

11 **THE COURT:** Admitted without objection.

12 (State's Exhibit Number 9 and 10, DMV Records, were
13 admitted into evidence.)

14 BY MS. PATTERSON:

15 Q. And with regard to State's Exhibit Number 9, what's
16 the information that contained on that document?

17 A. Oscar Lee Dantzler,

18 , South Carolina,

19 Q. And is there a photo on that document?

20 A. Yes.

21 Q. And is that the photo that the DMV has on file for
22 Mr. Dantzler?

23 A. Yes.

24 Q. And does that document also contain a signature?

25 A. Yes.

1 Q. And is that the signature that's on file with the
2 Department of Motor Vehicles?

3 A. That's correct.

4 Q. And what's the issuance date on that document?

5 A. The issue date on Exhibit 9?

6 Q. Yes, ma'am.

7 A. January th 7th, 2008.

8 Q. And with regard to document, State's Exhibit
9 Number 10?

10 A. December the 5th, 2013.

11 Q. And does that document also show a photo of
12 Mr. Dantzler that's on file with the Department of
13 Motor Vehicles?

14 A. Yes.

15 Q. And does it also contain a signature?

16 A. That's correct.

17 Q. Okay.

18 **MS. PATTERSON:** I beg the Court's indulgence, Your
19 Honor. Your Honor, I'd ask that Ms. Wearing be allowed
20 to step down.

21 **THE COURT:** You can.

22 (Whereupon, the witness leaves the witness stand.)

23 BY MS. PATTERSON:

24 Q. And this is State's Exhibit Number 15, which is just
25 an enlargement of State's Exhibit Number 9 that's been

1 admitted into evidence. And, Ms. Wearing, is this -- is
2 this a copy of the document that you provided to our
3 office?

4 A. Yes.

5 Q. And, again, is this the certified true copy as kept
6 on file at the Department of Motor Vehicles?

7 A. Yes.

8 Q. And this is Mr. Dantzler's photograph that's on
9 file?

10 A. Yes.

11 Q. And is this the signature that's kept on file?

12 A. Yes.

13 Q. Thank you. You can have a seat up there.

14 (Whereupon, the witness returns to the witness
15 stand.)

16 (State's Exhibit Number 16 was marked for
17 identification.)

18 BY MS. PATTERSON:

19 Q. And, Ms. Wearing, I'm gonna show you what's been
20 marked as State's Exhibit Number 16. Do you recognize
21 that document?

22 A. Yes.

23 Q. And is that one of the documents that you provided
24 to our office pursuant to your subpoena?

25 A. Yes.

1 Q. And it's pertaining to Mr. Dantzler?

2 A. Yes.

3 Q. And is it a certified true copy of the file that's
4 kept at the Department of Motor Vehicles?

5 A. Yes.

6 **MS. PATTERSON:** Your Honor, at this time we move
7 that State's Exhibit Number 16 be admitted into
8 evidence.

9 **MR. PHILLIPS:** No objection, Your Honor.

10 **THE COURT:** Admitted.

11 (State's Exhibit Number 16, a DMV Record, was
12 admitted into evidence.)

13 BY MS. PATTERSON:

14 Q. And what information does that document contain?

15 A. It has Mr. Dantzler's address and date of issue.

16 Q. Does it also contain his photo?

17 A. His photograph, yes.

18 Q. Does it contain a signature?

19 A. Yes.

20 Q. And what was the issuance date on that document?

21 A. It issue date is November 28, 2012.

22 Q. And I'm gonna also show you what's been marked as
23 State's Exhibit 11, 12 and 13. I'm gonna hand you
24 Number 11 first. Do you recognize that document?

25 A. Yes.

1 Q. And Number 12, do you recognize that document?

2 A. Yes.

3 Q. And Number 13, do you recognize that document?

4 A. Yes.

5 Q. And were those documents provided to our office
6 pursuant to your subpoena?

7 A. Yes.

8 Q. And are those all marked certified true copies of
9 documents from the Department of Motor Vehicles?

10 A. Yes.

11 **MS. PATTERSON:** Your Honor, at this time I move that
12 these exhibits be marked into evidence.

13 **MR. PHILLIPS:** No objection.

14 **THE COURT:** They're admitted.

15 (State's Exhibit Number 11, 12 and 13, DMV
16 Affidavits, were admitted into evidence.)

17 BY MS. PATTERSON:

18 Q. And going back to Number 11 -- well, what in
19 general are those three documents?

20 A. These are the Form DL-49 affidavits for lost or
21 surrendered driver's license for the Department of Motor
22 Vehicles.

23 Q. Looking at Number 11, what information is at the
24 top of that document?

25 A. It has a check off box that it has been lost,

1 misplaced or destroyed, and Mr. Dantzler checked the
2 first box, which was lost, misplaced or destroyed.

3 Q. And what was his address at that time on that form?

4 A. It's Avenue.

5 Q. And what was the date on that document?

6 A. April the 8th, 2011.

7 Q. So he reported to the Department of Motor Vehicles
8 that his identification card was lost or stolen?

9 A. Yes, or misplaced.

10 Q. All right. With respect to Exhibit Number 12, what
11 is the information on that document?

12 A. Oscar Dantzler, and
13 nothing is checked, but it's signed. It's a true copy.

14 Q. Okay. Does he have another address on that
15 document as well?

16 A. It's the same as Exhibit 11.

17 Q. Okay. And what was the date on that document?

18 A. He signed November 27, 2012.

19 Q. Okay. What about the next document? What's the
20 information that's contained on that document?

21 A. It says Oscar Dantzler, , .
22 Check box lost, misplaced or destroyed, that one's
23 checked, and the date of that is 12-5-2013 and his
24 signature, which is a true copy.

25 Q. And with regards to Number 11, did he sign that?

1 Did he sign that document?

2 A. Yes.

3 Q. Is it a signature or is it in print?

4 A. It's a signature.

5 Q. And on State's Exhibit Number 12, which is dated
6 November 29, 2012, did he sign that document?

7 A. Yes.

8 Q. Is it in print or is it a signature?

9 A. It's a signature.

10 Q. And State's Exhibit Number 13, what date is on that
11 document?

12 A. 12-5-2013.

13 Q. And did he sign that document?

14 A. Yes.

15 Q. Is it a signature or is it in print?

16 A. It's print.

17 Q. And let me show you State's Exhibit Number 12
18 again. What does -- what's signed on the address line?

19 A. It's , ,

20 , .

21 Q. So does he have two addresses on that address line?

22 A. Yes.

23 Q. Okay. And, Ms. Wearing, what is generally the
24 process for having identifications reissued? What would
25 a person have to do to keep having identification cards

1 reissued?

2 A. They would have to go to the DMV office and have
3 them reissued to them.

4 Q. They would have to personally appear at the DMV
5 office?

6 A. That's correct.

7 Q. And who would have to sign for the person that's
8 getting the identification card reissued?

9 A. The person that's given the cards?

10 Q. Yes, ma'am.

11 A. The driver.

12 Q. And could anyone else sign these -- sign for them
13 to get a new identification card or a driver's license
14 reissued?

15 A. No.

16 **MS. PATTERSON:** I beg the Court's indulgence, Your
17 Honor.

18 BY MS. PATTERSON:

19 Q. One last thing. I'm gonna show you what's been
20 marked as State's Exhibit Number 8. What is the address
21 on the December 5, 2013?

22 A. , , South Carolina, .

23 Q. And was it a -- and what are all the --

24 **MS. PATTERSON:** I beg the Court's indulgence.

25 BY MS. PATTERSON:

1 Q. And when was the address changed to the
2 address?

3 A. December the 5th, 2013.

4 Q. And what was the address that it was changed from?

5 A. , , ,
6 South Carolina, .

7 **MS. PATTERSON:** Thank you, Ms. Wearing. Please
8 answer any questions the defense counsel may have.

9 **THE COURT:** Cross-examination.

10 CROSS-EXAMINATION

11 BY MR. PHILLIPS:

12 Q. Good afternoon, Ms. Wearing.

13 A. Good afternoon.

14 Q. Are you doing well?

15 A. Yes.

16 Q. To kind of sum it up, since 2008 he's had four
17 driver's licenses issued to him; is that correct?

18 A. Renewals. Five renewals.

19 Q. Five renewals since 2002?

20 A. That's correct.

21 Q. And even since -- in a narrower time period of
22 2008, there's four; is that right?

23 A. Right.

24 Q. And that's January 7, 2008?

25 A. I'm sorry, it's three because you say after 2008,

1 correct?

2 Q. Well, from 2008. If you include 2008.

3 A. Okay. It's four.

4 Q. That would be January 7, 2008?

5 A. Yes.

6 Q. April 8, 2011?

7 A. Yes.

8 Q. November 28, 2012?

9 A. Yes.

10 Q. December 5, 2013?

11 A. Yes.

12 Q. And for two of those he filed the affidavit saying
13 that they were either lost or stolen; is that correct?

14 A. That's correct, or misplaced.

15 Q. Or misplaced. And he did that on the April 8,
16 2011?

17 A. I would have to look at the affidavit.

18 Q. What was marked as State's Exhibit Number 11, this
19 is the form -- the affidavit for lost or surrendered
20 driver's license. This was dated April 8, 2011?

