

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Apr 15 2020
SC Court of Appeals

Appeal from Union County

Honorable William A. McKinnon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

THOMAS HAROLD SAILORS, JR.

APPELLANT

APPELLATE CASE NO 2019-000391

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1 STATE OF SOUTH CAROLINA

2 -----x

3 STATE,

4 Plaintiff,

5 Case No.

6 -against- 2018-GS-44-0192

7 THOMAS HAROLD SAILORS JR.,

8 Defendant.

9 -----x

10 February 26-27, 2019

11 Union, S.C.

12

13 B E F O R E:

14 HONORABLE WILLIAM MCKINNON

15

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

17 MEGHAN GILMER,

18 Attorney for the State

19

20 JENNIFER WILLIAMS,

21 Attorney for the Defendant

22

23

24 Aileen Butler

25 Official Court Reporter

1 extensive notes and in the jury it turns into a battle
2 of who has the best notes and that's not what I want.
3 So I don't permit anyone to take notes. I will give
4 you a written copy of my explanation of the law that
5 you can take back with you to the jury room and also
6 you will have all the written evidence in the case
7 with you in the jury room. And if you want any part
8 of the trial testimony, what the witnesses say it is
9 all being recorded and taken by a court reporter. It
10 can be replayed to you if you want to rehear any of
11 the witness's testimony as part of your deliberation.

12 Any questions ladies and gentlemen about what I
13 said? Madam solicitor.

14 MS. GILMER: Thank you, Your Honor. May it
15 please the Court.

16 THE COURT: I should ask, any objection to my
17 initial charge?

18 MS. GILMER: No objection from the State, Your
19 Honor.

20 MS. WILLIAMS: No, Your Honor.

21 THE COURT: Madame solicitor.

22 MS. GILMER: Thank you, Your Honor. May it please
23 the Court.

24 This is a case about a man who tried his luck one
25 time to many and that man is the defendant, Thomas

1 Sailors and he sits before you charged with two counts
2 of forgery.

3 On October 16th of 2017, Earica Crosby was working
4 down here at the Duncan Bypass at Park Sterling Bank
5 that is now known as South State Bank. She was a
6 senior teller there. Was responsible for overseeing
7 the other tellers, managing the tellers and also
8 conducting transactions herself.

9 On that date she called the victim, Brenda Keith,
10 in this matter because there was a man who had come
11 into the bank and he had a check that belonged to
12 Brenda Keith. And that teller, Miss Crosby, knew that
13 they had dealt with Miss Keith for many years. She
14 had been a client of that bank for many years and they
15 also keep a signature card on record of their clients
16 when they first open an account. So this man, the
17 defendant, who had come in sending out red flags in
18 Miss Crosby's mind that something was not right about
19 this transaction that he was trying to do. So she
20 contacted Miss Keith.

21 Now, Miss Crosby is going to be here today and she
22 is going to testify and she will tell you about that
23 transaction with the defendant. I want you to listen
24 to her testimony. Be patient with her. It has got to
25 be nerve racking coming in to court and talking and

1 have to testify in front of a group of strangers. So
2 please be patient with her. She is going to tell you
3 you about that transaction on October 16th and Brenda
4 Keith will be here today as well to tell you how she
5 received a call from Miss Crosby at the bank. She
6 went over to the bank and she confirmed I did not give
7 the defendant permission to try and cash that check.
8 I didn't give him that check. There is no reason we
9 would have had any interaction for him to have one of
10 my checks. Miss Keith will testify for you today as
11 well.

12 Now, there will a number of law enforcement
13 officers that you will hear from. Officer Rusty Young
14 was the officer on scene, the case officer originally
15 who first spoke with Miss Crosby and Miss Keith about
16 what happened that day. And he is going to be here to
17 tell you about his part in the investigation and how
18 he ended up turning the case over to Investigator
19 Jerome Beatty who is also here and you will also hear
20 from him and he is going to tell you the steps he took
21 in his investigation,

22 Now, during this investigation Jerome Beatty
23 learned from a fellow officer he worked with,
24 Investigator Mark Gregory, that the defendant had
25 actually been in Walmart the day before trying to cash

1 this check. So, here is a man that we have who went
2 in to Park Sterling Bank thinking he got away with it
3 at Walmart, went into Park Sterling Bank and again
4 tried to pass the victim's check and that's why we
5 have the two counts of forgery.

6 Th judge is going to instruct you at the end of the
7 case what forgery means. The fancy language used
8 under the law. But essentially I want you to listen
9 for a couple of things. Did Brenda Keith give the
10 defendant permission to cash this check. Did Brenda
11 Keith give him this check. Did she have any knowledge
12 that he had this check of hers. And then also did
13 this defendant try to cash this check knowing he did
14 not have the consent from the victim to try to get
15 money from her account. So those are the things I
16 want you to listen for.

17 In this case I ask that you be fair to the defense
18 and the State. The State has the burden of proof so
19 we're going to be submitting witnesses and testimony
20 for you to hear how the State has the evidence to show
21 you that the defendant, Thomas Sailors, is guilty of
22 these two counts of forgery. But I ask that you be
23 fair to both parties. I do not anticipate this will
24 be a very long trial. I think we should be able to
25 wrap this up by tomorrow morning. But we do

1 appreciate your service as jurors. I know this is
2 probably not the first place any of you want to be but
3 we do appreciate you being here. It's a very
4 important role that you guys are playing.

5 So again, please just listen to the evidence. Hear
6 the testimony. See the evidence. And I submit to you
7 at the end of this case you will had have what you
8 need to take back in that jury room along with your
9 common sense to convict the defendant, Thomas Sailors
10 of two counts of forgery.

11 Thank you.

12 THE COURT: Miss Williams.

13 MS. WILLIAMS: Thank you, Your Honor.

14 Ladies and gentlemen, Thomas Sailors is a simple
15 man that lives a simple life. And quite simply on
16 that day he went to his mailbox and found a check in
17 there. And now the State, the government, has charged
18 him with two counts of forgery. And now they are
19 here. There will be witnesses. We will hear
20 testimony and at the end of that the judge is going to
21 charge you on the law. We will make closing
22 statements and that's when I will be asking you
23 questions and what I'm asking you to keep in mind
24 right now is beyond a reasonable doubt. We will talk
25 about that again. We will talk about what that means.

1 Right now your job is to use your common sense like
2 the solicitor just asked you to do. I ask you to do
3 that as well. Use your common sense. Listen to the
4 witnesses. Observe the witnesses, and remember the
5 State has to prove their case beyond a reasonable
6 doubt. That's important here. Along with the laws on
7 these charges. That's important here too. Because at
8 the end of this I am going to be asking you to find
9 Mr. Sailors not guilty of these two counts of forgery.

10 Thank you.

11 THE COURT: State call your first witness.

12 MS. GILMER: Thank you, Your Honor. May it
13 please the Court. The State calls Officer Rusty
14 Young.

15 RUSTY YOUNG, called as a witness, having been duly
16 sworn by the clerk, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MS. GILMER:

20 Q Would you please state your name for the record?

21 A I am officer Rusty Young.

22 Q And Officer Young, how are you employed?

23 A I am employed with the city of Union Public Safety
24 Officer as a PSO.

25 Q And what is PSO Officer?

1 A PSO officer is a firefighter and police officer. We do
2 both here.

3 Q And how long have you been with the city police
4 department?

5 A Twenty-three years.

6 Q And to become an officer with the city what type of
7 training did you have to go through?

8 A We had to attend the South Carolina Criminal Justice
9 Academy to be trained as class one officer.

10 Q And how long does the academy last?

11 A Nine weeks to 16 weeks I think.

12 Q And as an officer does your training end at the
13 academy?

14 A No, ma'am.

15 Q You continually go to classes?

16 A Yes, sir. Yes, ma'am.

17 Q And what do those type of classes range in?

18 A Legal up dates, firearm training. Anything that comes
19 out over the year or course of the year it gets undated and we
20 get updated with it.

21 Q And were you employed with the city police department
22 back in October of 2017?

23 A Yes, ma'am, I was.

24 Q And were you specifically working on October 16th of
25 2017?

1 A Yes, ma'am I was.

2 Q Were you dispatched out to park Sterling Bank?

3 A Yes, ma'am.

4 Q And does it have a different name now?

5 A Yes, ma'am, I think it's South State.

6 Q And what was that dispatch regarding?

7 A I was dispatched to 502 North Duncan Bypass which was
8 Park Sterling Bank's address there in the city of Union and I
9 was there because somebody was trying to cash a check, a
10 fraudulent check.

11 Q That 502 North Duncan Bypass was that location within
12 the city's jurisdiction?

13 A Yes, ma'am, it is.

14 Q And is that within greater Union County?

15 A Yes, ma'am, it's in the County of Union.

16 Q And when you arrived at that location did you go inside
17 of the bank?

18 A Yes, ma'am, I can did.

19 Q Did you speak with anyone at that time?

20 A Yes, ma'am. I spoke with Miss Brenda Keith. Miss
21 Garner. I no idea what her first name is. And Miss Crosby.

22 Q Okay. Let's start with Brenda Keith. Who did you
23 determine her to be?

24 A She was going to be the victim in this case.

25 Q And then what about Earica Crosby. What was her role?

1 A I think her role was the teller.

2 Q And then Miss Garner, was she a bank employee?

3 A Yes, ma'am. She is the branch manager of Park Sterling
4 at the time.

5 Q And what did Earica Crosby tell you had occurred?

6 A Said that a white male that was identified as Thomas
7 Sailors had come in with a check trying to cash it. She could
8 not cash it. She had to verify the check so she was going to
9 call Miss Brenda Keith that was named on the check.

10 Q And did she tell you you that she ended up calling
11 Brenda Keith?

12 A Yes, ma'am, Miss Crosby said she had called her.

13 Q And did she give you any indication what the defendant
14 Thomas Sailors did?

15 A Miss Crosby said that I'll just go outside and smoke a
16 cigarette and wait on Brenda Keith to get there and he excited
17 the door.

18 Q And did she indicate what he did after he excited the
19 door?

20 A Said when he exited the door he had walked towards a re
21 pickup truck and then all of sudden for some reason she could
22 see out the window took off running.

23 Q And had there been anything that occurred in the
24 parking lot of the bank?

25 A Yes, ma'am. There had been a motor vehicle accident at

1 the bank itself there in the parking lot.

2 Q Did you determine whether that motor vehicle accident
3 was related to the defendant Thomas Sailors who was inside the
4 bank?

5 A No, ma'am. There was another officer working that
6 particular incident. I was mainly inside the bank working on
7 the situation with the check.

8 Q And when you spoke with Earica Crosby did she indicate
9 that the victim, Brenda Keith, had the checkbook with her at
10 that time?

11 A Yes, ma'am.

12 Q Did she tell you anything specifically about the
13 checkbook?

14 A Benda Keith opened the checkbook up and it had like
15 carbon papers. You know, once you write a check on it it goes
16 through the thing and she had showed where the check above that
17 check had been wrote for somebody and it had bled in on the
18 carbon copy that was under the other check.

19 Q And did you also talk to Brenda Keith?

20 A Yes, ma'am, I did.

21 Q And what did she tell you?

22 A She stated that, you know, somebody had tried to get
23 her account. Cash a check on her account and everything but she
24 did not know who Thomas Sailors was.

25 Q Did she indicate whether she had given anyone

1 permission to have access to this check?

2 A No, ma'am. She stated she had not given anyone
3 permission or wrote a check to anybody by that name.

4 Q And as a patrol officer do you often turn cases over to
5 investigators?

6 A Yes, ma'am.

7 Q Did you do that in this matter?

8 A Yes, ma'am. In this matter with everything that we had
9 going on and I had a few little questions I contacted our
10 investigator captain and asked him if he would send an
11 investigator up there to me to kind of led a hand with me on it
12 and he sent Investigator Beatty.

13 Q And when Investigator Beatty arrived on scene did you
14 brief him on what you knew at that time?

15 A Yes, ma'am, I did.

16 Q And at that point was it your understanding it was
17 Investigator Beatty's responsibility to work the rest of the
18 case?

19 A Not at that point. I was still working the case. I
20 mean, I had things I had to do and he advised me that once I
21 finished my part of the investigation to turn it over to him
22 because he would be familiar with the case because I called him
23 out to it.

24 Q And what other steps did you do during your part of the
25 investigation?

1 A In other words, I had actually seen the check that was
2 trying to be cashed. I had taken it into evidence and logged it
3 in to a thing. I wrote my report up and everything then I sent
4 it back to where Investigator Beatty.

5 MS. GILMER: Your Honor, if I may approach the
6 witness?

7 THE COURT: You may.

8 Q Officer Young, I am showing you what has been
9 previously marked as State's Exhibit 1. Do you are recognize
10 this?

11 A Yes, ma'am, I do.

12 Q Okay. And what do you recognize that to be?

13 A It's the check that was handed to me at Part Sterling
14 Bank at the time.

15 Q And did you receive that check from bank personnel at
16 Part Sterling?

17 A Yes, ma'am, I did.

18 Q And was it your understanding that was the check that
19 the defendant presented to the teller Earica Crosby?

20 A Yes, ma'am.

21 Q And was that the check that Brenda Keith confirmed was
22 hers?

23 A Yes, ma'am, and it actually was missing out of her
24 checkbook.

25 Q And as far as you can tell is that check in the same or

1 substantially the same condition as when you collected it from
2 the bank personnel?

3 A Yes, ma'am, it is.

4 Q Thank you.

5 MS. GILMER: Beg the Court's indulgence, Your
6 Honor.

7 THE COURT: Certainly.

8 MS. GILMER: I have no further questions at this
9 time Your Honor. Thank you.

10 THE COURT: Miss Williams.

11 MS. WILLIAMS: Thank you, Your Honor.

12 CROSS EXAMINATION

13 BY MS. WILLIAMS:

14 Q Officer Young, you said that Mr. Sailors left the bank
15 and went and spoke to somebody outside?

16 A Yes, ma'am.

17 Q In a red truck?

18 A Yes, ma'am.

19 Q Who was in the red truck?

20 A At the time me and Investigator Beatty approached the
21 truck. We identified the driver as Ann Patrick. Amy Patrick,
22 something like that.

23 Q Did you question Amy Patrick?

24 A No, ma'am, I did not but Investigator Beatty read her
25 her Miranda rights and then asked her a he few questions.

1 Q What did you determine was her connection with Mr.
2 Sailors?

3 A That we were told by Miss Brenda Keith that he had come
4 in the red truck with Miss Patrick.

5 Q So your understanding is Miss Brenda Keith witnessed
6 him arrive in the red truck?

7 A No, ma'am. She just stated that he had come in the red
8 truck.

9 Q Was Miss Patrick ever charged with anything?

10 A No, ma'am.

11 Q Was Miss -- did Miss Brenda Keith know Mr. Sailors
12 personally?

13 A She stated she didn't know him at the time.

14 Q Did you ever talk to Mr. Sailors?

15 A No, ma'am.

16 Q Did you compare writing of Mr. Sailors with the check?

17 A No, ma'am, because I'm not certified and able to verify
18 nothing like that.

19 Q How much was the check written for?

20 A I think it was \$117, I think it was.

21 MS. WILLIAMS: And Your Honor if I may approach
22 the witness?

23 THE COURT: You may.

24 Q I am going to hand you up State's Exhibit's 1. In the
25 memo line what is the check stated it's is made out for?

1 A In the memo line, it should be for 13 hours of pay.

2 Q So it says it's made out for 13 hours of pay?

3 A Yes, ma'am.

4 Q And to your knowledge this was a check made out on a
5 business check? Is it a check from the tree service?

6 A Yes, ma'am, I guess so. I'm not sure.

7 Q Did you get a written statement from Amy Patrick?

8 A No, ma'am.

9 Q Did you have happen to compare Amy's signature to the
10 signature on the check?

11 A No, ma'am.

12 MS. WILLIAMS: No further questions Your Honor.

13 THE COURT: Any redirect?

14 MS. GILMER: Just a couple, Your Honor.

15 REDIRECT EXAMINATION

16 BY MS. GILMER:

17 Q Officer Young, your understanding who was it that
18 actually brought the check into the bank and presented it to the
19 teller?

20 A My understanding was it was Thomas Sailors, a white
21 mail that brought the check in.

22 MS. GILMER: I no further questions, Your Honor.

23 THE COURT: Any recross Miss Williams --

24 MS. WILLIAMS: No, Your Honor.

25 THE COURT: Thank you, officer, you may step

1 down.

2 Call your next witness.

3 MS. GILMER: Thank you, Your Honor. The State
4 call Earica Crosby.

5 EARICA CROSBY, called as a witness, having been
6 duly sworn by the clerk, was examined and testified as
7 follows:

8 DIRECT EXAMINATION

9 BY MS. GILMER:

10 Q Would you please state your name?

11 A Earica Crosby.

12 Q And Miss Crosby, how are you employed?

13 A By South State Bank.

14 Q And did that bank have a former name?

15 A Park Sterling Bank.

16 Q And what are your duties with South State or Park
17 Sterling Bank?

18 A I am a senior teller. I manage the day-to-day
19 operations of the tellers, transaction processing, cash handling
20 and the vault.

21 Q And were those your duties back on October 16th of
22 2017?

23 A Yes.

24 Q And I am going to turn your attention, Miss Crosby, to
25 that date of October 16th of 2017. Were you currently working

1 that day, is that correct?

2 A Yes.

3 Q And was there any suspicious transaction that stood out
4 your mind on that day?

5 A We had a check that was presented for cash that was a
6 fraudulent check or forged check.

7 Q And on whose account was that check submitted?

8 A It was for Brenda Keith, her business account was
9 Triple A service.

10 Q And Brenda Keith, had you dealt with her before?

11 A Yes, for many years.

12 Q And in those dealings was that profession? Was she a
13 client of the bank?

14 A Yes.

15 Q And when someone opens an account with the bank do they
16 give a signature?

17 A Yes. We obtain a signature card for anyone that is on
18 the account, whether it is primary or secondary persons and that
19 signature is for verification purposes for our transaction
20 process.

