

RECEIVED

Jan 04 2022

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Clarendon County

Honorable R. Ferrell Cothran, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MARVIN KEITH MCBRIDE, JR.,

APPELLANT.

APPELLATE CASE NO. 2021-000813

RECORD ON APPEAL

Wanda H. Carter
Deputy Chief Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

WILLIAM M. BLITCH, JR.
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

INDEX

INDEX	i
TRIAL TRANSCRIPT DATED JULY 26-27, 2019.....	1
JURY VOIR DIRE	4
JURY SELECTION.....	8
PRE-TRIAL MOTIONS.....	15
PRE-TRIAL MOTION ON COMPETENCY	16
COMPETENCY HEARING TESTIMONY	17
TESTIMONY OF APPELLANT	18
COURT’S RULING ON COMPETENCY	29
JACKSON V. DENNO HEARING.....	30
TESTIMONY	
ANDREW HUGHES.....	30
COURT’S RULING	39
MOTION TO AMEND THE INDICTMENT.....	41
COURT’S RULING	46
OPENING REMARKS BY THE COURT.....	47
OPENING STATEMENT BY THE SOLICITOR.....	51
OPENING STATEMENT BY DEFENSE COUNSEL.....	53
TESTIMONY	
ANDREW HUGHES.....	56
JAMES JOHNSON.....	66
STATE RESTS	75

ADVICE OF RIGHTS76

MOTION FOR A DIRECTED VERDICT82

COURT’S RULING83

TESTIMONY

 MARVIN KEITH MCBRIDE, JR.85

DEFENSE RESTS95

CLOSING ARGUMENT BY SOLICITOR96

CLOSING ARGUMENT BY DEFENSE COUNSEL100

CLOSING REPLY BY SOLICITOR102

JURY CHARGE ON THE LAW103

VERDICT115

JURY POLL115

SENTENCING121

INDICTMENT125

CERTIFICATE OF COUNSEL127

STATE OF SOUTH CAROLINA)
COUNTY OF CLARENDON) COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA)

STATE,)

v.)

TRANSCRIPT OF RECORD
19-GS-14-0020

MARVIN K. MCBRIDE,)

DEFENDANT.)

July 26-27, 2019
Manning, South Carolina

BEFORE :

THE HONORABLE R. FERRELL COTHRAN, JR., JUDGE;
AND JURY

APPEARANCES:

PHILIP D. LITTLE, JR., ESQ.
Assistant Solicitor

TIMOTHY L. GRIFFITH, ESQ.
Attorney for Defendant

FRANCES B. RAY, RPR
Circuit Court Reporter

I N D E X

	Page
Jury voir dire	4
Striking of the jury	7
Pretrial motions	15
Jackson v. Denno	30
Preliminary remarks by the Court	47
Opening statement by Mr. Little	51
Opening statement by Mr. Griffith	53
Andrew Hughes:	
Direct examination	55
Cross-examination	63
James Johnson:	
Direct examination	66
Cross-examination	70
Redirect examination	73
Constitutional right to testify	76
Directed verdict motion	82
Marvin McBride:	
Direct examination	85
Cross-examination	89
Closing argument by Mr. Little	96
Closing argument by Mr. Griffith	100
Rebuttal argument by Mr. Little	102
Jury charge	103
Verdict	115
Polling of the jury	115
Sentence of the Court	121

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS

STATE'S:

NO.	DESCRIPTION	I.D./EVD.
1	Body cam	29/58
2	Check #4964	46/62
3	Check stub #4964	46/62
4	Signature	67/68

DEFENSE:

1	Copy of check	71/71
---	---------------	-------

1 THE COURT: Mr. Solicitor, ready to
2 call your first case?

3 MR. LITTLE: Thank you, Your Honor.
4 May it please the Court, the matter before the
5 Court today is the State of South Carolina v.
6 Marvin McBride, indictment 2019-GS-14-0020.

7 THE COURT: Okay. Ladies and
8 gentlemen, we're about to begin the trial of the
9 case of State v. Marvin McBride. Is there any
10 member of the jury panel connected by blood or
11 marriage, close personal friends, social relation,
12 with Mr. McBride, if so, please stand.

13 (There was no response.)

14 THE COURT: Okay. Potential witnesses
15 in this case are: Andrew Hughes, Tina Mack, James
16 Johnson. Is there any member of the jury panel
17 connected by blood or marriage, close personal
18 friends, social relation, with any of those
19 potential witnesses, if so, please stand.

20 (There was no response.)

21 THE COURT: The attorneys in the case
22 representing the State is Philip Little. Tim
23 Griffith is representing the defendant. Any
24 member of the jury connected by blood or marriage,
25 close personal friends, social relation, or been

1 represented by either two of these attorneys, if
2 so, please stand.