21 A. Yes.

22 Q. That does reflect that he filed an affidavit for a
23 new license based on the fact that he had lost or either
24 misplaced or destroyed or theft?

25 A. Yes. For identification card, yes.

1 Q. State's Exhibit Number 13 dated December 5, 2013,
2 the same form of the affidavit for lost or surrendered
3 driver's license and the box is checked for either lost,
4 misplaced or destroyed and that's dated December 5th; is
5 that correct?

6 A. Yes.

7 Q. And then there is State's Exhibit Number 12 that's
8 dated November 29th of 2012. Now this is the affidavit
9 for lost or surrendered driver's license, but nothing's
10 checked. I assume this was filed for him to get a new
11 driver's license?

12 A. Identification card, yes.

13 Q. Thank you. And this photo from the Department of
14 Motor Vehicles, this is his DMV photo, correct?

15 A. That's correct.

16 Q. And this number here is the number of issue?
17 Whenever you get a new driver's license, they just put
18 the new number below?

19 A. That's correct, series of numbers.

20 Q. Okay. Thank you.

21 **MR. PHILLIPS:** No further questions, Your Honor.
22 Thank you.

23 **THE COURT:** Any redirect?

24 **MS. PATTERSON:** Sorry, Your Honor. No further
25 questions.

1 **THE COURT:** Ma'am, you may step down.

2 (Witness excused.)

3 **THE COURT:** Any further witnesses?

4 **MS. PATTERSON:** No witnesses from the State, Your
5 Honor. At this time the State would rest.

6 **THE COURT:** All right, ladies and gentlemen. The
7 State has rested the State's case. I'll have you go to
8 the jury room for a few minutes. Please do not discuss
9 the case.

10 (Whereupon, the jury retires to the jury room at
11 3:50 PM.)

12 **THE COURT:** Any matters of law at this time?

13 **MR. DRYLIE:** At this time the defense would move
14 for a directed verdict, Your Honor. We'd move for that
15 on the basis that the State hasn't presented substantial
16 circumstantial evidence. A mere suspicious of guilt is
17 not enough. Your Honor, also the State has failed to
18 present any element of intent that Mr. Dantzler
19 knowingly cashed a false check and on those bases we
20 move for a directed verdict.

21 **THE COURT:** What says the State?

22 **MS. RADLEIN:** Thank you, Your Honor. The State's
23 position is that there is sufficient evidence to submit
24 this case to the jury. In this case the jury is
25 allowed to consider circumstantial evidence. At this

1 stage in the proceeding it's not about -- it's not
2 concerned -- it's not about the weight of the evidence
3 at this point. The jury can consider all the facts and
4 circumstances surrounding the incident in this case
5 where the Defendant has denied being on video and we
6 have video of him in the bank that day, his signature
7 signing the check and his different excuses that he
8 gave law enforcement as to why he's never crossed the
9 river and gone into the bank at Cayce. At this point,
10 Your Honor, we believe that there's sufficient evidence
11 to submit this case to the jury based on everything
12 we've presented in this case.

13 **THE COURT:** All right. Anything further?

14 **MR. DRYLIE:** Your Honor, we just cite for the
15 record In Re: Winship and state that we believe that
16 the State has failed to prove all the elements of
17 the crime and we state Odom's for the substantial
18 circumstantial evidence.

19 **THE COURT:** Okay. What says the State?

20 **MS. RADLEIN:** I'm sorry, Your Honor. I'm not sure
21 if I understood defense's position.

22 **THE COURT:** He cited some cases. I don't know.
23 I'm not sure what they are and what they said -- or what
24 they say; Winship, Odom.

25 **MS. RADLEIN:** Can he repeat his position because

1 I'm not sure what his argument was, Your Honor?

2 **THE COURT:** She wants you to repeat your argument.

3 **MR. DRYLIE:** Your Honor, we would state that the
4 State hasn't addressed the knowing element in their
5 argument, Your Honor, and we cite In Re: Winship saying
6 that they failed to prove all the elements of the crime.

7 Your Honor, when we're looking at circumstantial
8 evidence, I believe there's been several recent opinions
9 on this, but substantial circumstantial evidence is what
10 is needed to send the case to the jury and we'd argue
11 that substantial circumstantial evidence has not yet
12 been presented in this case, and so for those forgoing
13 reasons we'd move for a directed verdict.

14 **THE COURT:** All right.

15 **MS. RADLEIN:** Your Honor, it's the State's position
16 that there is direct evidence as well as substantial
17 circumstantial evidence to submit this case to the jury.
18 I'd like to reiterate my argument earlier that we're not
19 concerned with the weight at this point. I think it's
20 for the jury to determine the identification in this
21 case and all the facts and circumstances surrounding
22 this case and I believe in the light most favorable to
23 the State that there is enough evidence to convict the
24 Defendant at this point of forgery in this case and the
25 case should be properly submitted to the jury.

1 **THE COURT:** All right. The State has presented
2 evidence that a fraudulent check was cashed on the
3 account of Mr. Covert and the question is whether or
4 not the Defendant is the one who cashed the fraudulent
5 check. The State has presented evidence that a person
6 matching Mr. Dantzler's description cashed a check, a
7 person with Mr. Dantzler's ID cashed a check, a person
8 the teller was satisfied was Mr. Dantzler cashed a
9 check, and based on those facts along with the
10 contradictory information given by Mr. Dantzler to the
11 police officer there is a sufficient amount of direct
12 and circumstantial evidence in which the jury can
13 conclude that Mr. Dantzler was the one who cashed the
14 fraudulent check and the -- the knowing and intentional
15 and all, one who goes in with a fraudulent check that
16 -- that that person knew or should have known to be
17 fraudulent, that would satisfy the knowing and the
18 criminal intent element of the offense. Mr. Covert
19 stated that he had no business relationship with
20 Mr. Dantzler, he didn't give Mr. Dantzler a check,
21 Mr. Dantzler did not have the right to have his check,
22 so if it was Mr. Dantzler with the check in the bank,
23 then Mr. Dantzler would have known that it was a bad --
24 a bogus check and he would be guilty of forgery. So,
25 therefore, I deny your motion.

1 **MR. DRYLIE:** Thank you, Your Honor.

2 **MS. RADLEIN:** Thank you, Your Honor.

3 **THE COURT:** All right. Mr. Dantzler, if you will
4 stand at this time and we'll swear you in. I want to
5 talk to you for a few minutes, but if you can't stand,
6 you can't. If you can, you can.

7 (Whereupon, Oscar Dantzler was duly sworn by the
8 Clerk of Court.)

9 **THE COURT:** I notice he was about to get up, but he
10 says you can't get up, so stay right there.

11 **THE DEFENDANT:** No, I rolled back, sir.

12 **THE COURT:** All right. You can put your hand down.
13 Mr. Dantzler, we are -- at this time I'm gonna explain
14 to you some of your constitutional rights and your
15 rights in general. If you do not understand anything
16 that I say, please let me know and I will explain it to
17 you in further detail. Do you understand?

18 **THE DEFENDANT:** Yes, sir.

19 **THE COURT:** Now the State has rested and we've now
20 reached the stage of the trial where you may present
21 your defence. Of course, you don't have to present a
22 defense, but you may present your defense at this time.
23 Now you have the right to claim the protections given to
24 you by the Fifth Amendment to the Constitution of the
25 United States. And the Fifth Amendment states, in part,

1 **THE COURT:** Yes.

2 **MS. RADLEIN:** Good morning, ladies and gentlemen.
3 The Defendant, Oscar Dantzler, cashed a check that he
4 had no right to cash. He cashed a check that he did not
5 earn. He cashed a check that was not a gift. He does
6 not know John Covert, the victim in this case. He never
7 worked for him, he's never met him, but yet he cashed a
8 check drawn on this man's business account.

9 Now this check, the reason why we're all here today,
10 has Oscar Dantzler's name on it right here and, again,
11 right here. It has his address on it. It's hard to
12 read, but once you get it back in the jury room, you'll
13 be able to see that address. Then he signed the check.
14 First right here in the wrong place, then, again, up
15 here once the teller instructed him on the appropriate
16 place to sign a check. Right under his signature, his
17 South Carolina ID number, which was verified. This
18 check was cashed by Oscar Dantzler on October 23, 2013,
19 at the Cayce branch of First Citizens Bank here in
20 Lexington County.

21 First in this case you heard from Denise O'Neal.
22 Now she's the fraud investigator at First Citizens. You
23 heard her take that witness stand and testify that she
24 -- she's responsible for all of the frauds in South
25 Carolina and, I believe, in Georgia that take place at

1 First Citizens Bank. She received an alert and once
2 that alert went out, they were able to quickly determine
3 that John Covert's business account was compromised.
4 John Covert was no longer save in his banking where he
5 had banked for years at First Citizens Bank. She
6 explained to you all of the information that's seen on
7 this check, how the original check was destroyed
8 according to bank policy, but that this is a certified
9 true copy of the check that is scanned in into the
10 system. She explained to you what this meant. This
11 meant that when the Defendant went into the bank that
12 day and went to the teller's window, the teller looked
13 at the check, looked at the signature on the check,
14 pulled up an old check from August 23rd of 2013 with
15 that Check Number 3444 and determined that this
16 signature matched up with that check and determined that
17 Oscar Dantzler, based on writing the ID on here, was the
18 person standing at her teller window when he presented
19 this check. When he said I have a right to this check.