21 Q And who brought in this check that you deemed
22 questionable?

23 A His name was Mr. Thomas Sailors.

24 Q And how did you know him to have his name?

25 A His identification. I asked for his ID when he

1 presented the check for cash.

2 Q So walk us through the process if you will Miss Crosby.
3 When someone comes in and they have a check and they want to
4 cash it what's the the typical process for that?

5 A If they are not the client that is presenting the check
6 we ask for ID, or even a secondary identification and we obtain
7 the information there and proceed forward.

8 MS. GILMER: If I may approach the witness, Your
9 Honor.

10 THE COURT: Certainly.

11 MS. GILMER: Thank you.

12 Q Miss Crosby, I am going so show you what has previously
13 been marked as State's Exhibit 1 and you are welcome to take
14 that out if that will assist you in your testimony.

15 As to that specific exhibit number 1, is that the check
16 that you received on October 16th of 2017?

17 A Yes.

18 Q And is that substantially in the same condition as it
19 was back on October 16th of 2017?

20 A Yes, it looks to be.

21 Q So when you were received that check on that date what
22 stood out to you?

23 A The way that it's made out. It says cash to Thomas
24 Sailors. By Miss Brenda being a long time client of the bank
25 that's abnormal for her to have written that on that check.

1 Q Okay. So it's abnormal for her to write cash to
2 somebody?

3 A Yes.

4 Q Was there anything else that stood out to you?

5 A The signature. The signature was different then what
6 her signature card presented. So it was not the same for me
7 when I looked at it.

8 Q And is there anything with the ink used with that
9 check?

10 A Two different colors. A red flag for us as tellers
11 saying that check could have been altered or some extra could
12 have been written in at the top.

13 Q So on that date when the defendant brought that check
14 in to cash, you asked him for his identification?

15 A Yes.

16 Q And you said that's standard procedure for you?

17 A Yes.

18 Q When he gave his identification was there anything that
19 stood out to make you think this man on this identification
20 card, the picture, is not the same man that is before me?

21 A No, ma'am, it was the the same man.

22 Q And what did you do at that point once those red flags
23 were raised?

24 A I called our client, Miss Brenda Keith, and verified
25 the information on the check to see if she had written the check

1 to this person. She let me know then that she had not and asked
2 me to see if he would stay until she, you know, made it to the
3 bank.

4 Q All right. And did she also ask you to call police?

5 A Yes.

6 Q And in the meantime when you got off the phone with her
7 what happened then?

8 A I asked Mr. Sailors to have a seat in our lobby and
9 wait until she arrived. He then told me he was going to step
10 outside to smoke. After that we saw that he was leaving in his
11 vehicle with someone else driving and they had a car accident in
12 our parking lot and he fled the scene of the parking lot on foot
13 behind he El Poblano Mexican Restaurant.

14 Q I will back up just a little bit. So in the bank,
15 where are you at a particular station in the bank?

16 A Yes, ma'am. I'm directly in front of the door. In
17 front of the front door.

18 Q And are you able to see outside without getting up from
19 your station?

20 A Yes.

21 Q How is that? What's the makeup of the bank?

22 A We have a set of window panes on each side of the doors
23 that's a clear view to the parking lot and then along the side
24 of the building or down the side of the building there's also
25 windows for each office and cubicle that is on the side of the

1 the building that allow us to see out into the parking lot into
2 the side view.

3 Q And so you say that you saw the defendant step outside,
4 what kind of vehicle did he get in to?

5 A It was a pickup truck.

6 Q Do you remember the color?

7 A Not off hand but, yes, it was pickup truck. I do know
8 it was pickup truck and there was a Caucasian female driving.

9 Q So he was not the driver?

10 A No, ma'am.

11 Q And this pickup truck is it the one that was involved
12 in an accident in the parking lot?

13 A Yes, ma'am.

14 Q And did you personally see the defendant flee from the
15 scen?

16 A Yes, I saw him walked across the parking lot.

17 Q You said he walked. Was this a fast walk? A slow walk?

18 A It was a hurried walk, yes, ma'am.

19 Q Was there anything else suspicious about the defendant
20 when he came in to the bank? Did anything else stand out in
21 your mind?

22 A Other than that I had never seen him before in there
23 which that throws up, you know, flags for us immediately anyway.
24 Just to be on alert when clients that come in that we're not
25 familiar with.

1 Q Was there any hesitation from him when you asked him
2 for his identification?

3 A Yes, ma'am. He kind of acted as if he didn't want to
4 show an ID. Like someone that was reluctant to give me his
5 identify.

6 Q And did you ever give him his ID back?

7 A I did.

8 Q At what point did you do that?

9 A After I called Miss Brenda.

10 Q And did you give him back the check?

11 A No, ma'am. I set it to the side until she arrived or
12 until the police arrived just so we could have the actual
13 evidence of the check.

14 Q And this female that was driving this truck that caused
15 this accident, did she remain on scene?

16 A Yes.

17 Q And did the truck remain on scene?

18 A Yes.

19 Q Miss Crosby, I am going to turn your attention back to
20 the State's Exhibit 1. Is there an amount written on that?

21 A Yes, ma'am, it's for one \$117.

22 Q And Miss Crosby, when Brenda Keith arrived at the bank
23 that day did she have her checkbook with her?

24 A She did.

25 Q Is there anything that stood out to you about the

1 checkbook?

2 A She presented the check to my branch manager and they
3 looked through. The check was missing. This current check was
4 missing but the check before that had been written out and the
5 check after that were still there.

6 Q And what did that indicate to you?

7 A This check did not have -- she had carbon copies so the
8 check should have been written in her carbon copy but this check
9 was not. It looked as if she had written other checks and it
10 faded through on to that carbon copy there.

11 MS. GILMER: Your Honor, if I could approach the
12 witness?

13 THE COURT: You may.

14 Q Miss Crosby, I am showing you what has been marked as
15 State's Exhibit 5. Do you recognize that?

16 A Yes, ma'am.

17 Q And what do you recognize that to be?

18 A That is surveillance, bank surveillance and that is my
19 date and signature on that to verify that.

20 Q And what does that date and signature indicate to you?

21 A That I have seen that video.

22 Q And this video is it fair and accurate depiction of
23 your transaction with the defendant on October 16th of 2017?

24 A Yes.

25 MS. GILMER: Your Honor, at this time I would move

1 to enter into evidence what has previously been marked
2 as State's Exhibits 5.

3 THE COURT: Any objection Miss Williams.

4 MS. WILLIAMS: No, Your Honor.

5 THE COURT: Without objection.

6 (WHEREUPON, State's Exhibit 5, video, was entered
7 in evidence.

8 MS. GILMER: And I would ask to publish to the
9 jury.

10 THE COURT: Please do.

11 (WHEREUPON, a video was played.)

12 Q Miss Crosby, is this your station right here that we
13 are looking at?

14 A Yes, that's correct.

15 Q And who is the male that is standing right there at the
16 station?

17 A That is the gentleman that presented the check to me.

18 Q And do you know his name?

19 A Thomas Sailors.

20 Q And Miss Crosby, who is the female standing there?

21 A That is me.

22 Q And Miss Crosby, when you are walking around what are
23 you doing at that point?

24 A Going to see where he went to because he left in the
25 front of the building.

1 Q And Miss Crosby, from where did you call Brenda Keith
2 when you made that call to her?

3 A My teller station.

4 Q So when we saw you at that station you have a phone
5 there?

6 A Yes, ma'am.

7 Q And were you calling Miss Keith in front of the
8 defendant?

9 A Yes, ma'am.

10 Q And were you aware if the defendant had tried to cash
11 this check at another institution?

12 A At the time that I remember, it looked like someone
13 else had tried to cash the check. Like the trace numbers. It
14 looked like it would have been cashed or tried to cash somewhere
15 else.

16 Q And in case I did not ask you already, did you turn
17 this check over to law enforcement?

18 A We did.

19 MS. GILMER: I have for no further questions at
20 this time, Your Honor. Thank you.

21 THE COURT: Yes, ma'am.

22 CROSS EXAMINATION

23 BY MS. WILLIAMS:

24 Q Just one quick question. Do you know everybody that
25 comes in to the bank?

1 A Not everyone.

2 MS. WILLIAMS: Thank you, Your Honor.

3 THE COURT: Miss Gilmer, any redirect?

4 MS. GILMER: No further questions, Your Honor.

5 Thank you.

6 THE COURT: Thank you, ma'am. You may step down.

7 MS. GILMER: And Your Honor, we have no objection
8 for this witness to be excused.

9 THE COURT: Any objection from the defense?

10 MS. WILLIAMS: No, Your Honor.

11 THE COURT: Thank you, ma'am, you are excused.

12 THE WITNESS: Thank you.

13 MS. GILMER: Your Honor, the State calls Brenda
14 Keith.

15 BRENDA KEITH, called as a witness, having been
16 duly sworn by the clerk, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 BY MS. GILMER:

20 Q Would you please state your name for the jury?

21 A Brenda Keith.

22 Q And how old are you Miss Keith?

23 A Seventy.

24 Q And do you live here in Union County?

25 A Yes.

1 Q How long have you been a resident of Union?

2 A All my life.

3 Q And do you have a tree business?

4 A Yes.

5 Q What is the name of that tree business?

6 A AAA Union Tree Service.

7 Q And do you have an account with South State Bank or
8 what use to be known as Park Sterling Bank?

9 A Yes.

10 Q And how long have you been an account holder there?

11 A Gosh, as long as I can remember.

12 Q And were you an account holder back on October 16th of
13 2017?

14 A Yes.

15 Q And on that date did you receive a phone call from the
16 bank?

17 A Yes, I did.

18 Q And what was that phone call regarding?

19 A She asked me did I write this guy a check. She told me
20 his name and I said no, I haven't wrote no worker no check.

21 Q And at the time did the name she tell you ring any
22 bells?

23 A Not at the time it didn't.

24 Q Were you sure though had you not written that check?

25 A Oh, I was positive.

1 Q And since she called you, after that call, did you come
2 to realize who had come in to the bank with your check?

3 A Yeah, I realized later who he was.

4 Q And who do you know him to be? What was his name?

5 A I knew him as Tom Sailors.

6 Q And do you see him in the courtroom today?

7 A Yes, I do.

8 Q Would you point him out and describe an article of
9 clothing he is wearing?

10 A Yes, he is over there with the brown jacket.

11 MS. GILMER: Your Honor, if the record may reflect
12 the witness has identified the defendant.

13 THE COURT: The record will so reflect.

14 Q And do you have any personal relationship with the
15 defendant?

16 A No. Uh-huh.

17 Q How did you know him?

18 A He was -- Carroll Sailors was my brother-in-law. My
19 sister was married to Carroll Sailors.

20 Q And do you recall the last time you would have had any
21 interaction with Thomas Sailors?

22 A No, I don't.

23 Q Would you estimate that to be hours, days, weeks,
24 years?

25 A Years probably.

1 Q Would you estimate that to be one year, two years, five
2 years, 20 years?

3 A Five years or more I guess.

4 Q At any point did you give a check to Thomas Sailors?

5 A No, I did not.

6 MS. GILMER: Your Honor, if I may approach the
7 witness?

8 THE COURT: You you may.

9 Q I am showing the witness what's been previously marked
10 as State's Exhibit 1. And Miss Keith, do you recognize that?

11 A I recognize it as one of my payroll checks.

12 Q And on that check is any of that your writing?

13 A No.

14 Q And did you give permission for anyone to use that
15 check?

16 A No, I did not.

17 Q When you went to the bank that day did you have your
18 checkbook with you?

19 A Yes.

20 Q Was there anything that stood out to you about your
21 checkbook?

22 A Yes, that check was missing out of the book.

23 Q And do you -- where did you keep that checkbook?

24 A I usually keep it in the drawer in a cabinet, a filing
25 cabinet. I kept it in the second draw.

1 Q Is that at your house or a different location?

2 A At my sister's store. Linda's Variety store. I kept
3 it there.

4 Q And did Thomas Sailors ever do any work for you at the
5 store or for your sister Linda?

6 A No.

7 Q And did he ever do any work for you with your tree
8 service?

9 A No.

10 Q Miss Keith, is that your signature on State's Exhibit 1
11 that is in front of you?

12 A No.

13 Q Is any of that your writing?

14 A No.

15 MS. GILMER: Your Honor if I may approach the
16 witness?

17 THE COURT: You you may.

18 Q And Miss Keith, is there anyone else who would have
19 permission, who would be an account holder for Triple A Union
20 Tree Service?

21 A No.

22 Q So you're the only account holder?

23 A Yes.

24 Q And Miss Keith, did you talk to law enforcement on
25 October 16th?

1 A Yes.

2 Q Did you tell them what you knew about the case?

3 A Yes.

4 MS. GILMER: I have no further questions at this
5 time, Your Honor. Thank you.

6 THE COURT: Miss Williams.

7 MS. WILLIAMS: Thank you, Your Honor.

8 CROSS EXAMINATION

9 BY MS. WILLIAMS:

10 Q Miss Keith, you use this checkbook for payroll,
11 correct?

12 A Yes.

13 Q How many people were employed with Triple A Tree
14 Service?

15 A Two people.

16 Q Two people. So you would use those checks to issue
17 them their wages?

18 A Yes.

19 Q And I believe you said that you kept the check at
20 Linda's Variety store?

21 A Yes.

22 Q Where is that store?

23 A 907 South Duncan Bypass in union.

24 Q Did it use to be known as Avon?

25 A Yes.

1 Q Has Mr. Thomas Sailors ever worked for you?

2 A No.

3 Q We heard you mention Carroll Sailors. Is Mr. Carroll
4 Sailors still alive?

5 A No, he passed away.

6 Q When did he pass away?

7 A It might have been a year ago.

8 Q About a year ago. Who else besides you would have
9 access to your checkbook?

10 A My sister Linda Keith.

11 Q Did would any of Linda's employees have access to that
12 checkbook?

13 A Amy Patrick, she was working at the time I guess when
14 the check got gone.

15 Q Were you -- you said Amy Patrick was working for Miss
16 Linda?

17 A Yes.

18 Q Did you take that checkbook out of Linda's Variety
19 store for any particular reason?

20 A I went and got it when the lady said a check was gone.

21 Q Do you recall how many checks were in the checkbook
22 total?

23 A No, I don't.

24 Q Okay.

25 MS. WILLIAMS: No further questions, Your Honor.

1 THE COURT: Thank you. Any redirect?

2 MS. GILMER: Yes, Your Honor.

3 REDIRECT EXAMINATION

4 BY MS. GILMER:

5 Q Miss Keith, how often would you write checks on that
6 account?

7 A Not too often.

8 Q And from what you saw the checkbook, did it appear
9 someone had stolen that check?

10 A When the bank called me I went straight and got that
11 checkbook and I seen what check was gone and I looked and it was
12 gone.

13 Q Did you have carbon copies of your check?

14 A Yes.

15 Q Was there any indication on the carbon copies that the
16 check may have been stolen?

17 A Yes.

18 Q How so?

19 A I didn't see nothing on the carbon copy. There was
20 nothing wrote, you know, on that carbon copy.

21 Q And just to be clear, Miss Keith, would Thomas Sailors
22 have had any reason to have one of your checks?

23 A No.

24 Q Would there be any reason why he was trying to cash one
25 of your checks?

1 A No.

2 MS. GILMER: I have no further questions, Your
3 Honor. Thank you.

4 THE COURT: Any recross?

5 MS. WILLIAMS: No, Your Honor.

6 THE COURT: All right. Thank you, ma'am. You may
7 step down.

8 THE COURT: Miss Gilmer.

9 MS. GILMER: Thank you, Your Honor. The State
10 would call Investigator Jerome Beatty.

11 JEROME BEATTY, called as a witness, having been
12 duly sworn by the clerk, was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 BY GILMER

16 Q Would you please state your name for the record?

17 A Jerome Beatty.

18 Q And how are you employed?

19 A I am employed with the Union Public Safety Department.

20 Q And how long have you been with the Union Public Safety
21 Department?

22 A Twenty years.

23 Q And do you have any prior law enforcement experience
24 before the city police?

25 A I do.

1 Q And what experience is that?

2 A I was patrol officer with the City of Carlisle and I was
3 patrol officer with the City of Woodruft.

4 Q And I am assuming you went to the academy as Officer
5 Young told us earlier?

6 A I did.

7 Q And do you keep up with your training classes and
8 education to be a law enforcement officer?

9 A I do.

10 Q And have you had classes in training in the
11 investigation of theft related offenses?

12 A I do.

13 Q And Investigator Beatty, were you working with the
14 public safety department on October 16th of 2017?

15 A I was.

16 Q And were you called out to Park Sterling Bank over on
17 the Bypass on that date?

18 A I was.

19 Q And do you know why you were called there?

20 A There was a check that was presented to Park Sterling
21 Bank at the time that appeared to be a forgery.

22 Q And when you arrived on scene were you briefed by any
23 officer as to what was going on?

24 A I was briefed by Officer Russell Young.

25 Q And at that time were you assigned as the investigator

1 on that case?

2 A I was.

3 Q And did you speak with any witnesses?

4 A I spoke with Miss Keith at the time and before I left
5 the bank I spoke with Miss Earica Crosby.

6 Q And did you later get written statements from those two
7 individuals?

8 A I did.

9 Q And let's start with Miss Crosby, Earica Crosby, what
10 did she tell you occurred?

11 A Miss Crosby advised on 10/16/2017 and individual,
12 Thomas Sailors, presented a check for cash. The check looked
13 altered and had been presented for cash at another institution.
14 She advised that she called the client, Miss Brenda Keith to
15 verify the signature and asked if it was okay to cash it. She
16 advised that Miss Keith had not given the individual the check
17 and asked her not to cash the check and call police.