3 (There was no response.)

4 THE COURT: This defendant is charged
5 with the charge of forgery which allegedly
6 occurred on or about April 19th, 2018. Is there
7 any member of the jury panel that know anything
8 about this case at all, if so, please stand.

9 (There was no response.)

10 THE COURT: Any member of the jury
11 panel formed or expressed an opinion about any of
12 the issues or matters involved in this case, if
13 so, please stand.

14 (There was no response.)

15 THE COURT: Any member of the jury
16 panel aware of any bias or prejudice toward the
17 State of South Carolina or this defendant, if so,
18 please stand.

19 (There was no response.)

20 THE COURT: Any member of the jury
21 panel served on the grand jury that heard this
22 case, if so, please stand.

23 (There was no response.)

24 THE COURT: Any member of the jury
25 panel a member or a financial contributor to any

1 organization that promote law enforcement or
2 victim's rights, such as: MADD, SADD, CAVE, or
3 any other organization, if so, please stand.

4 (There was no response.)

5 THE COURT: Any member of the jury
6 panel due to religious or moral reasons unable to
7 sit in judgment of your fellow man, if so, please
8 stand.

9 Yes, ma'am.

10 PROSPECTIVE JUROR: Yes, sir. I
11 currently am Jehovah witness and my conscience
12 just won't allow me to.

13 THE COURT: What is your number
14 please, ma'am?

15 PROSPECTIVE JUROR: No. 86.

16 THE COURT: 86?

17 THE POTENTIAL JUROR: Yes, sir.

18 THE COURT: Okay, thank you.

19 Yes, ma'am.

20 PROSPECTIVE JUROR: I'm Apostolic. If
21 he's to be looking to be sentenced.

22 THE COURT: Say that a little bit
23 louder.

24 PROSPECTIVE JUROR: I'm Apostolic so I
25 don't believe in sentencing to death so I just

1 want to know what would be the sentence.

2 THE COURT: Oh, sentence him to death?
3 He's not looking at the death penalty.

4 PROSPECTIVE JUROR: Oh.

5 THE COURT: Thank you, ma'am. What
6 was your number?

7 PROSPECTIVE JUROR: 15.

8 THE COURT: Okay. Does any member of
9 the jury panel know any reason whatsoever they
10 can't give both the State of South Carolina and
11 this defendant a fair and impartial trial, if so,
12 please stand.

13 (There was no response.)

14 THE COURT: Any further questions from
15 the State?

16 MR. LITTLE: Nothing, Your Honor.

17 THE COURT: From Defense?

18 MR. GRIFFITH: Nothing, Your Honor.

19 THE COURT: Okay. Madam Clerk, if
20 you'll give me a jury. It's five and ten.

21 THE CLERK: Ladies and gentlemen, can
22 you hear me from back here? All right. As I call
23 your name, come up the center aisle, stand right
24 in front, turn around, and turn around facing the
25 tables right there near the mic and stand there

1 until I tell you what do.

2 No. 220, Gerald C. Wilder, III (white
3 male). Come on right up here, Mr. Wilder. Turn
4 around and face the two tables and stand there
5 until I give you other instructions.

6 What says the State?

7 MR. LITTLE: The State says please
8 seat this juror.

9 THE CLERK: The Defense?

10 MR. GRIFFITH: Please seat the juror.

11 THE CLERK: Go over to the bailiff.
12 They'll give you your instruction.

13 No. 35, Mary J. Burnsed (white
14 female). What says the State?

15 MR. LITTLE: Please seat this juror.

16 THE CLERK: The Defense?

17 MR. GRIFFITH: Please excuse the
18 juror.

19 THE CLERK: You can have a seat back
20 in the jury pool, ma'am.

21 No. 26, Virginia S. Brock (black
22 female). What says the State?

23 MR. LITTLE: Please excuse this juror
24 from this trial.

25 THE CLERK: You can have a seat back

1 in the jury pool. Thank you, ma'am.

2 No. 71, David C. Feagin (white male).

3 What says the State?

4 MR. LITTLE: Please seat this juror.

5 THE CLERK: The Defense?

6 MR. GRIFFITH: Please seat the juror.

7 THE CLERK: Go over to the bailiff,

8 sir. Thank you.

9 No. 134, Joseph C. McDonald, II,

10 (white male). What says the State?

11 MR. LITTLE: Please seat this juror.

12 THE CLERK: The Defense?

13 MR. GRIFFITH: Please seat the juror.

14 THE CLERK: Go over to the bailiff,

15 sir.

16 No. 3, Mary B. Anderson (white

17 female). What says the State?