20 Denise also explained that this encoding over the
21 address is something done on the -- by the computer
22 system. The account number is ran over there and it
23 tells you what branch location, 120, which is the Cayce
24 branch. Also on this check based on the information on
25 here, she was able to provide us with a video and she

1 was able to match up the information encoded on the
2 check with the timestamp on the video and determine that
3 this video, which is in evidence, is the video of the
4 fraudulent transaction. You'll get this video. It will
5 go back with you into the jury room. We'll also send
6 the laptop back with you so you can watch this as many
7 times as you need to. We watched it twice in court.
8 You saw the Defendant walk up to the window, to the
9 teller's window. You saw him sign the check; not once,
10 but twice. And you see him walk out of that bank with
11 cold hard cash, \$1,561.30. All on this video.

12 Now Ms. O'Neal works hand-in-hand with law
13 enforcement. When she's done with her investigation
14 and it's ready, she sends it over, in this case, to
15 Cayce to Detective Merrill. He collected a copy of the
16 check, he had the investigative report from the bank, he
17 had the stills and then later he obtained the actual
18 video. You heard Detective Merrill testify that he
19 reviewed the video, he looked at the name on the check,
20 he looked at the photos, the photos that you will have
21 in this case. He looked at all the evidence that he
22 had before him. When he looked at this photograph, when
23 he looked at the check, he took the ID number that's
24 written on the check and pulled up Mr. Dantzler's
25 information. He watched the video and he determined

1 that that was actually Oscar Dantzler in First Citizens
2 Bank cashing this check. You'll have four stills,
3 they're in sequential order, just how you see it on the
4 videos. It's as if you just press pause and hit print.
5 And you'll look at these and you'll see his demeanor,
6 his face, his facial features, how he was dressed. Look
7 at Mr. Dantzler today and when you go back into that
8 jury room I want you to compare that face to the face
9 of the man cashing this check and I submit to you it's
10 the same person.

11 Detective Merrill also testified that he met with
12 the Defendant in this case on October 29th. That would
13 be six days after he walked into that bank and cashed
14 this check. When he met with him, he noticed that he
15 had a pronounced limp. When he watched the video that
16 y'all are able to watch again and watched yesterday, he
17 saw the very same limp on the video. He saw a man of
18 similar build, similar size, similar clothing on the
19 video. He questioned him about the forgery. He gave
20 him -- he advised him of his rights. He told him that
21 he had the right to remain silent. He told him that he
22 didn't have to speak with him, but he chose to, and what
23 did the Defendant tell Detective Merrill? He came up
24 with excuses. He said, if you remember, that, well,
25 sometime before someone came up to him and hired him to

1 open a bank account and maybe when he was giving that
2 person the paperwork from the account after placing a
3 hundred dollars in the account he must have left his
4 ID in the envelope. That's how someone got his ID and
5 that's how this could have happened. He also said I
6 have a twin brother. Then after further questioning,
7 the Defendant thought better and said okay, no, I don't
8 have a twin brother. He denied from day one, and you
9 heard counsel say he denied today, that he ever went
10 into the bank. He denied ever going, he denied cashing
11 a check in recent times, he denied ever going into First
12 Citizens.

13 When you -- and I keep mentioning this video and I
14 keep mentioning the signature on the check -- on this
15 check, but I don't want you to leave your common sense
16 at the door when you go into that jury deliberation
17 room. Look at the video, look at his face, consider all
18 of the excuses and this theory of losing his ID that he
19 came up with.

20 You heard from the custodian of records or the
21 supervisor at the Department of Motor Vehicles, the DMV.
22 Now that may have been a little confusing, but what I
23 want you to take home on this or take back to the jury
24 room, you'll have a copy of this, but I'm not sure if
25 you've seen a driver's license report before, this is

1 the first page, and as she testified up here you'll see
2 the customer's name; in this case, the Defendant, Oscar
3 Dantzler. Down here you'll see license information.
4 What's important to note in this case, his previous
5 renewal prior to the date on the check, October 23,
6 2013, was November 28, 2012. He didn't report his ID
7 lost or stolen in all of 2013 until after this occurred.

8 So what do we have here? We have November 28, 2012,
9 the date of his previous issued ID card. The date on
10 the check, October 23, 2013. We also have the date he
11 met with Detective Merrill and you heard Detective
12 Merrill testify that he recalled seeing his ID with him.
13 He said it looked as if it had been in his wallet for a
14 while, and in examining it, it didn't appear to be a
15 renewal.

16 That date, October 29, 2013. So we know that the
17 Defendant had this issued ID on October 23rd because he
18 presented it at the bank, on October 29, 2013, when he
19 met with Detective Merrill, but then on December 5,
20 2013, what did he do? You can look several places to
21 see what he did. First on here, that's his most recent
22 address now, the . That would be
23 the address on the top of the driving information. We
24 know from looking at the check that the address is
25 , and that would

1 be the last or the previous address change. That's
2 what the address was changed from. The date it was
3 changed? December 5, 2013. We have two documents here.
4 This would be this one, the representation of the
5 November 28, 2012, change. This would have been all
6 the information on his ID the date the check was cashed.
7 You'll see his photo, the address, the ,
8 , in , South Carolina, you'll see
9 his driver's license number. Then on December 5, 2013,
10 we have this. And you heard Ms. Wearing testify that
11 on December 5th he changed his photo, he changed his
12 address and, most importantly, look at that signature,
13 he stopped signing his name. He printed his name.
14 Coincidence? I'll let you determine that. But he went
15 and changed everything on his ID card that would connect
16 him to the check in question today. We presented a
17 blown-up version of his 2008 issue date; different
18 address, different photo, different face for Oscar
19 Dantzler, another signature.

20 When you go back into the jury room, you will have
21 all three versions of his signature, three versions of
22 his face, how he's changed his facial features over the
23 years, and you'll be able to compare his signatures to
24 the signature that on the video he naturally wrote with
25 no hesitation, no second thinking; wait, I have to make

1 sure I sign the right name. He knew what name to sign,
2 not once, but twice without any hesitation, and the
3 signature bears a striking resemblance, if not the same
4 signature, as the signature on his ID.

5 Also, Marie Wearing, she testified to his affidavits
6 of loss where he surrendered or told the DMV, the State,
7 that he no longer had his ID in his possession. He did
8 it in 2011 and he signed his name, so we know he knows
9 how to go to the DMV and change his ID. He did it in
10 2012, November 28, 2012, and signed his name, so he knew
11 exactly where to go when he lost his ID. So in 2013
12 when he accidentally left his ID in someone's envelope
13 when he gave it back to them, he would know where to go
14 to get a new ID, but he didn't do so until December 5,
15 2013, where he printed his name, no longer signing his
16 name.

17 Now the Judge is gonna charge you on the law in
18 this case and whatever the Judge charges you the law is
19 the law of this case, but I want to go over just briefly
20 what a forgery is. All of you know what a forgery is.
21 It's exactly what you think it is, exactly what you
22 think it is, so don't lose that when you go back into
23 the jury room. Now the way the law is written, of
24 course, can be a little wordy sometimes, but for this
25 case, for the reason we're here today, the part of the

1 law that applies is simply this.

2 So you have a forgery. The State has to prove
3 to you beyond a reasonable doubt that this forgery
4 occurred. And what beyond a reasonable doubt means,
5 it's not proof beyond any doubt, it's just proof that
6 leaves you firmly convinced of the Defendant's guilt,
7 and the Judge will also charge you on that law as well.
8 But here, falsely made, forged or counterfeited any
9 writing, or, so it's one or the other, there are two
10 other parts in the statute which are omitted because
11 they're not relevant in this case, or uttered, which
12 means essentially put into circulation, or published
13 as true, any false, forged or counterfeited writing.

14 I submit to you that when Oscar Dantzler walked
15 into that bank and presented a forged document as true,
16 you've got it, it's "or", and he has to do that with an
17 intent to defraud. Something I like to say is there is
18 no greater proof of a man's intent to do something than
19 when he does it. Intent. He walked into the bank,
20 presented a check he knew he had no right to as true, as
21 true, and he got cash for it, \$1,561.30 that did not
22 belong to him. Intent? Then you can look at everything
23 else he did, the excuses he gave to the police, changing
24 his ID. Look at all the circumstances, not knowing John
25 Covert, didn't know the person on the check. I submit

1 to you that we have intent and he has committed the
2 crime of forgery. It's that simple, that simple, in
3 this case.

4 Detective Merrill spoke about the limp that he
5 noticed. The Defendant's in a wheelchair today, we
6 can't see the limp, but I submit to you that on
7 October 23, 2013, he was walking and he walked right
8 out of that bank with card -- cold, hard cash, and
9 after your deliberations, after you consider all of
10 the evidence in this case, all of the testimony that
11 came from that witness stand, which is considered
12 evidence in this case, that you will find the Defendant
13 -- get a good look at him -- Oscar Dantzler, guilty of
14 forgery. Thank you.