18 She advised the individual, Thomas Sailors, left the bank.
19 Got into a red pickup truck. The truck then caused an accident
20 in the parking lot. Mr. Sailors fled the bank on foot. The
21 police arrived and spoke with Miss Brenda Keith and confirmed
22 that the check was written without permission?

23 Q And did you determine Earica Crosby to be a bank
24 employee at that time?

25 A Yes, ma'am.

1 Q And did you speak with Brenda Keith?

2 A I did.

3 Q And what did she tell you?

4 A I actually spoke with her in the parking lot of the
5 bank.

6 Q And can you take a moment to read over the statement if
7 you need to refresh your recollection and then you can tell us
8 about what she told you.

9 A Basically she advised that she received a call from the
10 bank about the check. When I spoke with her she advised that
11 the check had been written by Thomas Sailors. At the time she
12 wasn't aware who Mr. Sailors was. She advised that he was not
13 an employee of hers and that he should never had a check that
14 belonged to her.

15 While talking to Miss Keith, Amy Patrick was in the red
16 truck and was identified by Miss Keith as being an ex-employee
17 of her sister's. At that time I spoke with Miss Patrick who
18 advised she didn't know anything about the check. At which time
19 I instructed Officer Young to notify the rest of public safety
20 officers to be on the look out for Mr. Sailors. At which time
21 we was unable to locate him.

22 Q So you were never able to locate Mr. Sailors?

23 A No.

24 Q And you mentioned speaking with Amy Patrick. Did Miss
25 Keith ever indicate whether Miss Patrick should ever have one of

1 her checks?

2 A She advised that she shouldn't have had a check either.

3 Q And Amy Patrick, was she ever placed under arrest for
4 this offense?

5 A No.

6 Q And why is that?

7 A At the time there was no evidence to prove that she was
8 involved in it at all. When I talked to her she admitted that
9 she did bring Mr. Sailors to the bank, but that's all she knew
10 that she was just bringing him to the bank.

11 Q Did you have your suspicion that she may be involved in
12 this?

13 A There was some suspicion but was unable to prove it.

14 Q Can you arrest someone just based on your suspicion?

15 A No.

16 Q And through your investigation specifically at Park
17 Sterling Bank was there ever any evidence that it was anyone
18 other than Thomas Sailors that presented this check inside the
19 bank?

20 A No.

21 Q While you were conducting this investigation did you
22 know an individual named Investigator Mark Gregory.

23 A I do.

24 Q And how do you know him?

25 A I work with him every day. He's an investigator.

1 Q And when you say you work together, are you within the
2 same office space as him?

3 A We are.

4 Q How close do you sit with him in the office?

5 A He actually sit in the desk right beside me.

6 Q And did Investigator Gregory ever contribute anything
7 to your investigation?

8 A Upon leaving the bank that day I went to explain to my
9 captain as well as the other guys in the office as to what I had
10 and what I was working on. Investigator Gregory advised me that
11 Mr. Sellers was actually in Walmart the day before in front of
12 him in line with a check trying to cash it but Walmart refused
13 to cash the check because of some discrepancies with the check.

14 Q And would be the Walmart located here on the Bypass?

15 A Yes, ma'am.

16 Q And that is in Union County?

17 A Yes, ma'am.

18 Q And what did you you do after Investigator Mark Gregory
19 told you about that?

20 A At that time I contacted loss prevention at Walmart and
21 I asked them to pull the video, security footage from the day
22 prior of the incident.

23 Q And did you review that video footage?

24 A I did.

25 Q And did you try or attempt to make a comparison of the

1 defendant to the person in that video?

2 A I did.

3 Q And were you able to conclude anything from that?

4 A Yes.

5 Q And what were you able to conclude?

6 A That the individual at Walmart was the same individual
7 at Part Sterling Bank at the time was Thomas Sailors.

8 MS. GILMER: Your Honor, if I may approach the
9 witness.

10 THE COURT: You may.

11 Q Investigator Beatty, I am first going to turn your
12 attention to what has been previously marked as State's Exhibit
13 1. Do you recognize that?

14 A Yes.

15 Q What do you recognize that to be?

16 A This is the check that was presented to me by Officer
17 young.

18 Q And is that in the same or substantially the same
19 condition as on October 16th of 2017?

20 A Yes.

21 Q And when you received that check from Officer Young
22 what did you then do with it?

23 A Officer Young had already logged it in evidence and
24 with a chain of custody on it where he sign it over to me and I
25 took possession of it.

1 Q Is there anything on take package that indicates that
2 you took possession of it?

3 A Yes, I signed on the front of it here, at the bottom
4 where they had it and then it was signed over to me; dated and
5 signed over.

6 Q And is that typically a sealed package?

7 A Yes.

8 Q Was that package sealed prior to court today?

9 A It was.

10 Q And who opened that packaging?

11 A I did.

12 Q And was that for evidence to be easier -- more easily
13 viewed?

14 A Yes.

15 Q So is there anything on that that indicates that would
16 have been tampered with?

17 A There is a tape seal here that has been tampered with.
18 I took my knife and cut it.

19 Q So prior to you taking your knife and cutting it that
20 would have been sealed piece of evidence, correct.

21 A Correct. As of right now it is still sealed other than
22 where I cut it.

23 MS. GILMER: Your Honor, at this time I would move
24 to enter into evidence what has previously been marked
25 as State's Exhibit 1.

1 THE COURT: Any objection?

2 MS. WILLIAMS: No, Your Honor.

3 THE COURT: Into evidence without objection.

4 (WHEREUPON, State's Exhibit 1, check, was received
5 in evidence.)

6 MS. GILMER: Thank you, and I would ask to publish
7 to the jury momentarily.

8 THE COURT: You may publish it.

9 MS. GILMER: Thank you.

10 Q All right. Investigator Beatty, I am also going to
11 show you what has previously been marked as State's Exhibit 4,
12 and State's Exhibit 2, and 3. Let's start with State's Exhibit
13 4 first. What is that?

14 A State's Exhibit 4 is the actual security video from
15 Walmart that was presented by Mr. Bentley.

16 Q And do you recall his first name?

17 A Russ.

18 Q And who is that?

19 A Loss prevention agent at Walmart.

20 Q And is he an individual where law enforcement typically
21 obtains store surveillance from Walmart?

22 A Yes.

23 Q So you received that video from him?

24 A Yes.

25 Q And as to State's Exhibit 2 and 3, are those still

1 photos from that video?

2 A Yes, they were also supplied by Russ Bailey.

3 Q Thank you.

4 MS. GILMER: Your Honor, I am not having too much
5 luck with technology today so we will do this the old
6 fashion way to save some time. And I beg the Court's
7 indulgence, Your Honor.

8 THE COURT: Ladies and gentlemen you may remove
9 the check from the plastic envelope if you want to.
10 It has been admitted into evidence if you want to
11 handle it you may.

12 MS. GILMER: And Your Honor, I have no further
13 questions at this time.

14 THE COURT: Miss Williams.

15 MS. WILLIAMS: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MS. WILLIAMS:

18 Q We have heard some testimony about a signature
19 comparison the teller made. A signature block or signature
20 card. Did you see the signature card?

21 A No, I didn't.

22 Q So did you ever compare Miss Keith's signature -- Miss
23 Keith's known signature with the signature on the check?

24 A I am not certified in comparing signatures.

25 Q So Mr. Sailor's signature was never compared?

1 A No.

2 Q Okay. Or handwriting was never compared. Was Amy
3 Patrick's handwriting was never compared?

4 A No.

5 Q When did the Park Sterling incident happen? What was
6 the date?

7 A 10/16/2017.

8 Q And when can did the Walmart incident happen?

9 A 10/15/2017.

10 Q Has anybody been charged with a larceny of the check?

11 A Not to my knowledge.

12 MS. WILLIAMS: Thank you, Your Honor. No further
13 questions.

14 THE COURT: Any redirect Miss Gilmer?

15 MS. GILMER: No, Your Honor.

16 THE COURT: All right. Thank you. You may step
17 down.

18 MS. GILMER: Your Honor, may we approach briefly?

19 THE COURT: You may.

20 (WHEREUPON, there was an off the record
21 discussion.)

22 THE COURT: We will be at ease for a moment.

23 MS. GILMER: Your Honor, the State calls
24 Investigator Mark Gregory.

25 MARK GREGORY, called as a witness, having been duly

1 sworn by the clerk, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 BY MS. GILMER:

5 Q Would you please state your name for the record?

6 A Mark Gregory.

7 Q And how are you employed?

8 A Union Public Safety Department.

9 Q And how long have you been with the Public Safety
10 Department?

11 A Come June of this year I will be back with them 11
12 years.

13 Q And do you have prior law enforcement experience?

14 A Yes, ma'am. I started with the city and I have
15 experience with the county sheriff's office here in Union and
16 also South Carolina Highway Patrol.

17 Q How many years total would you say you have?

18 A Close to 18.

19 Q And were you employed with public safety department on
20 October 15th ever 2017?

21 A Yes, ma'am.

22 Q And do you currently work with Investigator Jerome
23 Beatty?

24 A Yes, ma'am.

25 Q All right. I will turn your attention to October 15th

1 of 2017. Were you you on duty on that date?

2 A During the incident or --

3 Q Yes, sir, during the incident?

4 A I was off duty.

5 Q And would that have been later in the evening you were
6 off duty?

7 A Yes, ma'am.

8 Q And did you go to Walmart on that day?

9 A Yes, ma'am. I did.

10 Q And was that the Walmart here on Duncan Bypass?

11 A Yes, ma'am, 513 North Duncan Bypass.

12 Q And that is in Union County?

13 A Yes, ma'am.

14 Q And did you purchase anything in Walmart?

15 A Yes, ma'am.

16 Q And who was with you at Walmart?

17 A My daughter.

18 Q And did anything stand out to you about that date when
19 you were in Walmart?

20 A I was in line waiting and I just noticed that the
21 person in front of me was Thomas Sailors, who I just knew and I
22 noticed that he was trying to pass a check. He was trying to
23 buy I think some cigarettes. He tried to pass a check and we
24 kept waiting and that's what kind of draw my attention to it,
25 that it was a check and kept waiting and waiting and finally I

1 think what they call is a CSM with Walmart had to come over and
2 pretty much tell him that they couldn't cash the check for some
3 reason.

4 Q And you knew that male to be the defendant, Thomas
5 Sailors?

6 A Yes, ma'am.

7 MS. GILMER: And Your Honor, if I may approach the
8 witness?

9 THE COURT: You may.

10 MS. GILMER: Thank you.

11 Q I am showing you what has been marked a State's Exhibit
12 4. Do you recognize that?

13 A Yes, ma'am.

14 Q What do you recognize that to be?

15 A That's the Walmart video.

16 Q And have you had an opportunity to view that video?

17 A Yes, ma'am.

18 Q And is that -- is that video a fair and accurate
19 representation of your time in Walmart on October 15th?

20 A Yes, ma'am.

21 Q And this video does it depict you being behind the
22 defendant in line at Walmart?

23 A Yes, ma'am, myself and my daughter, yes.

24 MS. GILMER: Your Honor, at this time I would move
25 to enter into evidence what has previously been marked

1 as State's Exhibit 4.

2 THE COURT: Any objection Miss Williams?

3 MS. WILLIAMS: No, Your Honor.

4 THE COURT: In evidence without objection.

5 (WHEREUPON, State's Exhibit 4, video, received in
6 evidence.)

7 Q And Investigator Gregory, before we start watching the
8 video, do you frequently work with with Walmart in any theft
9 related cases?

10 A Yes, ma'am.

11 Q Is it your understanding that Walmart has multiple
12 video cameras around the store?

13 A Yes, ma'am.

14 Q Are you aware if they have any cameras above registers?

15 A Yes, ma'am.

16 Q Are you aware if they have any at the entrance and exit
17 doors to the store?

18 A Yes, ma'am, they do.

19 Q Investigator Gregory, who is that standing to the right
20 of the screen?

21 A That would be -- you're talking about the register
22 right now?

23 Q Yes.

24 A Mr. Sailors.

25 Q What is happening now?

1 A The cashier is starting to ring our items up.

2 Q The person who just appeared on the bottom right of the
3 screen do you know that individual?

4 A That's my daughter.

5 Q Who just entered at the bottom of the screen?

6 A That's me.

7 Q Investigator Gregory, did you have any other
8 involvement with this case?

9 A Other than finding out that Investigator Beatty
10 actually had the case, other than that, just mentioning to him
11 about the check. Other than that, no, ma'am.

12 Q Thank you.

13 MS. GILMER: If I could just beg the Court's
14 indulgence, Your Honor.

15 THE COURT: Certainly.

16 MS. GILMER: And if these have not been admitted I
17 would move in to evidence what has previously been
18 marked as State's Exhibit 2 and 3.

19 THE COURT: Those are the still photos?

20 MS. GILMER: Yes, Your Honor.

21 THE COURT: Any objection Miss Williams?

22 MS. WILLIAMS: No, Your Honor.

23 THE COURT: In evidence without objection.

24 (WHEREUPON, State's Exhibits 2 and 3 received in
25 evidence).

1 MS. GILMER: I have no further questions at this
2 time for this witness Your Honor.

3 THE COURT: Miss Williams.

4 CROSS EXAMINATION

5 BY MS. WILLIAMS:

6 Q Did you see the check contents that night?

7 A No, ma'am.

8 MS. WILLIAMS: No further questions Your Honor.

9 THE COURT: Any redirect?

10 MS. GILMER: No redirect, Your Honor.

11 THE COURT: Any objection to releasing this
12 witness?

13 MS. GILMER: No objection.

14 MS. WILLIAMS: No, Your Honor.

15 THE COURT: Thank you, sir.

16 Miss Gilmer, any more witnesses for today?

17 MS. GILMER: At this time the State rests.

18 THE COURT: Okay. Thank you.

19 THE COURT: All right. Rest completely.

20 MS. GILMER: Yes, Your Honor.

21 THE COURT: All right. Ladies and gentlemen, I
22 will ask you to all step back to the jury room. I
23 will discuss some matters with the lawyers.

24 (WHEREUPON, the jury leaves the courtroom.)

25 THE COURT: All right. Any motions, counsel?

1 MS. WILLIAMS: At this point we would renew
2 motions we previously made but also make a directed
3 verdict motion at this time.

4 If we could just have one moment Your Honor.

5 THE COURT: Yes, ma'am.

6 MS. WILLIAMS: At this time, Your Honor, I would
7 just argue that the State hasn't met its burden of
8 proof. That there has been no evidence introduced that
9 Mr. Sailors in fact caused the check to be untrue or
10 forged or falsely made the check, or no evidence
11 introduced of his intention to falsely pass a forged
12 check or that he even knew the check was forged, Your
13 Honor.

14 THE COURT: I am going to deny your motion. I
15 believe there is evidence in the record.

16 MS. WILLIAMS: Thank you. Your Honor.

17 THE COURT: Thank you.

18 THE COURT: Anything else?

19 MS. WILLIAMS: No, Your Honor.

20 THE COURT: Okay. Have you discussed with your
21 client his decision about whether he wants to testify.

22 MS. WILLIAMS: I have Your Honor. He has informed
23 me that he needs a quick restroom break and if I could
24 just check with him. If we would be at ease for just
25 a moment.

1 THE COURT: Absolutely.

2 MS. WILLIAMS: Thank you, Your Honor.

3 THE COURT: All right. Ladies and gentlemen thank
4 you very much that concludes everything for today. So
5 I will ask for you to be back at 9:45 tomorrow. You
6 don't have to call in. This case will be continuing
7 tomorrow so show up at 9:45.

8 I just remind you about what I told you before.
9 Please don't discuss this case with anyone or your
10 friends or family. Just tell them you were picked for
11 a criminal jury and if you choose to after the case is
12 is over you can talk to them as much as you want.
13 Secondly, please don't discuss it with each other
14 tonight or tomorrow morning until I tell you it's time
15 to deliberate and then can you talk to each other.
16 And finally please do not do any internet research or
17 drive out to the bank or Walmart tonight. You'll hear
18 all the evidence you'll need to make your decision
19 here in the courtroom. Any questions ladies and
20 gentlemen?

21 I will see you back at 9:45 tomorrow morning.

22 (WHEREUPON, the jury leaves the courtroom.)

23 THE COURT: Counsel, I will revisit the directed
24 verdict one more time. Obviously, the count involving
25 the bank is going to the jury. Talk me through the

1 evidence solely with regard to the second count
2 involving Walmart.

3 The investigator's testimony on the stand was he
4 didn't see the check. So if you don't Miss Gilmer,
5 what is in the record as far as the Walmart incident?

6 MS. GILMER: The bank teller, Miss Crosby
7 testified to when she ran the check apparently had a
8 trace number and she testified that it appeared there
9 was a trace number on it that had been attempted to be
10 cashed at another institution.

11 THE COURT: I heard that testimony, Miss Gilmer.
12 I guess I don't understand what a trace number is. I
13 looked at the check and I was looking for it. Is it
14 -- tell me what that means. I thought it meant there
15 was going to be printing on the check or something.

16 MS. GILMER: Your Honor, I couldn't say exactly
17 but when at Walmart you see something being run
18 through a machine when they try to run the check on
19 the video. And when I talked to Miss Crosby she said
20 that at the time that she knew -- she put in her
21 written statement it had been attempted to be cashed
22 at another institution, Your Honor.

23 THE COURT: So we have the teller saying according
24 to her computer system this particular check had been
25 attempted to be cashed one more time but no

1 information. Is that fair?

2 MS. GILMER: Sorry. No information. Honor.

3 THE COURT: As far as the computer doesn't tell
4 her when and where it was attempted. All she could
5 see was this particular check that he had tried to
6 cash it one more time?

7 MS. GILMER: Yes. That is what I recall my
8 understanding of the testimony. And Your Honor, I
9 guess not trying to give to much away, but obviously
10 the check is in two different color pens. Our
11 argument would be if he attempted to cash it at
12 Walmart and then later went back and could have added
13 the blue pen mark to try and add more to it to be able
14 to cash at the second location.

15 THE COURT: I mean, I understand that's your
16 theory. But, I mean there is clearly direct evidence
17 with regard to the bank incident, but it's a
18 circumstantial case with regard to Walmart. It's got
19 to be substantial circumstantial evidence.

20 Miss Williams.

21 MS. WILLIAMS: I would argue that all we have
22 heard so far is that it was intentionally attempted
23 from the computer system that the teller saw to be
24 traced or cashed at some other place but we don't know
25 where or if that was either in the County of Union or

1 what. And, you know, nobody else can verify if that
2 is actually the check at the Walmart incident.

3 THE COURT: And that's my concern Miss Gilmer, is
4 we have a teller. She testified, I mean I heard the
5 testimony that there is evidence that was attempted to
6 be processed somewhere else. We don't know when and
7 where. And then we have a video showing that he tried
8 to pass a check at Walmart on the 15th and the
9 investigator said he didn't see the check. And I
10 couldn't see from the video what he was trying to
11 negotiate at the Walmart. So, I'm concerned that
12 doesn't rise to the level. But I will hear from you.

13 MS. GILMER: Well, Your Honor, we would just
14 submit this is viewing in the light most favorable to
15 the non-moving party, which would be the State in this
16 matter. That we have submitted a prima facia case on
17 this. We feel we got enough to get it to the jury.

18 Your Honor, it would be different if this was a
19 huge discrepancy in time but we have Walmart on the
20 15th of October, at approximately eight something in
21 the evening and then the next morning at approximately
22 ten a.m. is when he's back in Part Sterling Bank. The
23 defendant was in Park Sterling Bank trying to cash
24 this check. So it's very close in proximity in time.
25 We also have the teller's testimony with this trace

1 number on the check that it had attempted to be passed
2 before.

3 Now Your Honor, we do feel there is enough to at
4 least get it to the jury and beyond a directed verdict
5 in this matter.

6 THE COURT: My recollection was she didn't tie it
7 to a date but she just said it was attempted to be
8 cashed once before, correct?

9 MS. GILMER: Yes, Your Honor, that was my
10 understanding.

11 THE COURT: I'll issue a ruling on that tomorrow
12 morning. I have to think about that over night.

13 MS. GILMER: Yes, sir, Your Honor.

14 THE COURT: Okay. And as far you wanted to have a
15 colloquy with your client Miss Williams.

16 MS. WILLIAMS: Yes, Your Honor.

17 THE COURT: Has he made a decision as to whether
18 or not he wants to testify.

19 MS. WILLIAMS: At this point he does wish to
20 testify.

21 THE COURT: Okay. Sir, I need you to stand and
22 the clerk is going to swear you in.

23 (WHEREUPON, the defendant was sworn in by the
24 Clerk.)

25 THE COURT: Mr. Sailor, at this time I am going to

1 explain certain rights to you. If you don't
2 understand anything that I say please let me know. If
3 you want me to explain anything in more detail please
4 let me know. Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Speak up. All right.

7 We have now reached the stage in the trial where
8 you may present your defense. You have the right to
9 claim protection given by the Fifth Amendment of the
10 constitution. That amendment says, in part, no person
11 shall be compelled in any criminal case to be a
12 witness against himself. This means that you can not
13 be required to testify in this case. You do have the
14 right to testify, however, no one can make you
15 testify. This is a personal right and no one can give
16 up this right accept you. If you decide to testify
17 you will be subject to the same rules that govern any
18 other witnesses and you could be examined or cross
19 examined on any relevant issue in this case. In
20 addition if you have any convictions on your pass
21 involving dishonesty or false statements or for crimes
22 punishable by more than one year and this Court
23 determines that there probative value outweighs
24 possible prejudice, the solicitor will be able to
25 introduce your record, your criminal record to attack

1 your credibility. If you decide to testify this
2 decision must be freely, voluntarily and intelligently
3 made with knowledge of the protection given to you by
4 the Fifth Amendment and the consequences of your
5 decision to testify.

6 If you decide not to testify, I will instruct the
7 jury they can not give the fact that you did not
8 testify any consideration whatsoever. And that there
9 is to be absolutely no prejudice to you because you
10 did not testify. It is entirely up to you whether or
11 not you testify. You you may talk with your attorney,
12 your family or friends, or anyone else but the final
13 decision will be left entirely up to you.

14 Do you understand what I have explained to you?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you have any questions about what I
17 just explained to you?

18 THE DEFENDANT: No.

19 THE COURT: Okay. Mr. Sailors, have you discussed
20 with your lawyer whether or not you should testify in
21 this case?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you wish to talk with your lawyer
24 any more about this?

25 THE DEFENDANT: Not really.

1 THE COURT: What is your decision about whether
2 you want to testify?

3 THE DEFENDANT: I will testify.

4 THE COURT: You plan to testify.

5 All right. Okay. Anything else counsel before we
6 adjourn for the day?

7 MS. GILMER: No, Your Honor.

8 MS. WILLIAMS: No, Your Honor.

9 THE COURT: Okay. Counsel, I will do a little
10 research on that directed verdict issue. If you have
11 any case law you want to send my way, e-mail it to my
12 clerk, to Mr. Greenburg. Otherwise I will render a
13 ruling on that count tomorrow morning.

14 MS. GILMER: Thank you, Your Honor.

15 THE COURT: Court will be in recess until tomorrow
16 morning.

17 MS. GILMER: Your Honor we need to address the
18 defendant's custody status.

19 THE COURT: We will go back on the record. I
20 apologize. Is he out on bond right now?

21 MS. GILMER: He is out on bond right now.

22 THE COURT: What is the State's position.

23 MS. GILMER: Your Honor, he is charged with two
24 counts of forgery. Each of them carries up to a
25 possible five years in prison. We would ask that he

1 be taken into custody.

2 Mr. Sailors does have a criminal history dating
3 back to 1985. Fairly extensive criminal history, Your
4 Honor. We do have some concerns and we're all the way
5 to the point of the defense's case and then closing
6 and charging in the morning, Your Honor.

7 THE COURT: How long has he been out on bond?

8 MS. GILMER: He has been out -- he bonded out in
9 jail on the same day of the arrest which is December
10 8th of 2017. Since he bonded out of jail he has two
11 other cases that are unrelated for which he has been
12 arrested. The next date was October 4th of 2018 and
13 he has a more recent theft related charge after that.

14 THE COURT: Does he have any violent offenses on
15 his record?

16 MS. GILMER: He has burglary, second degree, five
17 counts in 1988. I don't know if that was considered
18 violent. He was sentenced to 15 years in prison. The
19 rest appear to be thefts, alcohol, drug related for
20 the most part, Your Honor.

21 THE COURT: Miss Williams is his bondsman willing
22 to stay on his bond?

23 MS. WILLIAMS: He doesn't have a bondsman, Your
24 Honor.

25 THE COURT: He paid?

1 MS. WILLIAMS: A PR bond, Your Honor. And I could
2 add, Your Honor, that he has shown up when I
3 requested. Actually our investigator has been
4 transporting him to our office.

5 THE COURT: Okay. Okay. Miss Gilmer, if he has
6 been out on PR bond for over a year I am not inclined
7 to take him in custody.

8 Are there any other circumstances that you think
9 warrants him to be taken into custody?

10 MS. GILMER: Your Honor, just the fact that he has
11 been arrested twice since this case happened.

12 THE COURT: What were the charges he has been
13 arrested for.

14 MS. GILMER: The charge he had possession of
15 marijuana, which will be second offense and then a --
16 I believe it is grand larceny, Your Honor. It may be
17 receiving stolen goods.

18 THE COURT: Mr. Sailors, do you understand that
19 you are out on bond on this charge and I can order you
20 taken into custody tonight. Will you report back to
21 trial tomorrow?

22 THE DEFENDANT: Yes. He will come get me.

23 THE COURT: And Mr. Sailors, do you understand
24 that if you for some reason don't show up tomorrow the
25 trial will continue in your absence and the jury will

1 see that there is an empty chair there and then they
2 are going to render their verdict whether you are here
3 or not. Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. And it may -- you know, I can't
6 predict what a jury might will do, but it might go
7 worse for you if you don't show up.

8 THE DEFENDANT: I'll definitely show up.

9 THE COURT: And then the sentencing judge can take
10 into account that you didn't show up for your trial.
11 Okay. So you will be back tomorrow?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. I will allow him to remain out.

14 MS. GILMER: Yes, sir, Your Honor.

15 THE COURT: Court will be in recess until 10
16 o'clock tomorrow.

17 (WHEREUPON, court was adjourned for the day and
18 resumed on February 27, 2019).

19 THE COURT: Counsel, we still got that directed
20 verdict motion. So either of you find any authority
21 to help me make that decision.

22 MS. GILMER: Your Honor, I did not find anything
23 that would be controlling.

24 MR. WILLIAMS: Neither did I.

25 THE COURT: Do you want to take a couple of

1 minutes?

2 My understanding of the evidence is we have the
3 officer's statement that he saw the defendant about 13
4 or 14 hours before the bank, try to pass a check at
5 the Walmart. We have the bank teller's testimony that
6 the computer system said at some point someone tried
7 to pass that check previously somewhere else,
8 sometime, some location. And then we got the
9 alteration on the check. It looks like there is a
10 different color ink that was added to the check at
11 some point.

12 Is there anything else Miss Gilmer that I missed?

13 MS. GILMER: Just the actual proximity of the
14 locations. You may have said that, Your Honor. Both
15 the locations, the Walmart is almost directly across
16 the road from the bank.

17 THE COURT: All right. Miss Gilmer, I start with
18 you if you want to take a couple of minutes.

19 MS. GILMER: Thank you, Your Honor. Again, with a
20 directed verdict motions it is looking at the evidence
21 in a light most favorable to the non-moving party,
22 Your Honor. And Your Honor, as the Court stated,
23 summarized, we did present testimony from the bank
24 teller that the check that was presented at Park
25 Sterling there was a trace. When she looked at it in

1 the system that showed at the bank that it had been
2 attempted to be cashed before it had been presented.

3 Your Honor, we do have this instance where the
4 defendant was in Walmart captured on video at
5 approximately 8:50 the evening before and he then goes
6 in Park Sterling approximately ten o'clock that next
7 morning to try and cash the check.

8 Your Honor, the actual face of the check it shows
9 cash in black. The rest of the check the signature,
10 the momentary amount are all in one colored ink and
11 then it's added to Thomas Sailors. Again, as we
12 stated yesterday it would be our position that once
13 the defendant did not luck have passing it in Walmart
14 the night before he then added to the check or
15 contributed in having that added to the check and
16 presented that at the Park Sterling Bank location.

17 Your Honor, we do feel that this is a matter for
18 the jury. This was admissible testimony. I think it
19 is up to the jury to determine what the weight of this
20 evidence is in making their decision whether the
21 defendant is guilty of that particular count of
22 forgery, and we do believe the State has submitted
23 enough to actually get it to the jury, Your Honor.

24 THE COURT: Yes, ma'am, Miss Williams.

25 MR. WILLIAMS: Thank you, Your Honor.

1 Again, I would argue that we, you know, are saying
2 it is the check, the check. And I would argue there
3 has been nothing presented to say that it was the
4 check. There is no evidence presented that the trace
5 was done and came back to Walmart. There is no
6 evidence presented that any of the officers saw the
7 check. Anybody saw the check. Just that he was there
8 in the video and that he presented something at
9 Walmart, Your Honor.

10 And I would just refer to the directed verdict
11 rule, court rules -- South Carolina Court rules and
12 just basically it says that the Court shall direct a
13 verdict in the defendant's favor in any event charged
14 in the Indictment after the evidence on either side is
15 closed and there is a failure of competent evidence
16 tending to prove the charge in the Indictment.

17 So the judge shall consider only the existence or
18 non-existence of the evidence and not its weight.

19 I would say here we don't have is any existence of
20 any evidence showing that was the check.

21 THE COURT: Miss Gilmer, I will give you the last
22 word.

23 MS. GILMER: Thank you, Your Honor. Again, we
24 feel that there was evidence presented that with the
25 particular testimony by the bank teller saying that

1 this check had been attempted to have been presented
2 and cashed before.

3 Your Honor, again, with the timeline as well as the
4 proximity of the locations where this check was
5 attempted to be cashed Your Honor.

6 THE COURT: Counsel, I have given this a good deal
7 of thought last night and over night and this morning
8 and my law clerk and I have looked at the law and this
9 is a circumstantial case and the standard is
10 substantial circumstantial evidence and my conclusion
11 is there is not substantial circumstantial evidence on
12 that charge. That while we know that the defendant --
13 there was competent testimony the defendant tried to
14 pass a check at the Walmart, it was rejected. And
15 then we have the bank teller's testimony that the
16 computer system says that check had attempted to be
17 passed once before but we don't know when that was.
18 Where it was. If it even was in South Carolina. So,
19 lacking testimony from someone at Walmart I'm going to
20 grant the directed verdict motion on that count.

21 MS. GILMER: And Your Honor, just before we do get
22 into closing arguments is the Court limiting the State
23 as to being able to talk about what was presented
24 yesterday regarding Walmart.

25 Your Honor, the jury obviously heard all of that.

1 Obviously we are not asking them to convict for the
2 Walmart charge but we feel that is the res gestae of
3 the case and we would ask to be able to not have any
4 limitations regarding closing argument.

5 THE COURT: Okay so tell me -- so you want to be
6 able to argue to the jury that he attempted to pass
7 the check the night before even though that is not
8 before the jury.

9 MS. GILMER: Yes, sir, Your Honor. And Your
10 Honor, it's my understanding the defendant is wanting
11 to testify this morning that this might be an issue
12 that we may just need to take up after the defense
13 presents its case and that might change.

14 THE COURT: Miss Williams, what do you think?

15 MR. WILLIAMS: My concern is just trying to
16 bolster a case, the case at Park Sterling with the
17 case that has been, you know, already essentially
18 dismissed through a directed verdict. Trying to
19 bolster it with, you know, this we're saying it
20 happened twice even though it didn't. It might not
21 have happened. We're not sure. Just trying to
22 bolster the actual Park Sterling incident with a
23 possible other incident.

24 THE COURT: I think I will allow it. Obviously,
25 Miss Williams, you can argue to the jury the lack of

1 evidence that there was, but I think that whether it
2 comes in I will permit the State to bring that
3 evidence.

4 This is the first time I ever granted a directed
5 verdict motion, so I'm open to suggestions to what I
6 say to the jury. Obviously they heard it was two
7 counts, two count trial. I read both Indictments. I
8 am open to suggestions what I tell the jury as to why
9 one charge is going to the jury.

10 MS. GILMER: This is my first as well. Your Honor
11 if we could --

12 THE COURT: If either of you wants to consult with
13 one of your co-counsel. I don't think we are in a
14 rush on this case. It sounds like we have one witness
15 left. If you you want to take ten minutes and consult
16 with other folks in your office I will be more than
17 happy to do that.

18 MS. GILMER: Thank you.

19 MR. WILLIAMS: Thank you, Your Honor.

20 (WHEREUPON, there was a brief recess in the
21 proceedings.)

22 THE COURT: All right, counsel, any suggestions?

23 MS. GILMER: Your Honor, I think if we can simply
24 have the Court say, ladies and gentleman, this is what
25 you are consider, a count of forgery at Park Sterling

1 Bank. I don't think we need to go into too much
2 detail and just leave it at that.

3 MR. WILLIAMS: That is fine.

4 THE COURT: Just instruct that the case is one
5 count of forgery and what if they ask what happened to
6 the other one?

7 I could just say, the only count -- I'm
8 instructing you the only determination you have to
9 make is this one, one count.

10 MS. GILMER: What is before you at this time.

11 THE COURT: Something to that effect.

12 MS. GILMER: Yes, Your Honor.

13 THE COURT: All right. Okay. So just for the
14 record, directed verdict is granted as to indictment
15 number, 2018-GS-44-0193. That is the Walmart
16 Indictment. Directed verdict granted as to 193. All
17 right.

18 Mr. Sailors, do you mind standing up sir. Now,
19 Mr. Sailors, you and I had a conversation yesterday
20 evening just before we went home where I talked to you
21 about your decision to testify or not. Do you
22 remember that conversation.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And have you been able to talk with
25 with your lawyer since then?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you have a decision? You told me
3 yesterday you were planning on testifying. I want to
4 ask you one more time, do you have any questions about
5 the law that I explained to you or what might happen
6 if you testify?

7 THE DEFENDANT: No, sir.

8 THE COURT: What is your decision?

9 THE DEFENDANT: I am going to testify.

10 THE COURT: You plan to testify. Okay. Thank you
11 sir.

12 Yes, ma'am.

13 MS. GILMER: And for the record the defendant does
14 have a prior conviction for forgery less than \$5,000
15 in 2009. The State would submit that we would ask to
16 use for impeachment that offense. We would not ask
17 the specific offense for forgery but we would ask in
18 2009 were you convicted of a crime that carries a
19 possible sentence of over one year in prison.

20 THE COURT: Miss Williams?

21 MR. WILLIAMS: Your Honor, if they leave it just
22 to that I'm fine with that.

23 THE COURT: Okay. Miss Gilmer, I appreciate not
24 having to fight over bringing it in as a forgery
25 charge. I appreciate that. So just so with consent

1 of counsel it will come in as a conviction of a crime
2 that could have carried more than one year but there
3 will be no mention it was a forgery offense.

4 MS. GILMER: Yes, sir.

5 THE COURT: Anything else we need to take up
6 before the jury comes in.

7 MS. GILMER: Nothing from the State.

8 MS. WILLIAMS: Nothing from the defense, Your
9 Honor.

10 THE COURT: All right. Let's bring them in.

11 (WHEREUPON, the jury enters the courtroom.)