15 **THE COURT:** And for the defense.

16 **MR. DRYLIE:** May it please the Court?

17 **THE COURT:** Yes, sir, Mr. Drylie.

18 **MR. DRYLIE:** It looked like him to me. I mean, he
19 had his ID. It looked like him to me on the video.
20 Open and shut. The pieces are falling into place.
21 Then when we arrested him, I mean, he was wearing slacks
22 and a button-down. I mean, that's what the person on
23 the video was wearing. It looked like him to me.
24 Investigator Merrill may not have said every one of
25 those words on that witness stand, but his actions told

1 you that's what he thought. It looked like Oscar
2 Dantzler to him, so it had to be Oscar Dantzler. In his
3 mind, the case was over and there was no need to go any
4 further. Thankfully, in our justice system "it looked
5 like him to me" has never been proof beyond a reasonable
6 doubt.

7 Now we told you at the beginning of this trial that
8 it is an indisputable fact that on October 23, 2013, an
9 African-American man walked into the First Citizens Bank
10 of Cayce, signed Oscar Dantzler's name and cashed a
11 check. We agree 100 percent with the State that that
12 happened. The only conflict that we have in this trial
13 is we state it's not Mr. Dantzler on the video and they
14 say it is. In a few minutes, after the Judge charges
15 you on the law, you're gonna go back to the jury room
16 and I ask you to watch that video for yourself. We're
17 not hiding anything. He's sitting right here out in
18 the open where you can see him. Get a good look at him
19 and go watch the video and decide for yourselves. It's
20 grainy, it's motion-activated. It looks like half the
21 people in the video have limbs. You'll see an arm here
22 and then suddenly the arm will be here and there's no
23 movement in between. Watch it for yourselves and
24 decide.

25 The only thing that the Government has proved

1 beyond a reasonable doubt in this case is that an
2 African-American man walked into that bank, presented
3 Oscar Dantzler's name and signed the check. And you
4 know what? Their own witnesses agree with that. When
5 Ms. O'Neal was on the stand, I asked her you can't say
6 that it was Oscar Dantzler who walked into that bank and
7 cashed that check, can you? And she agreed that she
8 couldn't. What she knew was that an African-American
9 man walked in, signed Oscar Dantzler's name and
10 presented his ID, but she did not know who was Oscar
11 Dantzler and she agreed with that.

12 You know, as you go through this trial, and it was
13 short, we only heard from four witnesses, and the next
14 witness that we heard from was Mr. Covert and we
15 empathize and we sympathize with him, meaning it's wrong
16 to steal money and no one wants to have their money
17 stolen, but what we're here today to decide is if Oscar
18 Dantzler is the man who stole that money and the twelve
19 of you are gonna make that decision. Go back and watch
20 that video. We didn't ask Mr. Covert any questions
21 because we didn't expect him to know Mr. Dantzler. She
22 spent a good portion of her closing on the fact that
23 Mr. Covert didn't know him and we agree one hundred
24 percent with that. There's no reason for him to. It
25 wasn't Oscar Dantzler who walked into that bank and

1 cashed that check.

2 Now the next person we heard from was Detective
3 Merrill and I want to take a little bit of time here.
4 Y'all heard his testimony. He said quite smugly on that
5 stand "it looks like him to me". He didn't think he
6 needed to do anything else. Let's go through his
7 testimony and see what we heard. First, we heard all
8 this talk about the clothes that Mr. Dantzler was
9 wearing when he was arrested; slacks and a button-down.
10 The investigator called that another consistency. I'm
11 wearing a button-down right now and slacks. I do most
12 days of the week, even when I'm not working. Several of
13 you were just dressed just like that yesterday, several
14 of you are dressed just like that today. That's not
15 another consistency. That's dressing yourself before
16 you leave the house in the morning; slacks and a
17 button-down. But he spent so much time on it because
18 it looks like him to Mr. Merrill. That's what he said.

19 We also learned from the investigator that he
20 didn't fingerprint the check and we all know about
21 fingerprints and I asked him a couple of questions on
22 this yesterday; if I'm handling something, my
23 fingerprints are gonna be on there. And we heard from
24 Ms. O'Neal when she said if anyone from law enforcement,
25 the investigator, who she knows, or anybody else called

1 and asked for a copy of the check, she would have gladly
2 produced it for him, she would have given that to them.
3 You know, this is important because fingerprinting is
4 such a simple, easy, cheap way to conclusively know who
5 handled that check, but Investigator Merrill didn't
6 think he needed to do it because "it looks like him to
7 me".

8 And you know what? Think back about when I was
9 asking him some questions. Did you notice he kind of
10 waffled there for a minute when I said well, we watched
11 a video of the transaction there and you can see him
12 handling the check and he was like well, we don't know
13 if that's actually the transaction or -- and I had to
14 stop there for a minute because you can see clear as
15 day on that video the man walks into the bank, hands
16 something to the teller and the teller hands back cash.
17 He handed him the check. It was simple and easy and
18 something for him to do and he didn't because he thought
19 he had enough; pieces just fell into place. You know,
20 we demand more than that.

21 The detective told us that he saw a pronounced
22 limp in the video. Go watch it for yourself. Look at
23 the other people as well. You'll see that half of them
24 look like they have limps as they're moving from here
25 to here. Now Investigator Merrill stated that Oscar

1 Dantzler had his ID on him when he was arrested. I want
2 y'all to stop and think about that for a moment. That's
3 what the investigator said and I asked him well, where's
4 that written about in your report? Take your time, read
5 it. He looked over it, paused for a minute, looked back
6 at us and said well, look, it's not in there. You know
7 what else I thought was funny as I was thinking about
8 this case last night? He's spending time questioning
9 Mr. Dantzler and one of the things that he says that
10 Mr. Dantzler told him was that he left his ID in an
11 envelope.

12 Now he states that, but here's the scenario that
13 he's asking us to believe; that Mr. Dantzler had his ID
14 on him when he was arrested, then tells him that he left
15 it in an envelope with someone else and the investigator
16 never asked him another question about that, never puts
17 anything about that in the report. I mean, I would call
18 that catching somebody in a lie if that were true. If
19 someone told me well, I don't have my ID, I left it in
20 an envelope and that person had that ID with them right
21 there in front of them and I'm an investigator and I
22 don't ask any more questions, don't ask any questions
23 about that at all, it just doesn't add up, it doesn't
24 make sense. He's got this critical piece of evidence
25 sitting there in front of him in his office and he

1 doesn't even take it for us to see here today. I mean,
2 that would be a nail in his coffin in this case. Well,
3 this is what he had on him, this is when he walked into
4 the bank, but he doesn't take it, doesn't write about
5 it in the report, never mentions it anywhere. The
6 first time I heard that he had his ID on him when he
7 was arrested was sitting there in court yesterday with
8 y'all and that doesn't add up because the way this
9 process works is they send us their reports and we go
10 through it, that's a process called discovery, no where
11 is it mentioned, and he agreed with that.

12 I want you to look at this for a minute. This is
13 a copy of the check that they're saying Mr. Dantzler
14 walked into the bank and cashed and what they're asking
15 you to believe, what their theory of the case is, is
16 that Mr. Dantzler is like the Great and Powerful Oz,
17 he's the man behind the curtain speaking into the
18 microphone that can come up with a check that looks so
19 much like Mr. Covert's check and yet at the same time
20 be's buffoon enough to walk down the street, sign his
21 own name and use his own ID. It just doesn't make any
22 sense. Of course, if you're gonna forge a check you're
23 gonna use someone else's name and ID. They want you to
24 believe he's smart enough to get this, but dumb enough
25 to use his own name. It doesn't add up.

1 I want to take a minute and talk to you about
2 reasonable doubt. Now reasonable doubt can be a hard
3 concept to understand, but it's a very important one.
4 You know, the first time I think I understood reasonable
5 doubt was when I was in law school. I was at the
6 library studying for an exam and where I lived during
7 law school was in an apartment complex and it had a
8 parking deck and I came home and I'm starting to park my
9 car and I'm looking for a space and I'm looking for a
10 space. Eventually I find a space and I pull in. I go
11 and I grab my bag out of the car and I go up to sleep
12 for a couple of hours and, you know, when I parked the
13 car there was a car next to me on one side and a car
14 next to me. And these spaces were all really narrow,
15 the kind that are too small for big cars to park in,
16 and when I come out the next morning to get ready to go
17 back to school, there was a car parked this far from
18 where I'm at, it's a couple of inches away, and I'm
19 livid. I'm a running a little late, I've got to get
20 there. I don't even have enough space to open the
21 driver's side door and crawl in and so as I'm there,
22 I'm like -- I'm mad and I want to tell this person what
23 I think of them and I grab a piece of paper out of my
24 bag and I start scribbling some words down on it, and
25 they weren't very nice, and I go over and I'm gonna

1 stick it under the windshield wiper and I go to put it
2 down and I stop because I looked next to me and there's
3 a big truck parked in the space over and it's really
4 close to the car that's parked next to mine and I pause
5 and I think for a minute what if that truck was there
6 first, what if that car was only doing the best they
7 could with what they've got and it pulled in because
8 they were trying to get home, too. I was like I don't
9 know who parked their car first, I don't know who's at
10 fault here, and I pause and that moment where I'm not
11 firmly convinced that it's that little car's fault,
12 that's the moment where I understood reasonable doubt
13 and I crumpled that note up and I put it back in my
14 pocket and I walked away. And the reason is I didn't
15 want to tell off the wrong person, I didn't want to
16 punish the wrong person.