12 THE COURT: Good morning ladies and gentlemen. I
13 appreciate you coming back and being here when I asked
14 for you. I want to let you know we are not running
15 late or anything. We had legal matters we needed to
16 take up with the attorneys. So we have been in here
17 working. I know you all have been here waiting so I
18 appreciate that. I gave you all some rules about, you
19 know, not talking to anyone or doing any research. Is
20 there anyone who either accidentally or intentionally
21 was unable to follow those rules last night?

22 All right. Thank you all very much. Where we were
23 last night the State had rested its case and now it's
24 the defense's turn and Miss Williams you can call your
25 first witness.

1 MR. WILLIAMS: Thank you, Your Honor. At this
2 time the defense calls Mr. Thomas Sailors

3 THOMAS SAILORS, called as a witness, having been
4 duly sworn by the clerk, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY WILLIAMS:

8 Q Mr. Sailors, could state your full name?

9 A Donald Sailors Jr.

10 Q And where do you live Mr. Sailors?

11 A [REDACTED] Road.

12 Q How long have you lived there?

13 A Oh, about 54 years.

14 Q How long have you lived in Union?

15 A About 54 years.

16 Q Are you working anywhere?

17 A No, ma'am, I'm not at the moment.

18 Q Let's talk about October the 16th, 2017. What were you
19 doing that morning?

20 A I'm really not sure right now.

21 Q Okay. What did you find in your mailbox?

22 A A check.

23 Q What did the check look like?

24 A A regular business check I guess. Like a payroll check
25 or what have you.

1 Q Was the check in an envelope?

2 A No, ma'am.

3 Q What did you do with the check?

4 A My mail usually runs about ten o'clock. It was about
5 11:00, 11:30 before I went to the mailbox. I thumbed through the
6 mail. I usually don't get nothing but junk mail anyhow. I was
7 thumbing through it to see what kind of mail I had. So I call
8 up a friend to come pick me up to take me to the store to cash
9 it.

10 Q Who was that friend?

11 A Amy Patrick.

12 Q How do you know Amy Patrick?

13 A Been knowing her since she was about 16 years old.
14 About 16 years I guess.

15 Q Okay. So what did you do next?

16 A She come pick me up and said I had to cash a check
17 because it had my name on it.

18 Q When the check wasn't able to be cashed where did you
19 go?

20 A I went to the bank where it was drawn on.

21 Q When you found out the check couldn't be cashed where
22 did you go next? Who did you talk to?

23 A At the bank I was talking I don't know the teller's
24 name, but she told me I have to sit over there in the lobby
25 thing. I showed her I had about three quarters of a cigarette

1 and asked if I could go out and smoke. She said that would be
2 fine. I went out and sat down and Amy told me I want to go get
3 something to eat. And I told her were waiting on Brenda to show
4 up. I guess we can see Brenda in the parking lot right next
5 door to the bank.

6 Q What restaurant would that have been?

7 A I think it's a Mexican restaurant. I'm really not
8 sure. So as she's backing out she runs into somebody and then
9 they talked a little bit I guess. I'm thinking I had a bench
10 warrant on me so I'm not going to hang around wait on the police
11 to show up because I knew at the were going to show up. So I
12 started walking. I wasn't running. I was walking.

13 Q Where did you go?

14 A I went to a friend's house up the road.

15 Q Okay. How far is your walk from the bank to your house
16 on Barnado Road?

17 A I would say about a mile or so around there.

18 Q Okay. How do you do you normally get around?

19 A Walk.

20 Q You walk. Do you own a vehicle?

21 A No, ma'am.

22 Q Do you know Brenda Keith?

23 A I know of her. I know she owns a tree service. I know
24 her sister of my Aunt Gerry.

25 Q So how are you related to her?

1 A Through my aunt I guess.

2 Q Have you ever worked for her?

3 A No, ma'am. I think I called and talked to her one time
4 about a job but I never had worked for her, no.

5 Q Mr. Sailors have you ever had a checkbook?

6 A At one time yes.

7 Q Do you know how to write checks?

8 A Not really.

9 Q What would you do when you you needed to write a check?

10 A Whoever is around that I knew I would get them to fill
11 it on out for me whatever the amount needed to be filled out
12 for.

13 Q Okay.

14 MS. WILLIAMS: No further questions Your Honor.

15 THE COURT: Miss Gilmer.

16 MR. WILLIAMS: Thank you, Your Honor. May it
17 please the Court.

18 CROSS EXAMINATION

19 BY MS. GILMER:

20 Q All right. Mr. Sailors, how old are you?

21 A Fifty-four.

22 Q And you said that you live at [REDACTED] Road?

23 A Yes, ma'an.

24 Q You have a house there? A trailer?

25 A A house.

1 Q All right. And just to clarify a couple things you
2 said. So on October 16th of 2017, you said you went to your
3 mailbox on that date?

4 A Yes, ma'am.

5 Q And that's when you found this check?

6 A Yes, ma'am.

7 Q All right.

8 MS. GILMER: And Your Honor if I may approach the
9 the witness?

10 THE COURT: You may.

11 MS. GILMER: Thank you.

12 Q Mr. Sailors, I am showing you what has previously been
13 mark as State's Exhibit 1. You are welcome to take that check
14 out of that packaging.

15 Is that the check that you found in your mailbox?

16 A Looks like the same one. I'm really not sure.

17 Q You don't know for sure. Do you often get checks that
18 say cash to Thomas Sailors?

19 A When I was working, yes.

20 Q Okay. That particular check, is there any reason that
21 the bank employee says that you brought this check in, would you
22 thing this wasn't the same check?

23 A I didn't understand the question.

24 Q So you're telling the jury you're not sure if it's the
25 same check?

1 A It looks like the same one.

2 Q And the check that received did it say on the account
3 of Triple A Tree Service?

4 A Yes, ma'am.

5 Q And is that what that check says?

6 A Yes, ma'am.

7 Q All right. And on that particular check who does that
8 appear to have been signed by?

9 A It looks like it says Brenda Keith.

10 Q And that check is made out cash to Thomas Sailors, is
11 that correct?

12 A Yes, ma'am.

13 Q And on this check it is dated October 14th of 2017, is
14 that correct?

15 A Yes, ma'am.

16 Q So that morning -- that morning you say that you got
17 the check out of your mailbox?

18 A Yes, ma'am.

19 Q All right. And you then went immediately to Park
20 Sterling Bank?

21 A Not immediately to the bank.

22 Q Okay. Well, what did you do before you went to the
23 bank?

24 A I went to Walmart.

25 Q You went to Walmart. Okay. On October 16th of 2017?

1 A I guess that's the right date.

2 Q And that was that morning?

3 A Some time that morning I guess.

4 Q Okay. So you went to Walmart and you took that check
5 and you got out of your mailbox, is that correct?

6 A Yes, ma'am.

7 Q All right. So that video that we saw of you was that
8 you in Walmart?

9 A It looked like me.

10 Q Okay. Would you be able to recognize your own self on
11 video? Are you telling the jury you wouldn't be able to do
12 that?

13 A Well, I'm saying I didn't see my face actually in that
14 video. I'd seen the back of my head.

15 Q All right. And you've always had this white beard that
16 you have now?

17 A Usually I'm more clean shaved. In the wintertime I
18 grow a beard.

19 Q Okay. And do you have any scuff on your face year
20 round? Back in October would you have started growing a beard?

21 A I guess five o'clock shadow pretty much.

22 Q Okay. And so you're saying that you think that was you
23 in Walmart, is that correct?

24 A I'm a pretty sure it was.

25 Q All right. And that would have been you trying to cash

1 that check in Walmart, is that correct?

2 A Like I say, I go Walmart so many times to cash a check.
3 So I'm really not sure.

4 Q What other kind of checks do you get?

5 A Well, I use to have a bank account at Walmart so I
6 could cash get by payroll check when I was roofing for about 45
7 years.

8 Q All right. When is the last time you went to Walmart
9 to cash a check?

10 A Like I said the dates I'm really not sure.

11 Q Would you say you go daily, weekly monthly, yearly?

12 A I would say more or less monthly.

13 Q You go monthly. Okay. All right. So this particular
14 check you said you got a check out of your mailbox and that
15 check that you got out of your mailbox was it signed by Brenda
16 Keith or is that what the signature line showed, Brenda Keith.

17 A Yes.

18 Q And you haven't done any work for Brenda Keith, is that
19 correct?

20 A Right.

21 Q So you talked to her before about a possible job. When
22 would that have been?

23 A A few years ago.

24 Q So a few years ago. So you never done any work for
25 Brenda Keith?

1 A No, ma'am.

2 Q And you never done any work for Triple A Union Tree
3 Service, is that correct?

4 A Not that I know of. I did some roof work where a tree
5 fell on the house.

6 Q When is the last time you did it roof work?

7 A About a couple years ago.

8 THE COURT: Would you move the microphone down a
9 little bit so we can pick up what you are saying.

10 THE DEFENDANT: All right.

11 Q Mr. Sailors, I see that you are walking with a cane
12 here today. Do you have trouble walking without the assistance
13 of a cane?

14 A I just sort of keep it just in case my legs give out on
15 me.

16 Q Okay. So you told the jury earlier that when you got
17 this check out of your mailbox you called Amy Patrick, is that
18 correct?

19 A Yes, ma'am.

20 Q And Amy Patrick you say you have known her since she
21 was 16 years of age?

22 A Yes, ma'am.

23 Q About how old would you say Amy Patrick is now?

24 A About 32 years old.

25 Q So you've known her a good chunk of your life, is that

1 correct?

2 A Yes, ma'am.

3 Q And you called Amy Patrick that morning. Does she
4 drive a red truck?

5 A Yes, ma'am.

6 Q So she picked you up in that red truck?

7 A Yes, ma'am.

8 Q And so she takes you to Walmart, is that correct?

9 A Yes, ma'am.

10 Q All right. And then she takes you to Park Sterling
11 Bank over here on the bypass?

12 A Yes, ma'am. And that Walmart is almost directly across
13 from Park Sterling Bank, is that correct.

14 A Pretty much, yes.

15 Q And you said that location is about a mile and a
16 quarter from your house, is that correct?

17 A No, from here to my house would be about a mile and a
18 quarter.

19 Q From here to your house would be a mile and a quarter.
20 How far would your house be from Park Sterling Bank? From your
21 house to Park Sterling Bank?

22 A I would guess about three, four miles.

23 Q So Amy Patrick took you to the bank and you talked to a
24 teller at the bank, is that correct?

25 A Yes, ma'am.

1 Q All right. And Mr. Sailors, you had an opportunity
2 yesterday to see a video in the bank. Was that you on that
3 video?

4 A Yes, ma'am.

5 Q All right. And you talked to that teller at the bank.
6 You presented that check that you got out of your mailbox, is
7 that correct?

8 A Yes, ma'am.

9 Q And that check on that signature line said Brenda
10 Keith?

11 A Yes, ma'am.

12 Q And it was made out for 13 hours of pay, is that
13 correct?

14 A I guess something like that. I'm really not sure.

15 Q And it said to pay you cash in the amount of \$117, is
16 that correct?

17 A I guess that's what's the amount on the check.

18 Q And at that time Miss Crosby, the teller, asked for
19 your identification, is that correct?

20 A Yes, ma'am.

21 Q And you showed her your identification card?

22 A Yes, ma'am.

23 Q And while you were standing there she called Brenda
24 Keith, is that correct?

25 A I never seen her get on the phone.

1 Q You never saw her get on the phone?

2 A No, ma'am, she told me that she was.

3 Q She told you she was calling Brenda Keith.

4 A Yes, ma'am.

5 Q And she told you Brenda Keith was on her way up to the
6 bank, is that correct?

7 A About that I guess.

8 Q Wasn't that what you testified before when you were
9 speaking with Miss Williams?

10 A She told me so I took her word.

11 Q But she told you Benda Keith was on your way, is that
12 correct?

13 A Yes, ma'am.

14 Q And so you told her you were going to go out and smoke
15 a cigarette, is that correct?

16 A Yes, ma'am.

17 Q And you went and instead got in the truck with Amy
18 Patrick, is that right?

19 A Yes, ma'am.

20 Q And Amy Patrick was driving that truck?

21 A Yes, ma'am.

22 Q Right. And in the parking lot she backed into another
23 vehicle, is that correct?

24 A Yes, ma'am.

25 Q Right. And so at that point you jumped out of the

1 truck?

2 A I step out of the truck.

3 Q You stepped out of the truck. And you left at that
4 point?

5 A No, I was talking to Amy and explained the situation to
6 her. I told her I had a bench warrant on me already so I knew
7 the police were coming so I left.

8 Q So you knew the police were coming?

9 A Uh-huh, they usually -- they usually show up to an
10 accident. I thought somebody was going to call.

11 Q But you weren't driving the truck?

12 A No, ma'am.

13 Q Amy Patrick was driving the truck. So you said that
14 you had a bench warrant out on you?

15 A I thought I did but it ended up I didn't.

16 Q So you ended up leaving and where did you go after
17 that?

18 A To a friend's house up the road.

19 Q Who is that friend?

20 A You don't need to know all that.

21 Q Yes, I do Mr. Sailors. Who was that friend.

22 THE COURT: Mr. Sailors, I will instruct you to
23 answer the questions.

24 A Kenneth and Sheila Blight.

25 Q Okay. And so you went to the friend's house and did

1 you hang out there? Did you stay there?

2 A Yeah.

3 Q What time did you leave there?

4 A That I'm really not sure.

5 Q How long would you say you stayed there?

6 A A few hours.

7 Q All right. And about what time did you go over to
8 their house?

9 A When I left the bank.

10 Q So as soon as you left the bank you went over to their
11 house?

12 A Right.

13 Q And how far was their house from the bank?

14 A May be about half mile tops.

15 Q Half mile. And you walked there or did somebody drive
16 you there?

17 A Walked there.

18 Q So you went over to their house. Hung out for a couple
19 hours. You said before that you went out to the truck, you said
20 you and Amy were going to get something to eat?

21 A Yes, ma'am.

22 Q Where were you going to get something to eat?

23 A Right next store to the bank.

24 Q What's right next store to the bank?

25 A I think it's a Mexican Restaurant. I'm not sure.

1 Q So you all were going to go to a Mexican restaurant?

2 A Yes, ma'ma.

3 Q And that was as soon as you guys were pulling out of
4 the parking lot?

5 A Yes, ma'am.

6 Q And so you decided, hey, we're going to go eat Mexican
7 food instead of waiting for Brenda Keith to come up to the bank,
8 is that right?

9 A No. Amy decided she wanted something to eat.

10 Q Okay. Well, did you tell Amy, hey Amy, we got to wait
11 here and talk to Brenda Keith?

12 A That's what I said. That we could see Brenda pull up
13 to the restaurant, which is right next door to the bank.

14 Q Well, where was Brenda coming from?

15 A That I'm a not sure. I imagine home.

16 Q So the teller at the bank tells you I've called Brenda
17 Keith and she is on her way up here to the bank, is that
18 correct?

19 A Pretty much, yes, ma'am.

20 Q So you knew Brenda was coming up to the bank then?

21 A Yes, ma'am.

22 Q All right. And you said that you don't know how to
23 write well, is that correct?

24 A I can write all right. I just can't spell.

25 Q Okay. And so you get others to fill out things for you

- 1 --
- 2 A Yes, ma'am.
- 3 Q -- is that correct?
- 4 A Yes, ma'am.
- 5 Q And Amy Patrick where does she live?
- 6 A [REDACTED] (phonetics) Drive.
- 7 Q And who is Tim Tramell?
- 8 A Her boyfriend.
- 9 Q And where does Tim Tramell live?
- 10 A [REDACTED] Drive which is on Sardis Road.
- 11 Q And you've actually stayed at that residence with them
- 12 before, isn't that correct?
- 13 A Yes, ma'am.
- 14 Q And Tim Tramell he's actually your next of kin when you
- 15 bonded out of jail on this case, is that correct?
- 16 A He's just a good friend.
- 17 Q He's a good friend of yours. But is he listed as your
- 18 contact person when you bonded out of jail on this charge?
- 19 A I'm not sure.
- 20 Q You're not sure?
- 21 A It's possible, yes.
- 22 Q I am sorry?
- 23 A It's possible, yes.
- 24 Q Its possible yes.
- 25 A But I am not sure.

1 Q And you said that's Amy Patricks's boyfriend?

2 A Yes, ma'am and how long have is they been together.

3 A About 16, 17 years.

4 Q So about as long as you have known Amy?

5 A Around about close. A little shorter then that. When
6 I met Amy she was single.

7 MS. GILMER: And Your Honor, if I may approach the
8 witness.

9 THE COURT: You may.

10 MS. GILMER: Thank you.

11 Q Mr. Sailors, I am showing you what has been marked as
12 State's Exhibit 2 and 3. Is that you in those photos?

13 A It looks like me.

14 Q And that's in Walmart?

15 A That one is anyway.

16 Q This one is in Walmart?

17 A That is the layaway over there so I guess that would be
18 Walmart too.

19 Q And is that you in both of those photos?

20 A Yes, ma'am.

21 Q And Mr. Sailors, when you received this check that you
22 took to Park Sterling Bank, when you got it out of your mailbox
23 you didn't call Brenda Keith did you?

24 A No, ma'am.

25 Q You didn't try to ask her, hey, I got a check. One of

1 your checks in your mailbox. What's this for?

2 A I had no way. I didn't have a phone.

3 Q You saw her next door, you didn't go and say hey
4 Brenda?

5 A She don't live next door to me.

6 Q Okay. She's next door to Park Sterling Bank. You said
7 that you saw her there?

8 A No, I did not.

9 Q So you didn't see her parked in the next parking lot?

10 A I said I could see her when she pulled up.

11 Q You could see her when she pulled up?

12 A Right.

13 Q So you and Amy immediately left when she was pulling
14 up?

15 A No.

16 Q And she was pulling up to the bank?

17 A No, I never seen her pulling in or out.

18 Q Okay, but you just told the jury that --

19 A I said we could see her from the restaurant.

20 Q From the restaurant.

21 A When she pulled up.

22 Q Okay. So you guys could see her from the restaurant?

23 A Right.

24 Q All right. And where was she, was in a car?

25 A I don't know. I guess that is how she is going to get

1 there.

2 Q Did you see her in a car?

3 A No.

4 Q Okay. Well, what could you see from the Mexican
5 restaurant? I'm a little confused.

6 A I could see the bank from the parking lot.

7 Q You could see the parking lot in the bank?

8 A Yes, ma'am.

9 Q Do you know where Brenda Keith lives?

10 A No.

11 Q You guys are related by marriage and you don't know
12 where she lives?

13 A No.

14 Q You know where her sister Linda Keith lives?

15 A No.

16 Q You know where Linda Keith's store is?

17 A Yes, she runs an Avon store.

18 Q She runs an Avon store. All right, where is that
19 located?

20 A I'm not sure the name of that road.

21 Q But you know where it is. You've seen it before?

22 A Yes.

23 Q And Amy Patrick use to work there is that correct?

24 A I guess. I really don't know where she works.

25 Q Okay. And you don't have any interaction with Brenda

1 Keith, do you?

2 A No, ma'am.

3 Q All right. Have you ever talked to her?

4 A I have spoken to her.

5 Q And how long ago would that have been?

6 A I have no idea.

7 Q Would you say days, months, years?

8 A It would be close to years probably.

9 Q Years since you've spoken with her. And Mr. Sailors,
10 isn't it true that back in 2009 you were convicted of a crime
11 that carries a possible sentence of over a year in prison?

12 A I'm really not sure about that far back.

13 Q So you don't remember if you've been convicted of a
14 crime that carries over more than one year?

15 A I have been convicted of a crime that carries over a
16 year, yes.

17 Q Was that in 2009?

18 A Not the one I am remembering,

19 MS. GILMER: I have no further questions.

20 THE COURT: Any redirect?

21 MR. WILLIAMS: No, Your Honor.

22 THE COURT: You can return to the table. Miss
23 Williams, you can call your next witness.

24 MS. WILLIAMS: Your Honor, at this time we rest.
25 The defense rests.

1 THE COURT: Thank you, ma'am.

2 All right. Ladies and gentlemen, I will ask you
3 you to return to your jury room for a few minutes.
4 The lawyers and I need to do a few remaining legal
5 matters and I'm going to call you back in and I will
6 explain the law to you and then you will here closing
7 arguments from both attorneys and you then you will
8 be able to deliberate. But I ask you to return to
9 your jury room. It will take us a few minutes to do
10 some final matters. If you need a smoke break or a
11 restroom break now will be a good time.

12 (WHEREUPON, jurors leave leave the courtroom.)

13 THE COURT: Counsel, my clerk is going to e-mail
14 the Clerk of Court's office a proposed charge for you
15 to review.

16 Counsel, I can see the charge is still written as
17 if there were two charges. So I', making that change
18 myself.

19 MS. GILMER: Your Honor, the statute actually
20 separates forgery in less than a dollar amount and no
21 dollar amount. So we may need to specify it's less
22 than \$10,000. I believe is what's in the statute,
23 Your Honor, instead of leaving it just a blanket
24 forgery.

25 THE COURT: Okay.

1 MS. GILMER: I didn't see anything else that I
2 would object to in the jury charge, Your Honor, just
3 with the change with forgery listed with the value
4 amount. And then on the verdict form I would just ask
5 that forgery be listed the same with the value amount.

6 THE COURT: Okay.

7 MS. GILMER: And just the foreperson line appears
8 there maybe a minimal typographical error on that.

9 THE COURT: Thank you. Tell me where.

10 MS. GILMER: The foreperson on the front of the
11 form, Your Honor, there appears to be an extra O.

12 THE COURT: Counsel, I thought about the \$10,000
13 thing. That controls where it's a misdemeanor or
14 felony so I think the jury has got to find that an
15 amount of money less than \$10,000. So what I have
16 done there is after the elements of forgery one, two
17 and three either this that or number three, I've said
18 the State must also prove the forgery involved a
19 dollar amount of money that is less than \$10,000.

20 MS: GILMER: We have no objection, Your Honor.

21 MR. WILLIAMS: Your Honor, I would just ask to put
22 some kind of criminal intent charge.

23 THE COURT: I'm a not sure Miss Williams what you
24 want to say because the law does not require --
25 there's an inference of intent in possession of a

1 forged instrument. So beyond that what do you want me
2 to say? What do you suggest I say?

3 MR. WILLIAMS: I'm sorry, Your Honor, I just saw
4 there is a line after the forgery. I'm sorry.

5 THE COURT: And any other objections?

6 MR. WILLIAMS: No, Your Honor.

7 THE COURT: Okay. Miss Gilmer?

8 MS. GILMER: Nothing from the State, Your Honor.

9 THE COURT: All right, and I also added page
10 numbers and I have clarified at the end they are going
11 to hear argument from counsel prior to their
12 deliberation. And counsel, again, we are still in a
13 state of a flux in closing arguments in South
14 Carolina. My understanding of the law is in this
15 situation Miss Gilmer will open full on the law of the
16 facts and then the defense will close and then you
17 have reply arguments, Miss Gilmer. Is that your
18 understanding counsel?

19 MS. GILMER: Yes, Your Honor. The.

20 MR. WILLIAMS: Yes, Your Honor.

21 THE COURT: Okay. All right. Counsel, if you all
22 want to approach and I will show you the final verdict
23 form and give you copies of the final charge.

24 Counsel, any objections to the charge or the
25 verdict form?

1 MS. GILMER: None from the State.

2 MS. WILLIAMS: No, Your Honor.

3 THE COURT: Anything we need to take up before we
4 bring the jury in for charge and closing?

5 MS. GILMER: Nothing from the State.

6 MR. WILLIAMS: Your Honor, I just renew all
7 previous motions and the directed verdict motion on
8 the Park Sterling, on Indictment ending in 192.

9 THE COURT: You succeeded in all your motions so
10 far except for that directed verdict. I am going to
11 deny it.

12 MS. WILLIAMS: Thank You, Your Honor.

13 (WHEREUPON, the jury enters the courtroom.)

14 THE COURT: All right, ladies and gentlemen. We
15 are coming to the conclusion of case. What I am about
16 to do now is explain the law to you and I will give
17 you a copy of my instructions to take back with you in
18 the jury room and then the last thing we will hear is
19 the closing arguments from the lawyers.

20 And again, I remind you after we are done when I
21 send you back to the jury room please don't start
22 deliberating until the bailiff come goes back and
23 tells. After they finish up their closing arguments
24 we have to gather up all the evidence and make sure
25 everything is in the right place and then we will send

1 all that back to the jury room. And once the bailiff
2 brings you back the evidence that will be your signal
3 to begin deliberations.

4 All right. A lot of you may have taken public
5 speaking classes or English classes where the teacher
6 tells you make sure you look people in the eyes and
7 don't read off something when you are talking to
8 somebody. I have to break that rule right now because
9 it's very important that I instruct you on the law
10 currently and not make mistakes or leave things out.
11 So I am going to pretty much read from these jury
12 instructions so I apologize in advance for not making
13 eye contact all the time but I have to make sure I
14 have to read them properly.

15 All right. Mr. Foreman and members of the jury.
16 You have now heard all the evidence in this case. I
17 will now explain to you the rules of law you must
18 follow and apply in deciding this case. When I have
19 finished, you will hear closing arguments and then go
20 to the jury room and begin your deliberations.

21 I will give you a written copy of these
22 instructions. During your deliberations you may refer
23 to the instructions to guide your decision making.
24 You must consider the instructions as a whole and not
25 follow some parts and ignore others.

1 Your decision must be based only on the evidence
2 presented here. You must not be influenced in any way
3 by either sympathy for, or prejudice against anybody.

4 The indictment in this case charges the
5 defendant, Thomas Sailors with one count of forgery,
6 less than \$10,000. An indictment is simply the formal
7 written instrument which contains the charge made
8 against the defendant. I remind you that the fact
9 that the defendant was arrested, charged, and in
10 indicted in this case is not evidence and can not be
11 considered by you as evidence of guilt, nor does it
12 create any presumption of inference of guilt.

13 The defendant, Mr. Sailors, has plead not guilty
14 to the the forgery charge, and that plea put the
15 burden on the State or the government to prove him
16 guilty beyond a reasonable doubt. A person charged
17 with committing a criminal offense in South Carolina
18 is never required to prove himself innocent.

19 I charge you that it is important rule of law that
20 the defendant in a criminal trial, no matter what the
21 seriousness of the charge may be, will always be
22 presumed to be innocent of the crime for which the
23 indictment was issued unless guilt has been proven by
24 evidence satisfying you of that guilt beyond a
25 reasonable doubt. This presumption of of innocence

1 does not end when you begin your deliberations, but
2 accompanies the defendant throughout the trial until
3 you reach your verdict.

4 This presumption of innocence is not a mere legal
5 theory or a legal phrase. It is a substantial right
6 which every defendant is entitled to unless you, the
7 jury, are satisfied from the evidence that the
8 defendant is guilty beyond a reasonable doubt.

9 So what is a reasonable doubt in the law? Some of
10 you may have served as jurors in a civil case where
11 you were you told that it is only necessary to prove
12 that a fact is more likely true than not true, such as
13 by the greater weight of preponderance of the
14 evidence. In criminal cases the State's proof must be
15 more powerful than that. It must be beyond a
16 reasonable doubt.

17 Proof beyond a reasonable doubt is proof that
18 leaves you firmly convinced of the defendant's guilt.
19 There are very few things in this world we know with
20 absolute certainty, and in criminal cases the law does
21 not require proof of every possible doubt. If, based
22 on your consideration of the evidence, you are firmly
23 convinced that the defendant is guilty of the crime
24 charged, you must find the defendant guilty. If, on
25 the other hand, you think there is a real possibility

1 the defendant is not guilty, you must give the
2 defendant the the benefit of the doubt and find him
3 not guilty.

4 I will remind that, during the trial, you and I
5 had certain duties to perform. As the trial judge, it
6 was and is my responsibility to preside over the
7 trial of this case, and I also have the duty to rule
8 on the admissibility of the evidence offered during
9 trial. You are to consider only the competent
10 evidence before you. If there was any testimony
11 ordered stricken from the record in this case during
12 this trial, you must disregard it. You are to
13 consider only the testimony which has been presented
14 from this witness stand, and any exhibits which have
15 been made a part of the record in this case, and any
16 agreements or stipulations of counsel.

17 I have the additional duty to charge you the law
18 applicable to this case, which I am doing now. As the
19 the presiding judge, I'm the sole judge of the law of
20 this case, and your duty as jurors to accept and apply
21 the law as I explain it to you now. If you already
22 have any idea as to what the law is or what you think
23 it ought to be and that does not agree with what I am
24 now telling you, you must abandon this idea because
25 you have sworn to accept the law exactly as I stated

1 to you.

2 In every case tried in this court before a jury,
3 the jury becomes the sole and exclusive judge of the
4 facts in a case. A trial judge like me, cannot
5 intimate, or state, or comment on, or make any
6 statement to a trial jury about the facts in the case.
7 Since you, the jury, are the sole judge of the facts
8 in this case, you should not infer from what I have
9 said during the trial in ruling upon evidence, or any
10 rulings or anything else that I have said, that I have
11 any opinion on the facts of case. The law does not
12 allow me to have an opinion on the facts of this case.
13 That is matter solely for you as a jury in this case
14 to determine. As jurors, it is your duty to determine
15 the effect, the value, the weight, and the truth of
16 the evidence was presented.

17 As I said before, you must consider only the
18 evidence that I have admitted in this case. That
19 includes the testimony of the witnesses and the
20 exhibits that have been admitted.

21 You shouldn't assume from anything I've said that
22 I have any opinion about any factual issue in this
23 case. In fact, except for my instructions to you on
24 the law, you should disregard anything I have said
25 during the trial when you are trying to arrive at your

1 own decision about the facts. Your own recollection
2 and interpretation of the evidence is what matters.
3 In considering the evidence, you should use your
4 reasoning and common sense to make deductions and
5 reach conclusions.

6 In just a minute the attorneys are going to offer
7 their closing arguments. While the arguments of
8 counsel are a beneficial part of every trial, you
9 should remember that the statements of the lawyers are
10 not evidence. In presenting the arguments the lawyers
11 often refer to the evidence. However, you should base
12 your verdict on the evidence as you remember it.
13 Therefore, if there are any conflicts between the
14 recollection of the attorneys about the evidence and
15 your own recollection, you should rely on your own on
16 understanding of the evidence.

17 When I say that you should consider all the
18 evidence, I don't mean you must accept all the
19 evidence as true or accurate. You should decide
20 whether you believe what each witness had to say, and
21 how important that testimony was. In making those
22 decisions, you may disbelieve or believe any witness
23 in whole or in part. The number of witnesses
24 testifying concerning a particular point doesn't
25 necessarily matter.

1 To decide whether you believe any witness, I
2 suggest that ask yourself a few questions. Did the
3 witness impress you as one who is telling the truth?
4 Did the witness have any particular reason not to tell
5 the truth, or have a personal interest in the outcome
6 of the case? Did the witness seem to have a good
7 memory? Did the witness have the opportunity and
8 ability to on accurately observe the things that they
9 testified about? Did the witness clearly appear to
10 understand the questions clearly and answer them
11 directly? Did the witness's testimony differ from
12 other testimony or other evidence?

13 However, I ask you to keep in mind that a simple
14 mistake in testimony doesn't mean a witness wasn't
15 telling the truth as they remember it. People
16 naturally tend to forget some things or remember them
17 inaccurately. So if a witness misstated something you
18 must decide whether it was because of an innocent
19 lapse in memory or an intentional deception. The
20 significance of your decision may depend on whether
21 the misstatement was about an important fact or an
22 unimportant detail.

23 A witness who has a prior criminal record is
24 competent or allowed to testify during a trial. A
25 past criminal record does not effect the ability of

1 that witness to testify. The past record should only
2 be considered by you, if at all, in determining
3 whether to believe that witness.

4 Remember, you are the sole judges of the facts in
5 the case and the believability of any and all
6 witnesses.

7 The defendant is charged with forgery. The State
8 must prove beyond a reasonable doubt that the
9 defendant falsely made, forged, or counterfeited; or
10 caused to be falsely made, forged, or counterfeited
11 any writing or instrument of writing; or, the
12 defendant willfully acted or assisted in the false
13 making, forging, or counterfeiting of any writing or
14 instrument of writing with an intent to defraud
15 somebody; or the defendant uttered, or published as
16 true any false, forged, or counterfeited writing or
17 instrument of writing.

18 In addition, the State must also prove the forgery
19 involved a dollar amount of money which is less than
20 \$10,000.

21 Intent may be shown by the acts and conduct of the
22 defendant and other circumstances from which you may
23 naturally and reasonably infer intent.

24 When the defendant is in possession of a forged
25 instrument in which the defendant claims to be the

1 beneficiary, and applies it to his own use, there is
2 an inference that the defendant forged the instrument
3 or he was aware of the forgery. However, this
4 inference is simply an evidently fact to be considered
5 by you, along with other evidence in the case, and it
6 is to be given the weight you determine it should
7 have.

8 It is not necessary that anyone was actually
9 injured or defrauded by the false instrument. The
10 mere possibility of injury is enough if there was an
11 attempt to defraud.

12 There are two possible verdicts which you may find
13 in this case; guilty or not guilty. There is no
14 significance whatsoever in order in which I state
15 these verdicts. It is simply that one must be listed
16 first.

17 Ladies and gentleman, this is the verdict form in
18 the case. It is very simple. It lists the charge
19 which he is forgery less than \$10,000. It has a box
20 for guilty and box for not guilty, and as I said you
21 got to list one of them first. There is no
22 significance at all in the order they are listed on
23 the form. The foreperson, after deliberation and once
24 you unanimously voted on the verdict, one way or the
25 other, you check the appropriate box and the

1 foreperson will sign it and then you will knock on the
2 door and let the bailiff know you have a verdict.
3 This verdict form is extremely simple. All that
4 requires is a check or X in one of the two lines and
5 then a signature.

6 Ladies and gentlemen, your verdict must be
7 unanimous. Mr. Foreman when the jury agrees on a
8 verdict you will check the box and sign your name as
9 foreperson. Then knock on the jury room door and
10 inform the bailiff have you reached a verdict. At
11 that time we will receive you back in the courtroom.
12 The attorneys are about to begin their closing
13 arguments. After the attorneys conclude their
14 arguments I will then ask that you return to your jury
15 room but do not begin deliberations until you are told
16 by the bailiff to do so. There are some matters that
17 must be discussed with the lawyers before you begin
18 your deliberations.

19 Thank you, ladies and gentlemen. Miss Gilmer.

20 MS. GILMER: Thank you, Your Honor. May it please
21 the Court.

22 THE COURT: Counsel, I should ask for the record,
23 any objections to my instructions to the jury?

24 MS. GILMER: Nothing from the State, Your Honor.

25 MR. WILLIAMS: No, Your Honor.

1 THE COURT: Thank you. Miss Gilmer.

2 MS. GILMER: Thank you.

3 Ladies and gentlemen of the jury, at the beginning
4 of the trial I told you the State would give you what
5 you need, the evidence and the testimony along with
6 your common sense to find the defendant guilty of
7 forgery. I submit that we have done that in this
8 trial. We do appreciate your patience with this. It
9 hasn't been an extremely lengthy trial, but I am sure
10 it has been a long couple of days for you guys and we
11 do appreciate your service in this case.