17 **MS. RADLEIN:** Objection, Your Honor.

18 **THE COURT:** Objection's overruled.

19 **MR. DRYLIE:** And here, here we would know who parked
20 their car, here we would know who cashed the check if a
21 few simple things had been done. If he had dusted that
22 check for fingerprints and checked for them, we would
23 know conclusively who handled that check, you can see
24 on the video the person holding it, and if he had taken
25 the ID that he says he had but never question about and

1 never written in a report into evidence for us to see
2 here today, we'd know, but he didn't. It wasn't Oscar
3 Dantzler who cashed that check, it wasn't him on the
4 video. And I'm not trying to bash the investigator
5 here, but under our system of justice we demand more
6 than coming into court and proving a case with "it
7 looked like him to me".

8 So now I want to urge you that doubt that you have
9 inside of you, that doubt is that Oscar Dantzler on that
10 video, have that doubt today because tomorrow morning
11 when you're drinking your coffee and you're reading the
12 paper, it's too late. The time that you get to voice
13 your opinion is now and the judge is gonna tell you that
14 each one of you are entitled to your opinion and you
15 should hold firm to that. So that doubt that you have
16 inside you, have it today because five years from now
17 when you're thinking back about the time that you were
18 on the jury in Lexington, it's gonna be too late. That
19 doubt you have, please have it today.

20 In closing, I'm gonna ask you again, and I'm gonna
21 step out of the way. I want to give you an unobstructed
22 view. Look at Mr. Dantzler. He's sitting there. Go
23 back and look at that video, decide for yourselves
24 whether you think that's him or not. In its purest
25 form this case is absolutely simple. They say it's him

1 on the video and we say it's not. The twelve of you
2 are the ones who are gonna make that decision and decide
3 for yourself whether that's him. It's not him on that
4 video and I would respectfully ask you to return a
5 verdict of not guilty.

6 **THE COURT:** Mr. Foreman and members of the jury,
7 you have heard the testimony, received the evidence and
8 heard the arguments of the State and the Defendant. I
9 will now explain to you the law that applies to this
10 case.

11 Under the Constitution and laws of South Carolina,
12 you are the finders of the facts in this case. I do not
13 have the right to pass upon the facts or even to express
14 any opinion that I might have as to them because this is
15 a matter solely for you, the jury, to determine. As
16 jurors then, it is your duty to determine the effect,
17 the value, the weight and the truth of the evidence
18 presented during this trial.

19 Now as the trial judge, it is my responsibility to
20 preside over the trial of this case and to rule upon the
21 admissibility of the evidence offered during the trial.
22 You are to consider only the testimony which has been
23 presented from this witness stand together with any
24 exhibits which have been made a part of the record.

25 Additionally, I have the duty to charge you the

1 law applicable to this case, and as the presiding
2 judge, I am the sole judge of the law in this case.
3 It is your duty as jurors to accept as correct and apply
4 the law as I now state it to you and then reach your
5 verdict.

6 Finally, I charge you in this regard that you
7 should not be concerned with what you think the law
8 ought to be, but rather what I charge you what the law
9 is.

10 You are also the judges, the sole judges, of the
11 credibility, that is the believability of the witnesses
12 who have testified and of the evidence which has been
13 presented during this trial. In evaluating credibility,
14 you may take into consideration many things, such as the
15 demeanor or manner of testifying, whether the witness
16 had reason to be biased or prejudiced or whether the
17 testimony of a witness was contradicted on the one hand
18 or supported and corroborated on the other hand. All of
19 these things you will consider, bearing in mind that you
20 should give the Defendant the benefit of any reasonable
21 doubt. It becomes your duty as jurors to analyze and to
22 evaluate the evidence and determine that evidence which
23 convinces you of its truth.

24 Now a statement alleged to have been made by the
25 Defendant has been admitted into evidence in this case.

1 While the Court has determined that the statement is
2 admissible, I instruct you that you make the ultimate
3 decision of whether or not the Defendant made the
4 statement. If the Defendant did make the statement,
5 you must determine whether the statement was made by
6 the Defendant voluntarily and of his own free will.
7 This means that the statement was not caused by
8 pressure, force, fear, threats, coercion or intimidation
9 or by a hope or promise of leniency or a reward of any
10 kind.

11 In determining whether the statement was voluntary,
12 you should consider both the characteristics of the
13 Defendant and the details of the questioning. Some of
14 the factors that you must consider are the age of the
15 Defendant, the Defendant's education or lack of
16 education, the Defendant's mental ability or capacity,
17 the Defendant's IQ or intelligence, the Defendant's
18 background and environment, the place and the length of
19 detention, the nature of the questioning and the advice
20 or lack thereof to the Defendant of his constitutional
21 rights, including but not limited to, the right to
22 remain silent, that any statement could be used against
23 him in a court of law, the right to have a lawyer
24 present, that if he could not afford a lawyer, a lawyer
25 would be appointed to represent him without any cost,

1 and that he could stop making a statement at any time.
2 You must carefully consider all of the surrounding
3 circumstances before you give any weight to an alleged
4 statement.

5 The State has the burden of proving beyond a
6 reasonable doubt that the alleged statement was
7 voluntary. If you determine it was, you may give the
8 statement any further consideration that you may deem
9 proper. You must decide what weight, if any, should
10 be given the alleged statement. If you determine the
11 alleged statement was not the free and voluntary
12 statement of the Defendant, you should not consider the
13 statement at all.

14 Now I instruct you and emphasize that the fact that
15 the Defendant did not testify is not a factor to be
16 considered by you in any way in your deliberation and
17 in your consideration on the question of the guilt
18 or the innocence of the Defendant. It must not be
19 considered by you in any manner whatsoever. A
20 Defendant has the constitutional right to remain silent
21 and the assertion of this right must not be considered
22 by you in your deliberations. I repeat. Under your
23 oath, you are to draw no conclusion whatsoever from the
24 fact that the Defendant in this case did not testify.
25 The fact that this Defendant did not testify should not

1 even be discussed in the jury room. The burden of proof
2 as I have stated to you is on the State. The Defendant
3 is not required to proof his innocence. The burden of
4 proof remains on the State to proof guilt beyond a
5 reasonable doubt.

6 Now there are two types of evidence which are
7 generally presented during a trial; direct evidence and
8 circumstantial evidence. Direct evidence directly
9 proves the existence of a fact and does not require
10 deduction. Circumstantial evidence is proof of a chain
11 of facts and circumstances indicating the existence of a
12 fact. Crimes may be proven by circumstantial evidence.
13 The law makes no distinction between the weight or value
14 to be given to either direct or circumstantial evidence.
15 However, to the extent the State relies solely on
16 circumstantial evidence, all of the circumstances must
17 be consistent with each other and when taken together
18 point conclusively to the guilt of the accused beyond a
19 reasonable doubt. If these circumstances merely portray
20 the behavior of the Defendant as suspicious, the proof
21 has failed.

22 The State has the burden of proving the Defendant
23 guilty beyond a reasonable doubt. This burden rests
24 with the State regardless of whether the State relies
25 on direct evidence, circumstantial evidence or some

1 combination of the two.

2 Now the fact that the Defendant, Oscar Lee Dantzler,
3 was charged and indicted in this case is not evidence in
4 this case and cannot be considered by you as evidence of
5 guilt; nor does it create any presumption or inference
6 of guilt. This indictment is simply the formal written
7 instrument which contains a charge made against the
8 Defendant. This indictment is the formal document by
9 which this case is brought into court.

10 The Defendant has pled not guilty to the charge
11 alleged against him. The burden is on the State to
12 prove the Defendant guilty. A person charge with
13 committing a criminal offense in South Carolina is
14 never required to prove himself innocent and I charge
15 you that it is an important rule of the law that the
16 Defendant in a criminal trial, no matter what the
17 seriousness of the charge may be, will always be
18 presumed to be innocent of the crime for which the
19 indictment was issued unless guilt has been proven
20 by evidence satisfying of you that guilt beyond a
21 reasonable doubt. The presumption of innocence does
22 not end when you begin your deliberations, but it
23 accompanies the Defendant throughout the trial until
24 you reach a verdict of guilt based on evidence
25 satisfying you of that guilt beyond a reasonable doubt.

1 The presumption of innocence is like a robe of
2 righteousness placed about the shoulders of the
3 Defendant which remains with the Defendant until it
4 has been stripped from the Defendant by evidence
5 satisfying you of the Defendant's guilt beyond a
6 reasonable doubt.

7 The presumption of innocence is not a mere legal
8 theory, it's not just a legal phrase. It is a
9 substantial right to which every defendant is entitled
10 unless you, the jury, is satisfied from the evidence of
11 the guilt of the Defendant beyond a reasonable doubt.

12 The State must prove the Defendant guilty beyond a
13 reasonable doubt. So what is a reasonable doubt in the
14 law? A reasonable doubt is a doubt which makes an
15 honest, sincere, conscientious juror in search of the
16 truth to hesitate to act. Proof beyond a reasonable
17 doubt must, therefore, be proof of such a convincing
18 character that a reasonable person would not hesitate
19 to rely and act upon it in the most important of his or
20 her own affairs.

21 Proof beyond a reasonable doubt can also be
22 described as proof that leaves you firmly convinced of
23 the Defendant's guilt. Now there are very few things
24 in this world that we know with absolute certainty and
25 in criminal cases the law does not require proof that

1 overcomes every possible doubt. If, based on your
2 consideration of the evidence, you are firmly convinced
3 that the Defendant is guilty, then you must find him
4 guilty. If, on the other hand, you think there is a
5 real possibility that he is not guilty, you must then
6 give him the benefit of the doubt and find him not
7 guilty.

8 The Defendant is charged with forgery. The State
9 must prove beyond a reasonable doubt that the Defendant
10 falsely made, forged or counterfeited any writing or
11 published as true any false, forged or counterfeited
12 writing with an intent to defraud any person. Intent
13 may be shown by act and conduct of the Defendant and
14 from other circumstances shown to have existed.

15 Now where a defendant is in possession of a forged
16 instrument of which a defendant claims to be the
17 beneficiary and applies it to his own use, there is an
18 inference that the defendant forged the instrument or
19 was aware of the forgery; however, this inference is
20 simply an evidentiary fact to be considered by you along
21 with the other evidence in the case and it is to be
22 given the weight you determine that it should receive.

23 An issue in this case is the identification of the
24 Defendant as the person who committed the crime charged.
25 The State has the burden of proving identity beyond a

1 reasonable doubt. You must be satisfied beyond a
2 reasonable doubt of the accuracy of the identification
3 of the Defendant before you may convict the Defendant.

4 Now while the arguments of counsel is a beneficial
5 part of the case -- a beneficial part of every trial,
6 you should remember that the statements made by counsel
7 are not evidence. In presenting arguments, counsel
8 often refer to the evidence. However, you should base
9 your verdict on the evidence as you remember it;
10 therefore, if there are any conflicts between the
11 recollection of counsel about the evidence and your own
12 recollection of the evidence, you should rely on your
13 own understanding of the evidence.

14 Now you've been chosen and sworn to give the parties
15 in this case a fair and impartial trial. When you've
16 done so, you will have complied with your oath and no
17 one will have a right to criticize your verdict. You
18 must not be influenced by opinions or expressions of
19 opinion you may have heard outside of the courtroom, but
20 rather should base your verdict solely on the testimony
21 of the sworn witnesses who took the stand, the exhibits
22 received into evidence and the law which I have stated.
23 You should not be swayed by caprice, passion, prejudice
24 or improper sympathy for or against anyone in this case.
25 Remember, you have no friends to reward or enemies to

1 punish and all parties are entitled to a fair and
2 impartial trial.

3 It is your duty as jurors to consult with one
4 another and to deliberate in an effort to reach an
5 agreement. Each of you must decide this case for
6 yourself, but only after impartial consideration of
7 all of the evidence with your fellow jurors. In the
8 course of your deliberations, do not hesitate to
9 re-examine your own views and change your opinion if
10 you become convinced it is erroneous; however, do not
11 surrender your honest conviction as to the weight or
12 effect of the evidence solely because of the opinion of
13 your fellow jurors or for the mere purpose of returning
14 a verdict. As I stated earlier, you are the judges,
15 judges of the facts. Your sole interest is to seek the
16 truth from the evidence in this case. Your verdict must
17 represent the considered judgment of each juror. In
18 other words, your verdict must be unanimous.

19 Now you may have noticed that I have read these
20 instructions. I do so to give you the law as
21 accurately as possible. I will give you a copy of
22 these instructions to have in the jury room. You
23 may refer to these instructions to assist in your
24 deliberation. You must consider the instructions as
25 a whole and may not follow some and ignore others.

1 And, Mr. Foreman, it will be your duty to preside
2 over the deliberations of the jury. If during your
3 deliberations, you should desire to communicate with
4 the Court, please reduce your message or question to
5 writing, signed by your foreperson, and pass the note
6 to the bailiff who will bring it to my attention. I
7 will then respond as promptly as possible either in
8 writing or by having you return to the courtroom. I
9 caution you, however, with regard to any message or
10 question you might send that you should never state or
11 specify any numerical division at the time.

12 Now you've heard the evidence and now you have
13 heard the law. Whatever your verdict, guilty or not
14 guilty, Mr. Foreman, you will indicate it on the
15 indictment in the verdict area and then sign and date
16 the verdict. This is the indictment that you will have,
17 the section says verdict, you will indicate the verdict,
18 not guilty or guilty, here; sign it and date it.
19 Remember that although the foreperson is the only juror
20 who writes the verdict, it is not his alone. The
21 verdict has to be unanimous and, Mr. Foreman, you're
22 not authorized to write the verdict until all of you
23 have agreed on the verdict.

24 Now, ladies and gentlemen, we have fourteen jurors,
25 we only use twelve to deliberate, so out of the first

1 twelve who are selected, if any of you cannot continue
2 and participate in the deliberations, please let me
3 know by raising your hand if you cannot continue and
4 participate in the deliberations for any reason
5 whatsoever.

6 No hands are up. That means all of the first
7 twelve are good to go. That means the final two, who
8 are the alternates, will remain as the others go to
9 deliberate.

10 Now, ladies and gentlemen, I'm gonna send you to
11 your jury room, but do not begin your deliberations
12 until you've received a copy of this charge, the jury
13 charge, the indictment and the exhibits. Once you
14 receive these things, that will be your signal to begin
15 your deliberations. Once you begin deliberations, you
16 will deliberate until you have reached a verdict. After
17 you have reached a verdict, you will knock on the door,
18 advise the bailiff and we will bring you out to receive
19 your verdict. So please go to the jury room; all except
20 the two alternates.

21 (Whereupon, the jury retires to the jury room at
22 10:37 AM.)

23 **THE COURT:** And with regard to the alternates, if
24 you will get their things out of the jury room, bailiff.

25 All right. If you will stand by just for a moment.

1 Any additions or exceptions to the charge from the
2 State or the Defendant?

3 **MS. RADLEIN:** None from the State, Your Honor.

4 **MR. DRYLIE:** Nothing concerning the charge, Your
5 Honor.

6 **THE COURT:** All right. Very good.

7 All right. If you all will confer about those
8 exhibits. I heard some reference to a laptop going to
9 the jury room. I didn't hear anything during the
10 course of the trial about any of that being admitted
11 into evidence.

12 **MR. DRYLIE:** The DVD was admitted into evidence.

13 **THE COURT:** I understand that. I heard reference
14 during closing to a laptop.

15 **MR. DRYLIE:** That's what they use to send back so
16 that they can watch it back there.

17 **THE COURT:** Is that in evidence?

18 **MR. DRYLIE:** The laptop is not, Your Honor.

19 **THE COURT:** The jury gets the evidence unless
20 there's a stipulation as to --

21 **MR. DRYLIE:** I'll stipulate. I don't have a
22 problem.

23 **THE COURT:** Yeah, the jury only gets evidence. They
24 don't get other things --

25 **MR. DRYLIE:** They have a video --

1 the case. Now the other jurors are coming in at what
2 time?

3 **THE CLERK:** 1:45.

4 **THE COURT:** At 1:45. So you all are free to go.
5 We'll need you back at 1:45. In this room?

6 **THE CLERK:** Fourth floor.

7 **THE COURT:** On the fourth floor at 1:45.

8 **THE CLERK:** Well, Judge --

9 **THE COURT:** Yes.

10 (Discussion between the Court and the Clerk of
11 Court.)

12 **THE COURT:** Oh, you're not on the next list, so you
13 all do not have to come back. Are they calling after
14 six today?

15 **THE CLERK:** After six today.

16 **THE COURT:** Y'all are good to go. Call back after
17 six.

18 **MR. PHILLIPS:** Your Honor, we have a matter just to
19 put on the record real quick.

20 **THE COURT:** All right.

21 **MS. RADLEIN:** Your Honor, the State's okay with
22 this, but the language of the indictment is the entire
23 statute as well as it indicates the value of the
24 forgery, less than ten thousand, and so if the Court's
25 okay with this, can we simply send back a short verdict

1 form instead of the indictment?

2 **THE COURT:** Why?

3 **MR. PHILLIPS:** Our objection is in sending the
4 indictment back to the jury is it includes that assist
5 language and the State's theory was that there wasn't,
6 you know, an accomplice liability issue, that it was
7 solely Mr. Dantzler who cashed the check. So if the
8 indictment goes back, we would request that it be
9 redacted, but the Solicitor's agreed not to send the
10 indictment back and we are agreeing with that.

11 **THE COURT:** Well, I'm sending the indictment back.

12 **MR. PHILLIPS:** Okay. Well, then we would object to
13 that and certainty need to have it redacted to make it
14 non-prejudicial.