12 As the judge told you, the State does have the
13 burden of proof in this matter. So we have to prove
14 the charge beyond a reasonable doubt.

15 Now, as he told you reasonable doubt is is not
16 beyond all doubt. It is not beyond all possible
17 doubt. It's beyond a reasonable doubt. And there are
18 very few things in this world that are beyond -- that
19 we know with absolutely certainly.

20 Now, an illustration I like to use with reasonable
21 doubt is let's say next week your at Bi-Lo here on the
22 Bypass here in Union County, and you go in the store
23 about four o'clock. As you go in it's a little bit
24 overcast outside. Sun is kind of out but it's a
25 little bit cloudy. You go in the store to do some

1 grocery shopping. You're in the store about 30 to 45
2 minutes doing some grocery shopping. Now, when you
3 come back out of the store you notice that the parking
4 lot is wet outside and the cars in the parking lot are
5 wet outside. Now, it wasn't wet when you went in the
6 store. The cars didn't have water on them when you
7 went in the store but when you came out with your
8 groceries they were.

9 Now, is it possible to think that while you were in
10 Bi-lo for 30 to 45 minutes maybe one of those big
11 street cleaning machines came through and washed down
12 the packing lot? Is it possible that a water line
13 broke and sprayed water all over the parking lot? Is
14 is it possible that someone was out there pressure
15 washing the parking lot at four o'clock in the
16 afternoon. All those things are possible. Some more
17 possible to believe than others. But what is
18 reasonable to believe is that it rained while you were
19 inside of Bi-lo. And how do you -- what pieces do you
20 put together to know along with your common sense that
21 it rained. It wasn't one of those other scenarios
22 happen.

23 Well, let's say you turned on the TV watching the
24 news and the weatherman said, hey, you know, it's
25 calling for rain today. Seventy percent chance of

1 rain today. Or you looked at your smart phone and it
2 it said, yeah, it's calling for rain here in Union,
3 South Carolina on that date. Or maybe while were you
4 in the store shopping you heard a big grumbling loud
5 sound above you that maybe sounded like some rain or
6 some lightening or thunder. Or you saw the people
7 walking around with umbrellas. So along with your
8 common sense you take all those pieces together and
9 say, hey, it rained while I was doing my grocery
10 shopping in Bi-lo. Not one of those other possible
11 scenarios. So that's the difference between a
12 possibility and what reasonably you known to have
13 happened.

14 Now, in this case, what we have is defendant,
15 Thomas Sailors, and he tried his luck at Walmart with
16 that check that belonged to Brenda Keith and her tree
17 service. Walmart wouldn't cash the check for him, but
18 nobody contacted police at that time. So he tried his
19 luck again at Park Sterling Bank up here at the
20 Bypass. He added that to Thomas Sailors in blue ink
21 when he went to Park Sterling thinking they, Walmart
22 wouldn't cash it when it just said cash in black so he
23 added to Thomas Sailors in blue ink. Went to Park
24 Sterling not thinking that they would turn him away.
25 He thought the worse that could happen they would turn

1 away, but the best thing that could happen he'd make
2 and easy buck that day for \$117. But fortunately for
3 Brenda Keith and unlucky for the defendant that day,
4 Earica Crosby was a diligent employee. And you heard
5 her testimony yesterday. She has no stake in coming
6 up here in testifying and telling you about what
7 happened that day. She was just an employee and as
8 she told law enforcement on that day and as she told
9 you yesterday, the defendant presented this check.
10 That she immediately through up suspicions and red
11 flags for her when she took it.

12 Earica Crosby also told you that she knew Brenda
13 Keith as a long time customer. Miss Keith had a bank
14 account with Park Sterling which is now South State
15 Bank for a long time. Knew the signature was not
16 Brenda Keith's just dealing with Miss Keith and also
17 because when someone opens an account they have a
18 signature on file that the bank keeps and they
19 compare. She also told you just how the check was
20 written. Different things about the check and the Ink
21 just sent up those red flags for her and she called
22 her and verified and she actually kept the check in
23 hand. And the defendant went outside saying he was
24 just going to smoke a cigarette and ended up hoping in
25 the truck with another lady, Amy Patrick. He told Amy

1 Patrick to get out of Dodge quickly. And she got out
2 so quickly she ended up backing up into a vehicle. At
3 that point the defendant jumps out of the vehicle and
4 hurriedly goes across the parking lot and Miss Crosby
5 told you about that.

6 Now, how do we know that it's the defendant, Thomas
7 Sailors. Well, looking at Walmart we see that Walmart
8 video that was on the day before he went in to Park
9 Sterling Bank and it was around 8:50 that evening the
10 day before. He is in Walmart. There is a video of
11 him at the checkout counter and there are some still
12 shots that were taken around the exit and entrance of
13 the store of the defendant, Thomas Sailors.

14 Investigator Mark Gregory testified for you
15 yesterday that he was doing some shopping in Walmart
16 with his daughter. You could see on the video his
17 daughter and Investigator Gregory standing behind the
18 defendant for an extended period of time so long that
19 the employee in Walmart even starts ringing up there
20 stuff while the defendant is still staying there
21 trying to get that check cashed. And you can see the
22 employee actually trying to run the check in the
23 machine.

24 Now, all these pieces of evidence you will have
25 those back there in the jury room. If for some reason

1 you want to see one of the videos again just let the
2 bailiff know and we can bring you back out and we can
3 do view those videos again.

4 Now, as far as at Park Sterling how do we know it
5 was the defendant, Thomas Sailors. Well, Earica
6 Crosby testified that her normal procedure and the
7 same thing back on October 16th is that a person when
8 they come in to the bank trying to cash a check she'll
9 ask for identification if she doesn't know them. And
10 you can see that in the video of the defendant passing
11 her identification. And she told you that I'm not
12 going to cash a check if someone standing before me
13 and it doesn't look like the photo of the picture and
14 the ID then that's not going to fly for me. So she
15 verified there's nothing when she got that ID that
16 made her think that it wasn't Thomas Sailors whose
17 name was on that identification card. And then we saw
18 this check that was made out to him. He was trying to
19 cash it it, it says to Thomas Sailors to on it. And
20 again there is video of that. And the defendant even
21 told you, yes, that was me in the Park Sterling video.
22 He's was a little bit wishy washy on the stand trying
23 to admit that that was him in the Walmart video. I
24 showed him the pictures from the video. He said,
25 yeah, that's me. But the one at the cash register,

1 you know, I can't really tell if that's me or not.
2 Well, I leave it to you guys whether you believe he
3 was being credible with those statements.

4 How do we know -- the second thing you need to look
5 at, how do we know that Brenda Keith did not give the
6 defendant permission or consent to have that check.

7 Well, the witnesses, Miss Crosby, Miss Keith and
8 law enforcement talked to you about how that
9 checkbook, Miss Keith has carbon copies. So when you
10 write a check it's going to go through on the carbon
11 copy so the person who has that checkbook can keep
12 track of their records and what checks they've
13 written. And they all told you that it appeared that
14 check had been missing because when Miss Keith had
15 written the check before that check information bled
16 through not only to its carbon copy but to what would
17 have been the carbon copy for this check that we have
18 today here in evidence.

19 Brenda Keith also told Earica Crosby that day when
20 Miss Crosby called her and she also told police that
21 day when police came out and she also told you
22 yesterday that Thomas Sailors would have had no reason
23 to have a check from her. He didn't do any work for
24 her. This check was missing. They had this familial
25 connection but there was no reason why she would have

1 been giving him a check or him have access to any of
2 those checks or permission to use any of those checks.
3 The defendant did not work for her at all and I
4 believe she said it had been years since they had had
5 really any kind of contact or interaction.

6 Now how do we know that the defendant knew what he
7 was doing was wrong when he was acting criminally.
8 Well, Walmart wouldn't cash the check. He went in to
9 Walmart. Again, you saw that video. You heard the
10 testimony from Investigator Gregory being in line that
11 Walmart wouldn't cash that check. So he took that
12 same check to Park Sterling and Earica Crosby told you
13 that when he gave his identification card he hesitated
14 to give her that identification because he knew at
15 that point, hey, they have my license. They compared
16 these photos. They're going to know it's me.

17 She said that when she called Brenda Keith to
18 verify, the defendant said he was going to smoke a
19 cigarette. He was going outside. But she told you
20 that he immediately left. After he stepped outside he
21 jumped in this truck with the female. The truck came
22 out and backed into another vehicle. Another client
23 of the bank and that the defendant then got out of the
24 truck and left hurriedly. And she told you he didn't
25 run but he walked hurriedly. He was trying to get out

1 of there hurriedly. You see yourself the physical
2 condition of the defendant. I wouldn't expected him
3 to go out in full speed sprint from that truck. He
4 probably did have a little bit of difficulty. But she
5 told you that he was walking. That it was a fast
6 paced. He was trying to get out of Dodge quickly.

7 Now that goes to show consciousness of guilt. If
8 he had done nothing wrong, if he just thought hey
9 Brenda Keith was going to come up there and verify 13
10 hours of work for her which is what is on that check
11 why would he jump out of that truck and get out of
12 Dodge quickly. It just doesn't make sense. Is that
13 consciousness of guilt. Knowing he did something
14 wrong. Something that he was not suppose to do and it
15 was about to catch up to him and he was about to get
16 caught. Now any reasonable person would have stuck
17 around.

18 Then Miss Crosby talked about yesterday about how
19 she says that when she ran a trace on that check she
20 had information that check had been presented before
21 and had attempted to be cashed before.

22 Now I want you to keep in mind the judge told you
23 about the law. Just keep in mind two things when you
24 are deliberating. The State doesn't have to prove
25 that Miss Keith was defrauded from any money. So we

1 were very lucky in this instance that Miss Crosby was
2 so on top of her game and on top of her job that she
3 caught this quickly before any money was taken out of
4 Miss Keith's account. But that's not required by the
5 law. Okay. So don't get hung up on that. And as far
6 as the momentary amount you do have the check for \$117
7 and you heard testimony about that. So the State has
8 proven that this was a forgery involving money.

9 Now I want to just make it clear in this case the
10 defendant is not charged with stealing the check.
11 There is not evidence as to who may have taken this
12 check. What he is charged with is presenting that
13 check to the bank, to Park Sterling, and presenting it
14 as a true document. That he was trying to get cash
15 paid to him. He knew Brenda Keith did not write that
16 check to him. He knew he had never done any work for
17 her and he knew he was just trying to make a quick
18 buck. Okay. So that's what the State has to show.

19 Now the same with that Bi-lo situation. Bi-lo
20 scenario I told you about. It's the same thing. I
21 just ask you to go back in this jury room and
22 deliberate along with your common sense and look at
23 all the the pieces that come together.

24 I will have a very brief opportunity to speak with
25 you again after Miss Williams. But one last thing I

1 want you to think about is the defendant this morning
2 on that stand testifying. He couldn't even keep the
3 story straight on the stand this morning when he was
4 telling you guys what happened. What he told us that
5 he is currently unemployed. He wasn't getting any
6 payroll check. This wasn't a payroll check that he
7 got. That it had been years since he had been in
8 contact with Brenda Keith and he has never worked for
9 her. He told you that he went to Walmart on the same
10 day as Park Sterling Bank to try and cash this check.
11 Well, you see the video from Walmart. It clearly
12 states around 8:50 that evening and that's the day
13 before he was in Park Sterling. And then let's think
14 about his story that he gave.

15 He told you during direct and I had a few followup
16 questions for him on that. He went out to his mailbox
17 that morning and just happened to find this check in
18 the morning of October 16th. Okay. So that's the
19 date where he was in Park Sterling Bank. He said that
20 he went out to his mailbox about ten o'clock. He told
21 you he doesn't usually check the mail until around 11
22 or 11:30 and the mail runs around ten in the morning.
23 But he went out to his mailbox that and day found this
24 check in his mailbox and called Amy Patrick to come
25 get him. To come pick him up. And he said Amy first

1 took him to Walmart and then he said Amy took him to
2 Park Sterling Bank. Okay. Well, Rusty Young spoke
3 with you yesterday and he told you yesterday that he
4 went out to Park Sterling Bank about ten o'clock that
5 morning. So that's completely inconsistent with what
6 the facts show in this case. The defendant's
7 testimony is completely inconsistent with that. That
8 couldn't have happened. And then he said that he just
9 went out to smoke a cigarette and he told Amy Patrick
10 that while they were waiting on Brenda Keith let's
11 just go across the road to the Mexican restaurant. At
12 about ten o'clock in the morning. Makes no sense
13 whatsoever. Okay. His testimony is completely
14 inconsistent with what happened that day.

15 He told you that he usually walks everywhere but
16 his testimony is that that morning he just called Amy
17 Patrick who he has known for I believe probably if my
18 math is correct, 16 or 17 years -- and called her up
19 and said, hey, I want you to take me up the road which
20 was about he estimated about three quarters of a mile
21 or a mile from his house. But then after he jumped
22 out of the truck and was running from the police
23 because of this bench warrant he thought he had he
24 decided to walk a half mile to a friend's house, to
25 Tim Tremmal up the road -- excuse me, to Kenneth,

1 these other individuals he named up the road because
2 he thought the police had a bench warrant out for him.
3 So a lot of things just do not make sense in his
4 testimony. And I want you to think about that when
5 you are testifying. But the huge thing to take away
6 from his testimony are, he told you I haven't had
7 interaction with Brenda Keith in years. Have not done
8 any work for her or Triple A Union Tree Service, and I
9 you got this check in my mailbox and I decided to
10 immediately take it up to the bank. It just does not
11 make any sense whatsoever.

12 What makes sense is that man, wherever he got that
13 check whether it was from Amy Patrick, wherever it
14 came from, it was stolen from Brenda Keith and he got
15 that check and he said, you know what? This is an
16 opportunity. I am going to make an easy buck. And
17 whether he wrote it out by hand or he got Amy Patrick
18 or he got somebody else to write it out for him, he
19 knew exactly what he was doing. I am going to make me
20 \$117 on October 16th from poor Miss Brenda Keith.

21 Ladies and gentlemen, I ask you to hold him
22 accountable to the injustice that was done to Miss
23 Keith on that day and find him get of forgery.

24 Thank you.

25 THE COURT: Miss Williams.

1 MR. WILLIAMS: Thank you, Your Honor.

2 Miss Gilmer, just said it just doesn't make sense.
3 It doesn't make sense. Maybe it doesn't make sense
4 because it is not some sophisticated scheme. We're not
5 dealing with a very sophisticated person. Maybe
6 that's why it doesn't make sense. There are big
7 holes. Big holes in this case that can be filed with
8 reasonable doubt and that's what we have here.

9 The State glossed over the fact, the big fact of
10 where did this check come from. Their own witnesses,
11 Miss Brenda Keith, the officers, the investigator, got
12 on the stand. I asked them, Miss Gilmer asked them,
13 where did the check come from? Anybody charged with
14 taking this check? Miss Keith said, well, the check
15 was in a drawer in Linda's Variety store. Her
16 sister's store. Previously an Avon store. Its been
17 there. Miss Brenda said it's been there. It has been
18 in the second draw. I only take it out to do payroll.
19 When I got the call that day I went and got it out of
20 the draw at my sister's store. Miss Brenda said
21 Thomas has never worked for her. She doesn't know how
22 he got the check. She hasn't seen Thomas in years.
23 Where is the check coming from? Where is it?
24 Something is missing. There's another huge hole.

25 We have heard time and time again about Amy

1 Patrick. Where is Amy? We didn't hear from Amy. She
2 didn't come in and she did sit on that witness stand
3 and tell us anything. But we heard, Amy Patrick
4 driving the truck. Amy Patrick got in a wreck. The
5 investigator said well, we suspected Amy Patrick but
6 we can't arrest people on suspicion. Where is Amy?
7 Another big whole.

8 We also heard Thomas gets around most places he
9 walks. He doesn't own a car. He has to walk. So
10 another question I would submit to you is, Thomas told
11 you he lived on Barnado road. Linda's variety store
12 is on the opposite side of town. That's a long way to
13 walk. It's a long way to walk. We also heard some
14 testimony about Walmart. About a check being cashed
15 at Walmart, or a check trying to be cashed at Walmart.
16 And then we hear about timeline. Did happen the day
17 before or did it happen the same day. This supposedly
18 happened over two years ago. Memories fade. People
19 memories fade weekly. So if Thomas is confused about
20 what time he saw the mail come or what time he checked
21 the mail it has been over two years ago, ladies and
22 gentlemen.

23 As I said, we heard about Walmart. What we haven't
24 heard is, I asked the officer, Mr. Gregory, the
25 investigator who said he was behind Thomas in Walmart.

1 Did you see the check? No. We don't even know if
2 that's the same check ladies and gentlemen. Nobody
3 submitted any evidence saying that's the same check.
4 We also glossed over that fact, but we haven't heard
5 any evidence about that.

6 Mr. Sailors is not a very sophisticated type of
7 guy. He told you that when he had his own checks he
8 didn't know how to fill them out. He told you in his
9 own words I got a check in the mail. Had my name on
10 it. Maybe it's as simple as that. There are big
11 holes here. Big holes.

12 The State hasn't met its burden. You heard the
13 judge charge you there has to be reasonable doubt as
14 defined as proof that leaves you firmly convinced of a
15 defendant's guilt. From all these questions I have, I
16 asked you are you firmly convinced? Are you firmly
17 convinced? Is it simple enough that Mr. Sailors maybe
18 unfortunately isn't a sophisticated as some of us.
19 Maybe it's as simple as that. Are you firmly
20 convinced? Are you firmly convinced after not hearing
21 from Amy? After wondering where the check is coming
22 from, are you firmly convinced? And I will ask you
23 when you go back in that jury deliberation's room to
24 find Mr. Sailors not guilty of forgery.