15 **THE COURT:** All right. It's not -- a redacted copy
16 is not going back. The indictment is the indictment.
17 There's nothing prejudicial about the indictment and I
18 don't see any point in preparing a new indictment. I
19 told the jury that they will get the indictment and they
20 will get the indictment.

21 **MR. PHILLIPS:** Yes, Your Honor. I do have to put
22 on the record that --

23 **THE COURT:** I understand.

24 **MR. PHILLIPS:** -- sending back the indictment as is
25 with the assist language would deny Mr. Dantzler's his

1 Fifth and Fourteenth Amendment rights to the United
2 States Constitution. In Article I, Section 3, it would
3 be fundamentally unfair to do that and it would be a
4 violation of his due process rights.

5 **THE COURT:** Maybe we'll find the answer to that
6 question at a later time.

7 **MR. PHILLIPS:** Thank you, Your Honor.

8 **THE COURT:** All right. Thank you.

9 (Whereupon, the indictment and the evidence was
10 received by the jury and deliberations commenced at
11 10:42 AM.)

12 (Whereupon, the jury returns to the courtroom at
13 12:12 PM to report its verdict.)

14 **THE COURT:** All right, Mr. Foreman. If you will
15 stand for me. You've reached a verdict?

16 **THE FOREPERSON:** We have, Your Honor.

17 **THE COURT:** Is it unanimous?

18 **THE FOREPERSON:** Yes, Your Honor.

19 **THE COURT:** All right. What's the verdict?

20 **THE FOREPERSON:** The verdict is guilty.

21 **THE COURT:** All right. Thank you. If that's the
22 verdict of each and every juror, please let it be known
23 by raising your right hand.

24 (Whereupon, all jurors raise their right hands.)

25 **THE COURT:** All right. Thank you. You may be

1 and that is that the Defendant is guilty, and I
2 certainly appreciate your service in affording everyone
3 the process that our system dictates they're entitled
4 to.

5 When you find a person guilty, then it becomes my
6 duty to impose a sentence and we will proceed with the
7 sentencing phase of the matter at this time.

8 What else do we have?

9 **THE CLERK:** They need to come back tomorrow at
10 about 10:45.

11 **THE COURT:** Are you ready for sentencing,
12 Mr. Phillips -- or Mr. Drylie?

13 **MR. DRYLIE:** Yes, Your Honor.

14 **THE COURT:** All right. Did I call you Mr. Phillips
15 before or just this one time?

16 **MR. DRYLIE:** A few times. Every judge does it.
17 It's okay.

18 **THE COURT:** All right. What else do you have,
19 Madam Radlein, Madam Solicitor?

20 **MS. RADLEIN:** Your Honor, when you're ready to
21 receive, I have the sentence sheet I can hand up, and
22 his prior record.

23 **THE COURT:** Okay. Mr. Dantzler has a record?

24 **MS. RADLEIN:** That's correct, Your Honor.

25 **THE COURT:** All right. What does he have on his

1 rap sheet?

2 **MS. RADLEIN:** Your Honor, in 1992, he was convicted
3 of contempt of court. In 1995, he was convicted of two
4 counts of burglary second, nonviolent, and a larceny.
5 In 2001, he had a DUS and an open container. In 2002,
6 a shoplifting. A 2003 CSC with a minor under sixteen
7 years old, second degree, which he's currently on the
8 sex offender registry for. In 2007, a parole
9 revocation. In 2009, a sex offender violation -- a sex
10 registry violation. In 2011, sex registry violation,
11 second offense. In 2012, he has a contraband charge
12 where he received a ten year sentence suspended to
13 two years probation, which I believe he's currently on
14 probation for. Also on his rap sheet, Your Honor, it's
15 showing a 2013 CDV with no disposition and also I
16 believe there's a 2014 giving false information and
17 there are three other charges with no disposition. Also
18 pulling on his rap sheet is a pending shoplifting out
19 of Richland County and a violation of probation, which
20 he's currently -- I believe it's been served and he's
21 currently in Alvin S. Glenn Detention Center awaiting to
22 be violated. I'm not sure if he's been violated yet,
23 and Rusty can correct me if I'm wrong.

24 **THE COURT:** Who's Rusty?

25 **PROBATION AGENT:** Me.

1 **MS. RADLEIN:** Mr. Rentz. My apologies. And I
2 believe that is the extent of the -- his prior record,
3 Your Honor. In this case, the amount of the check is
4 \$1,561.30, which I do not have a restitution order
5 prepared for, Your Honor, but we would request that
6 restitution in addition to any sentence the Court deems
7 appropriate.

8 **THE COURT:** All right. Mr. Rentz, do you have
9 anything on this gentleman?

10 **PROBATION AGENT:** Judge, he's being supervised in
11 Richland County. He's on for contraband by a prisoner.

12 **THE COURT:** Contraband by a prisoner?

13 **PROBATION AGENT:** Yes, sir. Richland probation has
14 issued a warrant, and it's been served, and they will
15 handle the violation over there. I don't have copies
16 of the warrant or we might could dispose of that today,
17 but --

18 **THE COURT:** Okay. All right. Mr. Radlein,
19 anything else?

20 **MS. RADLEIN:** That's it from the State, Your Honor.

21 **THE COURT:** Mr. Victim, Mr. Covert, what would you
22 like to tell me?

23 **MR. COVERT:** I appreciate the process. Thank you
24 for everybody's effort.

25 **THE COURT:** All right. Yes, sir, Mr. Drylie.

1 **MR. DRYLIE:** Thank you, Your Honor. Mr. Dantzler,
2 he has a twelfth grade education. He's forty-five
3 years old. As you can tell from his rap sheet, although
4 they weren't specifically drug charges on there, he's
5 had a pretty substantial cocaine problem for the last
6 thirty years.

7 Your Honor, we did have Mr. Dantzler evaluated. He
8 came back competent, but it did provide some insight
9 into his background. Just to let you know, he -- and I
10 don't have any questions regarding competency, but he
11 had a tough childhood growing up. He's always been in
12 special ed classes. He's not the smartest guy in the
13 world, Your Honor. We're not in a position to comment
14 on the facts, but I can tell you that he's been homeless
15 for periods of time in his life and I believe he was
16 homeless about the time when this happened. Your Honor,
17 we would just simply ask for as much mercy as the Court
18 could show given Mr. Dantzler's battle with some serious
19 drug and mental health issues for most of his life.

20 **THE COURT:** All right. How about it, Mr. Dantzler?
21 What do you want to tell me?

22 **THE DEFENDANT:** Nothing. Nothing, sir.

23 **THE COURT:** Nothing? How much time do you think I
24 should give you?

25 **THE DEFENDANT:** I put it in your hands and the

1 Lord's hands, sir.

2 **THE COURT:** It doesn't matter to you?

3 **THE DEFENDANT:** (Shrugs shoulders.)

4 **THE COURT:** No opinion? You're the one that's got
5 to do the time. I'm wondering how much time do you
6 think I should give you?

7 **THE DEFENDANT:** (No response.)

8 **THE COURT:** Five years, ten years, fifteen? How
9 much time is he facing?

10 **MS. RADLEIN:** On this charge, if it was under ten
11 thousand, zero to five.

12 **THE COURT:** All right. Zero to five years. What
13 do you think, Mr. Dantzler?

14 **THE DEFENDANT:** I can't say.

15 **THE COURT:** You've been to prison before?

16 **THE DEFENDANT:** Yes, sir.

17 **THE COURT:** How many times?

18 **THE DEFENDANT:** Twice.

19 **THE COURT:** For? What's the longest period of time
20 that you've been in there?

21 **THE DEFENDANT:** A year.

22 **THE COURT:** And when was the last time you were in
23 prison?

24 **THE DEFENDANT:** 2012, 20 --

25 **THE COURT:** Now what's the story with you and the

1 the wheelchair?

2 **THE DEFENDANT:** I had an aneurism busted in my head.
3 I cut myself with a chain saw.

4 **THE COURT:** You cut yourself with a chain saw?

5 **THE DEFENDANT:** Working for Richland County DOT.

6 **THE COURT:** And when was that?

7 **THE DEFENDANT:** That happened in 2007.

8 **THE COURT:** And where did you -- where did the
9 chain saw hit you?

10 **THE DEFENDANT:** Across my knee. I've got a plate
11 and rods.

12 **THE COURT:** Okay. So the -- so you hurt your leg
13 on the chain saw and the aneurism is something
14 different?

15 **THE DEFENDANT:** Yes, sir.

16 **THE COURT:** That's in your head?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** And when did that happen?

19 **THE DEFENDANT:** That happened this year -- 2013.

20 **THE COURT:** Well, how did you get in the wheelchair?

21 **THE DEFENDANT:** I had a few seizures and now I'm
22 not balanced correctly.

23 **THE COURT:** And how long have you had that chair?

24 **THE DEFENDANT:** For about a year.

25 **THE COURT:** And do you need it to walk or do you

1 just use it sometime or what's the sorry?

2 **THE DEFENDANT:** I need it.

3 **THE COURT:** I mean, you can walk without it?

4 **THE DEFENDANT:** If I ain't got my walker or my cane
5 or the stints for my leg.

6 **THE COURT:** All right. Anything else you want to
7 say as I figure out how much -- what your sentence
8 should be?

9 **THE DEFENDANT:** Have mercy on me, Judge. I got
10 twelve kids.

11 **THE COURT:** Twelve kids?

12 **THE DEFENDANT:** Yes, sir. I've got two in middle
13 school and --

14 **THE COURT:** How old is the oldest?

15 **THE DEFENDANT:** She's thirty.

16 **THE COURT:** How old are you?

17 **THE DEFENDANT:** I'm forty-six right now.

18 **THE COURT:** Forty-six. You started early. And how
19 old is the youngest?

20 **THE DEFENDANT:** He's going on fifteen.

21 **THE COURT:** So you had twelve kids in a span of
22 fifteen years?

23 **THE DEFENDANT:** Yes, sir.

24 **THE COURT:** By how many different women?

25 **THE DEFENDANT:** Four.

1 **THE COURT:** Four different women. All right. How
2 about that, Mr. Drylie? He's done well, huh?

3 **MR. DRYLIE:** Your Honor, we just simply ask for as
4 much mercy as the Court could show.

5 **THE COURT:** All right. What do you say about that,
6 Madam Solicitor? How much time do you want me to give
7 him and why?

8 **MS. RADLEIN:** Your Honor, as you know, I leave the
9 sentencing in the discretion of the Court. In this
10 particular case, the Defendant hasn't -- is entitled to
11 a trial, and that's been done, but he's never taken
12 responsibility for cashing this check and I think it's
13 the State's position that some active time is warranted
14 in this case considering -- especially considering the
15 fact --

16 **THE COURT:** He'll get some active time. That's
17 guaranteed.

18 **MS. RADLEIN:** Okay. Considering he has ten years
19 over his head on probation, and I can't predict what
20 the judge in Richland County's gonna do, but he
21 violates his probation for other reasons as well as
22 for this charge, being this crime is a violation of
23 his probation. I think anywhere from three to
24 four years would be --

25 **THE COURT:** What do you make of this probation

1 charge? What's this -- contraband by a prisoner, what's
2 that about?

3 **MS. RADLEIN:** I don't know the nature of the charge,
4 Your Honor, but for the judge to put ten years over his
5 head on a contraband charge while he's in prison with
6 his last conviction being a violation of registering
7 suggests something about the nature of this charge.

8 **THE COURT:** What's that all about, Mr. Dantzler,
9 contraband by a prisoner?

10 **THE DEFENDANT:** Contraband by prisoner, when I used
11 to walk and run, when I showed somebody how to get to a
12 penitentiary and they threw some cell phones back across
13 the fence.

14 **THE COURT:** At a prison?

15 **THE DEFENDANT:** Yes.

16 **THE COURT:** Which prison was that?

17 **THE DEFENDANT:** Lee County.

18 **THE COURT:** In Bishopville?

19 **THE DEFENDANT:** Yes, sir.

20 **THE COURT:** They threw a cell phone across the
21 fence?

22 **THE DEFENDANT:** Yes, sir.

23 **THE COURT:** For you?

24 **THE DEFENDANT:** No.

25 **THE COURT:** You were just kind of showing them the

1 ropes or something?

2 **THE DEFENDANT:** No, I showed them how to get back
3 there. When I got back out, they came back out and they
4 told them I'm with them, so that's how I got -- hands of
5 one, the hands of all.

6 **THE COURT:** So that wasn't much of a big deal. You
7 were in Lee County at the time?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** For the not registering as a sex
10 offender?

11 **THE DEFENDANT:** No.

12 **THE COURT:** Why were you in Lee County Correctional?

13 **THE DEFENDANT:** That was because -- supposed to be
14 for a burglary, I think.

15 **THE COURT:** Burglary?

16 **THE DEFENDANT:** Yes, sir.

17 **THE COURT:** All right. Any other final words of
18 wisdom --

19 **MR. DRYLIE:** No, Your Honor.

20 **THE COURT:** -- before I put the pen to it?

21 Well, with regard to the issue of restitution,
22 what is the -- part of the Court's evaluation of whether
23 to order restitution is the likelihood that the person
24 -- or the ability of the person to pay restitution and,
25 you know, we had -- the last person who pled guilty, he

1 wanted to -- said they could pay \$8,000 in restitution,
2 and they were ordered to do it, he was working and all
3 that, so let's -- how about Mr. Dantzler there? What's
4 his capacity to pay?

5 **MR. DRYLIE:** Your Honor, with complete candor to
6 the Court, from what he has told me he was doing odd
7 jobs for the past few years and he is trying to get
8 on disability, but he is limited with what he can do
9 physically.

10 **THE COURT:** And, Mr. Covert, with respect to the
11 forgery, the bank gave you the money back?

12 **MR. COVERT:** Yes, Your Honor. They handled it as,
13 you know, a fraudulent check that day. And there were
14 actually several others involved, but they restored that
15 money immediately.

16 **THE COURT:** Yeah. Well, you know, the people these
17 days they find a company who -- gets the name of any
18 company and goes to the computer, makes a check and have
19 different people like Dantzler and others to go to the
20 bank and cash them. And if the bank is not vigilant --
21 and the lady figured it out after he left. I mean, she
22 just as easily could have figured it out when he was
23 there perhaps, I don't know, but that's on the issue of
24 restitution. This victim is not out; the bank obviously
25 is, but the Court is to consider all those factors

1 including -- when he goes to prison, that's the penalty
2 for the crime, as opposed to restitution, depending on
3 the circumstances, so. Now the bank -- we still have
4 the bank lady here though. I'm not speaking negatively
5 of the bank, but -- anything you want to say on that
6 issue, ma'am?

7 **MS. O'NEAL:** No, sir.

8 **THE COURT:** All right. Mr. Dantzler, the sentence
9 of the Court is that you be committed to the State
10 Department of Corrections for a period of three years
11 and you get credit for time served. Good luck to you,
12 sir.

13 **MS. RADLEIN:** Thank you, Your Honor.

14 **MR. DRYLIE:** Thank you, Your Honor.

15 **THE COURT:** All right. Ladies and gentlemen, that
16 does it for this day. Thank you all very much. You all
17 are free to go until --

18 **THE CLERK:** You need to report back here on the
19 fourth floor tomorrow at 10:45.

20 **THE COURT:** 10:45 for the next matter. Thank you
21 all.

22 **MR. DRYLIE:** Thank you, Judge.

23 (Whereupon, the proceedings were concluded at
24 12:28 PM.)
25

WITNESSES

Cayce Department of Public Safety

Jason R. Merrill

Law Enforcement Case #: 1307047

SR

ARREST WARRANT NUMBER

2013A3220300387

DOCKET NO. 2014GS3200029

The State of South Carolina

County of Lexington

COURT OF GENERAL SESSIONS

MARCH TERM 2014

THE STATE
vs.

Oscar Lee Dantzler

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury

Date: 3/10/14

VERDICT

Guilty

CDR #: 3436

Indictment for

Forgery, value less than \$10,000

§ 16-13-0010(A)

DONALD V. MYERS, SOLICITOR

Stephen Keene

Foreperson of Petit Jury

Date: 1-13-15

A TRUE COPY
Lex. Co. C.C.P., G.S. & F.C.

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

INDICTMENT FOR
Forgery, value less than \$10,000

§ 16-13-0010(A)

At a Court of General Sessions, convened on March 2014, the Grand Jurors of Lexington County present upon their oath:

That **Oscar Lee Dantzler** did, in Lexington County, South Carolina, on or about October 23, 2013, falsely make, forge, or counterfeit; cause or procure to be falsely made, forged, or counterfeited; or willfully act or assist in the false making, forging, or counterfeiting of any writing or instrument of writing; utter or publish as true any false, forged, or counterfeited writing or instrument of writing; or willingly act or assist in any of the premises, with an intention to defraud any person, to wit: did utter a forged counterfeit check, such having a value of less than ten thousand (\$10,000) dollars, in violation of §16-13-0010 of the South Carolina Code of Laws of 1976, as amended.

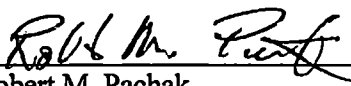
Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

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 April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

August 4th, 2015


Robert M. Pachak
Appellate Defender

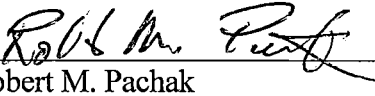
South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C. 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

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August 4th, 2015


Robert M. Pachak
Appellate Defender

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ATTORNEY FOR APPELLANT

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AUG 04 2015
SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Lexington County

Clifton Newman, Circuit Court Judge

 ORIGINAL

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AUG 04 2015

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

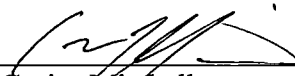
OSCAR LEE DANTZLER,

APPELLANT

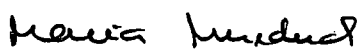
APPELLATE CASE NO. 2015-000192

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon David Spencer, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 this 4th day of August, 2015.


Cruise Mitchell
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 4th day of August, 2015.



Notary Public for South Carolina

My Commission Expires: July 3, 2023.