25 Thank you.

1 THE COURT: Thank you, Miss Williams. Miss
2 Gilmer, reply.

3 MS. GILMER: Ladies and gentlemen, just briefly to
4 touch upon a few things that Miss Williams told you
5 you. Just to be clear, I thought I had stated this in
6 my earlier closing, but Thomas Sailors isn't charged
7 with stealing a check. We don't know who actually
8 removed that check from Brenda Keith's checkbook. So
9 we're not trying to put that on him. He's charge with
10 forgery from passing that check knowing that he did
11 not have permission from Brenda Keith for \$117 or any
12 money at all. That's what he is charged with.

13 The defense wanted to talk about Amy Patrick.
14 They brought her up a lot during questioning of the
15 State's witnesses yesterday. Does the State believe
16 that it's reasonable and is possible that Amy Patrick
17 was involved in this scheme. Absolutely. But as you
18 heard from Investigator Beatty at the time when he was
19 doing this investigation, prior to making anything
20 that came out today with the defendant's testimony, he
21 had a suspicion. He suspected Amy Patrick was
22 involved but he did not have any hard core evidence or
23 proof. We're not in the business of bringing people
24 in this courtroom for mere suspicion and he told you
25 that yesterday. He can't arrest people for mere

1 suspicion. He has a burden he has to met before
2 someone can be arrested for a crime. Was Amy Patrick
3 involved in this case? It is quite possible. And if
4 there was hard core evidence to show that she was
5 involved in this scheme I guarantee you she would be
6 in this courtroom just as Thomas Sailors is today. So
7 just whether she is or is not involved takes nothing
8 away from the guilt that we are asking you to find for
9 Thomas Sailors.

10 As far as Mr. Sailors being this un-sophisticated,
11 simple man, he was sophisticated, un-simple enough to
12 get on this stand and testify for you to today and he
13 came across very fine with giving you answers and
14 telling you what happened on the stand or did not
15 happen. So this is not a matter of he's just getting
16 his timelines messed up. It's matter of credibility
17 and whether what he told you today was the truth or
18 not and we submit to you that it wasn't. His story
19 didn't make sense. A lot of inconsistencies, but the
20 one consistent thing that he did tell you is he had no
21 interaction with Brenda Keith. He did no work for
22 her. No reason why she should be giving a check for
23 him for 13 hours of pay or anything else and yet he
24 was that individual who went up there to cash this
25 check at Park Sterling and try and make an easy buck

1 that day on October 16th of 2017.

2 Ladies a gentleman, again we ask you to find him
3 guilty for that forgery at Park Sterling Bank on
4 October 16th of 2017. The State has met its burden of
5 proof in this matter and we ask that you hold him
6 accountable.

7 Thank you.

8 THE COURT: All right. Ladies and gentleman, as I
9 said that brings us to the conclusion of what is going
10 on in the courtroom in this case. At this time I will
11 ask you to go back to the jury room. The lawyers have
12 a last couple of last minute things. Mainly making
13 sure all the evidence is ready to be brought back to
14 you. I will ask you to hold off on deliberating just
15 a few more minutes. Don't talk about the case. You
16 can talk about other things if you want of course. In
17 a few minutes the bailiff will bring you back all the
18 physical evidence in the case. He will bring you back
19 the verdict form and copy of my jury instructions and
20 once you get those things that's your signal its time
21 to deliberate amongst yourselves and let the bailiff
22 know once you've made your decision. Any questions?

23 Thank you, ladies and gentleman.

24 (WHEREUPON, the jurors exit the courtroom).

25 THE COURT: Counsel, if all want to double check

1 the evidence. Anything we need to take up before we
2 send it back to the jury.

3 MS. GILMER: Nothing from the State, Your Honor.

4 MR. WILLIAMS: No, Your Honor.

5 THE COURT: Any objection to my releasing the
6 alternates?

7 MS. GILMER: No objection.

8 MR. WILLIAMS: No, Your Honor.

9 THE COURT: Please bring the two alternates in.
10 Counsel, have you approved the evidence?

11 MS. GILMER: We have, Your Honor.

12 THE COURT: Thank you both.

13 (WHEREUPON, the alternate jurors enter the
14 courtroom.)

15 Mr. Garner and Mr. Rice, thank you both for your
16 service. Being an alternate juror is one of the most
17 frustrating roles in the justice system because you
18 sit for the whole trial and you have got to pay
19 attention and when it comes to the end of the day you
20 don't get to vote. I'm sorry for that. There is
21 nothing I can do to make it easier or better but I
22 really do appreciate your service because like I said
23 if one of other jurors had gotten sick or had a family
24 emergency the only way we could go forward and not
25 have to restart the whole trial from scratch is one of

1 the alternates can step in.

2 Thank you, very much for being here. On behalf of
3 Union County thank you very much. Your service on
4 this case is completed. Jury service is for the whole
5 week so there's a small chance we might have another
6 trial. So you are excused for today and we will ask
7 you call in after six o'clock tonight. There's a
8 small chance there might be an another trial starting
9 tomorrow.

10 Gentlemen, the courtroom is open to the public so
11 if you don't have anything to do today and you would
12 like to stay for the verdict you're welcome to have a
13 seat out in the courtroom. But you are excused for
14 today and I thank you for your service.

15 (Whereupon, the jurors leave the courtroom.)

16 THE COURT: All right. The Court will be in
17 recess until we hear something from the jury. Thank
18 you all.

19 (WHEREUPON, the jury began deliberations at 11:54
20 p.m.)

21 THE COURT: I understand we have a verdict.

22 Counsel, anything we need to take up before we
23 bring the jury back in.

24 MS. GILMER: Nothing from the State.

25 MR. WILLIAMS: No, Your Honor.

1 THE COURT: Please bring the jury in.

2 (WHEREUPON, the jury enters the courtroom at 12:11
3 with a verdict.

4 THE COURT: Mr. Foreman, I understand the jury has
5 reached a verdict.

6 THE FOREMAN: Yes, Your Honor.

7 THE COURT: Will you hand that to the bailiff
8 please.

9 The clerk will publish the verdict.

10 THE CLERK: The State of South Carolina, County of
11 Union, case number 2018-GS-44-0192, forgery, the State
12 versus Thomas Harold Sailors Jr., forgery less than
13 ten thousand, guilty.

14 Is this still your verdict jurors?

15 (Jurors reply yes.)

16 THE COURT: Ladies and gentlemen, if you agree
17 with that verdict please raise your right hand. Let
18 the record reflect it was unanimous.

19 THE COURT: Miss Williams, would you like the jury
20 polled.

21 MR. WILLIAMS: No, Your Honor.

22 THE COURT: Counsel, is there anything we need to
23 do before we release the jury?

24 MS. GILMER: Nothing if the State, Your Honor.

25 THE COURT: Miss Williams?

1 MR. WILLIAMS: Nothing.

2 THE COURT: Ladies and gentlemen, that completed
3 your service in this matter. On behalf of the County
4 of Union, the State of South Carolina, we are very
5 grateful for your service and the time and effort you
6 spent on this case. You are excused for today.

7 The jury service is for a whole week so even though
8 you served on this case there is a small chance there
9 will be a second case to be tried this week and you
10 will be pooled in with everyone else. So you are
11 excused for today, but I will ask you to call back
12 after six o'clock tonight. There is a small chance
13 there might be a second case this week. You are
14 released from any restrictions that he talked about.
15 If you have family or friends that have questions for
16 you about what happened or anything like that, you are
17 free to tell them as much or as little as you want.
18 You don't have any restrictions on what you can say
19 now. Do you all have any questions for me?

20 Okay. Ladies and gentlemen, the next part will be
21 the sentencing. You are welcome to stay if you like.
22 You can have a seat out there. You can be present for
23 the sentencing. You are excused for the the rest of
24 the day.

25 Ladies and gentlemen, thank you very much. Mr.

1 Foreman I have one more thing. I need for you to
2 signed this but everyone else is excused.

3 Miss Gilmer, have you prepared a sentencing
4 sheet?

5 MS. GILMER: Yes, Your Honor, if I may approach.

6 THE COURT: Yes, ma'am.

7 MS. GILMER: Your Honor, could we have a few
8 minutes before we proceed to sentencing? There are
9 some other matters that we maybe able to resolve.

10 THE COURT: Okay, give you 15 minutes?

11 MS. GILMER: Yes, Your Honor.

12 (WHEREUPON, there was a brief recess.)

13 THE COURT: Yes, ma'am.

14 MS. GILMER: Your Honor, after the juror's verdict
15 we are here for sentencing in this matter, Your Honor.
16 We are prepared to proceed forward at this time.

17 THE COURT: Okay. And there was some discussion
18 about a possible resolving of other charges. Will
19 that be done as well?

20 MS. GILMER: That will not be done, Your Honor.

21 The defendant does have a pending possession of
22 marijuana, second offense, and also an obtaining goods
23 under false pretenses, third, or subsequent offense.
24 And I can just go ahead and put on the record, Mr.
25 Gault is prosecuting the obtaining goods charge and he

1 has informed me there will not be an offer at this
2 time after today. We did offer the defendant
3 concurrent sentencing with any sentence he received
4 after today's verdict and that offer has been
5 declined.

6 THE COURT: All right. Yes, ma'am, I will hear
7 from the State.

8 MS. GILMER: Thank you, Your Honor. Your Honor as
9 to the defendant'S prior criminal history, it does
10 date back to 1985 and I've tried to condense that some
11 for the Court. Between 1985 and 2006 he had 11
12 convictions for simple possession of marijuana and 16
13 convictions for alcohol related misdemeanors being
14 public intoxication, public disorderly conduct, open
15 container in public and a public drunk charge. In
16 1985 also receiving stolen goods and grand larceny.
17 1986 carrying go a concealed weapon. 1988, five
18 counts of burglary, 2nd degree, and three counts of
19 grand larceny for which he received a 15-year prison
20 sentence. 1998, a parole revocation. 1999,
21 furnishing contraband at the jail, DUI. 2000, giving
22 false information. 2001, theft of power. 2006,
23 trespassing. 2008, a public disorderly conduct and
24 simple possession of marijuana. 2009, forgery less
25 than \$5,000, simple possession of marijuana. 2011,

1 public drunkenness, unlawful use of telephone. 2015,
2 public intoxication. 2016 public disorderly conduct,
3 resisting arrest, and 2017 simple possession of
4 marijuana.

5 Your Honor, the State is seeking an active prison
6 sentence in this case. We do not feel that due to the
7 defendant's prior criminal history that he is a good
8 candidate for probation.

9 The victim is still present in Court and would like
10 to address the Court at the appropriate time.

11 THE COURT: Yes, ma'am, I will hear from you now.

12 MS. KEITH: I think he should be given the maximum
13 sentence because he had an opportunity to call me or
14 get in touch with me.

15 THE COURT: Yes, ma'am.

16 MS. KEITH: He knows right from wrong and that was
17 wrong.

18 THE COURT: Did you know the defendant, ma'am?

19 MS. KEITH: I knew him because he was my brother-
20 in-law's brother.

21 THE COURT: All right. Is there anything else you
22 like to say, ma'am?

23 MS. KEITH: That's all.

24 THE COURT: Thank you, ma'am.

25 Yes, ma'am.

1 MR. WILLIAMS: Thank you, Your Honor. I think
2 mostly the trial speaks for itself, as far as the
3 facts go. But to speak about Mr. Sailors himself, he
4 is 54 years old. He has some family here in town.
5 But he lives by himself. He is in pretty poor health
6 at this point. He was roofer. He has got some issues
7 due to roofing, but he also has some other issues with
8 his lungs and breathing.

9 You know, I would ask, Your Honor, I know you heard
10 we were talking about \$117 check. That, you know,
11 nobody ever got \$117 which is a good thing. You
12 heard, he does have a criminal history and that is
13 something we can't hide or run from. Mr. Sailors has
14 been very honest and open about that with us. He did
15 serve some time back in the 80's, early 90's, that he
16 had. He had, you know, multiple Magistrate Court
17 offenses since then.

18 THE COURT: Mr. Williams, just in addition to the
19 charges that Miss Gilmer explained, individually, he
20 had additional 11 convictions for marijuana and 16
21 convictions involving alcohol, is that correct?

22 MR. WILLIAMS: Yes, Your Honor.

23 You know, we also are aware of two other pending
24 charges as Miss Gilmer related to the Court. You
25 know, we are asking for a little bit of mercy in this

1 case just due to Mr. Sailors' condition. We were
2 originally at a 90 day offer before the other arrest
3 and before the trial, Your Honor. So, we understand
4 we are looking at zero to five at this point today.

5 THE COURT: Mr. Sailors, is there anything you
6 want to to say, sir.

7 MR. SAILORS, I would say as far as trying to cash
8 a check, yes, I am guilty, but as far as forgery, I
9 just don't see where I've done anything wrong. It was
10 in my mailbox, the check with my name on it, so I
11 cashed it. Why I got the check I don't really no.
12 Maybe it was somehow or another issued. Some sympathy
13 for me because at the time I wasn't working and I
14 stayed broke the whole time.

15 THE COURT: Mr. Sailors, the check was for 13
16 hours of work and you did never work.

17 MR. SAILORS: True.

18 THE COURT: All right. Anything else, Mr.
19 Sailors?

20 MR. SAILORS: No.

21 THE COURT: How much time has he served on this
22 charge?

23 MR. WILLIAMS: One day, Your Honor.

24 THE COURT: All right. State of South Carolina
25 versus Thomas Sailors -- before I do that I would like

1 say an I am basing this on the criminal record as well
2 as what I have heard today. But the one mitigating
3 factor in Mr. Sailor's favor is the amount of the
4 check is on the low end of the range. The statute is
5 up to ten thousand and it was \$117, but that's really
6 the only the mitigating factor.

7 The State of South Carolina versus Thomas Harold
8 Sailors charges of forgery less than \$10,000,
9 Indictment 2018-GS-44-0192, the sentence of the Court
10 is Mr. Sailors is committed to the custody of the
11 South Carolina Department of Corrections for a period
12 of four years with credit for one day time served.

13 MS. WILLIAMS: Thank you, Your Honor.

14 MS. GILMER: Thank you, Your Honor.

15 (END OF TRANSCRIPT).

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CERTIFICATION

25

I, the undersigned Aileen Butler, Official Court

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

hereby appear in my own proper person and plead guilty to the within indictment or to

Thomas Sailors
Defendant

Witness:
Clay Gibson
C.C.C. PLS. AND G.S. Clerk

DOCKET NO. 2018-GS-44-0192

The State of South Carolina

County of Union

COURT OF GENERAL SESSIONS

APRIL 9 TERM, 2018

THE STATE

vs.

THOMAS HAROLD SAILORS, JR.

Indictment for

FORGERY

SC Code: 16-13-0010
CDR Code: 3436

WITNESSES

Beatty/UPSD

R. Moore

ARREST WARRANT NUMBER

Direct Indictment (2017A4420200573)

ACTION OF GRAND JURY

Clay Gibson
Foreperson of Grand Jury
Date: 4-5-18

VERDICT

Guilty

TRUE BILL

Clay Gibson
Foreperson of Pétit Jury
Date: Feb 27, 2018

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COUNTY OF UNION

STATE VS.

THOMAS HAROLD SAILORS, JR

AKA: _____
Race: White Sex: M Age: 53
DOB: _____ SS#: _____
Address: _____ Rd
City, State, Zip: Union, SC 29379
DL# _____ SID# SC00482283

INDICTMENT/CASE#: 2018-GS-44-0192
A/W: 2017A4420200573
Date of Offense: 10/12/2017
S.C. Code §: 16-13-0010(A)
CDR Code #: 3436

SENTENCE SHEET

*CDL Yes [] No [] CMV Yes [] No [] Hazmat Yes [] No []

In disposition of the said indictment comes now the Defendant who was [X] CONVICTED OF or [] PLEADS
TO: Forgery, value less than \$10,000 (Up to 5 years w/ or discretionary fine)
In violation of § 16-13-0010 of the S.C. Code of Laws, bearing CDR Code # 3436

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

The charge is: [X] As indicted, [] Lesser Included Offense, [] Defendant Waives Presentment to Grand Jury.
The plea is: [X] Without Negotiations or Recommendation, [] Negotiated Sentence, [] Recommendation by the State.

ATTEST:
Meghan M. Gilmer, Assistant Solicitor 81157 SC Bar #
Thomas Sailors Defendant
Attorney for Defendant 10/427 72550 SC Bar #

WHEREFORE, the Defendant is committed to the [X] State Department of Corrections [] County Detention Center,
for a determinate term of 4 days/months/years or [] under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which
are incorporated by reference.

[] CONCURRENT or [] CONSECUTIVE to sentence on: _____
[] The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State
Department of Corrections.
[] The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

[] RESTITUTION: [] Deferred [] Def. Waives Hearing [] Ordered PTUP _____
Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment
Payment Terms: _____ Obtain GED []

[] Set by SCDPPPS _____
Attend Voc. Rehab. Or Job Corp. _____
May serve W/E beginning _____

Recipient: _____
*Fine: \$ _____
Substance Abuse Counseling []
Random Drug/Alcohol Testing []
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

§14-1-206 (Assessments 107.5%) \$ _____
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$100.00
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
§56-5-2995 (DUI Assessment) \$12 \$ _____
§56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso 61.6 (Public Def/Prob) \$500 \$ _____
§14-1-212 (Law Enforce. Funding) \$25 \$25.00
§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ _____
3% to County (if paid in installments) \$ \$3.75
TOTAL \$128.75

[] Appointed PD or appointed other counsel,
Proviso §61.6 requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: Amy Gibson
Court Reporter: Aileen Butler
Presiding Judge: _____ Judge Code: 2761
Sentence Date: 2-27-19

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.”

RECEIVED**Apr 15 2020****SC Court of Appeals**

Respectfully Submitted,

s/ Victor R. SeegerVictor R Seeger
Appellate DefenderSouth Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 15th day of April, 2020.