18 MR. LITTLE: Please seat this juror.

19 THE CLERK: The Defense?

20 MR. GRIFFITH: Please seat the juror.

21 THE CLERK: Go over to the bailiff,

22 ma'am. Thank you.

23 No. 118, Vanessa D. Kirby (white

24 female). What says the State?

25 MR. LITTLE: Please seat this juror.

1 THE CLERK: The Defense?

2 MR. GRIFFITH: Please excuse the
3 juror.

4 THE CLERK: Thank you. You can have a
5 seat back in the jury pool.

6 No. 213, William E. Ward, Jr. (white
7 male). What says the State?

8 MR. LITTLE: Please seat this juror.

9 THE CLERK: The Defense?

10 MR. GRIFFITH: Please seat juror.

11 THE CLERK: Go to the bailiff, sir.
12 Thank you.

13 No. 209, Hunter W. Thynes (white
14 male). What says the State?

15 MR. LITTLE: Please seat this juror.

16 THE CLERK: Defense?

17 MR. GRIFFITH: Seat the juror.

18 THE CLERK: Go over to the bailiff,
19 sir.

20
21 No. 222, Nichole D. Wilson (black
22 female). What says the State?

23 MR. LITTLE: Please seat the juror.

24 THE CLERK: The Defense?

25 MR. GRIFFITH: Please seat the juror.

1 THE CLERK: Go to the bailiff, ma'am.
2 No. 65, Jemetrius A. Dixon (black
3 male). What says the State?

4 MR. LITTLE: Please excuse this juror
5 from this trial.

6 THE CLERK: Thank you. Have a seat
7 back in the jury pool, sir.

8 No. 5, Patricia M. Avant (black
9 female).

10 MR. GRIFFITH: What number is that,
11 Your Honor?

12 THE CLERK: 5. What says the State?

13 MR. LITTLE: Please seat this juror.

14 THE CLERK: Defense?

15 MR. GRIFFITH: Please seat the juror.

16 THE CLERK: Go over to the jury box,
17 ma'am. Thank you, ma'am.

18 No. 60, Timothy A. Daniels (white
19 male).

20 THE CLERK: What says the State?

21 MR. LITTLE: Please seat the juror.

22 THE CLERK: Defense?

23 MR. GRIFFITH: Please seat the juror.

24 THE CLERK: Go to the bailiff, sir.

25 No. 16, Angela S. Blanding (black

1 female). What says the State?

2 MR. LITTLE: Please excuse this juror
3 from this trial.

4 THE CLERK: Thank you, ma'am.

5 No. 67, Pamela K. Driggers (white
6 female). What says the State?

7 MR. LITTLE: Please seat the juror.

8 THE CLERK: The Defense?

9 MR. GRIFFITH: Please excuse her.

10 THE CLERK: You can have a seat back
11 in the jury box, ma'am.

12 No. 84, Bryan Q. Hacker (white male).
13 What says the State?

14 MR. LITTLE: Please present this
15 juror.

16 THE CLERK: The Defense?

17 MR. GRIFFITH: Please seat the juror.

18 No. 130, Martin C. Lowder (white
19 male). What says the State?

20 MR. LITTLE: Please seat this juror.

21 THE CLERK: The Defense?

22 MR. GRIFFITH: Please seat the juror.

23 THE CLERK: Go over to the bailiff,
24 sir.

25 No. 189, Jaden J. Sheppard (white

1 male). What says the State?

2 MR. LITTLE: Please excuse this juror
3 for this trial.

4 THE CLERK: You can have a seat back
5 in the jury please, sir. Thank you.

6 No. 54, Robert S. Corbett, Jr. (white
7 male). What says the State?

8 MR. LITTLE: Please seat this juror.

9 THE CLERK: Defense?

10 MR. GRIFFITH: Please seat the juror.

11 THE CLERK: Have a seat in the jury
12 box.

13 Alternate, Your Honor?

14 THE COURT: One or two?

15 MR. LITTLE: Judge, I think one will
16 probably be sufficient.

17 THE CLERK: Okay. No. 89. Eddie L.
18 Harrison (black male). What says the State?

19 MR. LITTLE: Please seat the juror.

20 THE CLERK: Defense?

21 MR. GRIFFITH: Please seat the juror.

22 THE CLERK: Have a seat in that -- and
23 that will be your seat during the trial, sir.
24 Okay.

25 THE COURT: Okay. Are there any

1 matters of law pertaining to the selection of the
2 jury on behalf of the State?

3 MR. LITTLE: None from the State, Your
4 Honor.

5 THE COURT: On behalf of Defense?

6 MR. GRIFFITH: Nothing, Your Honor.

7 THE COURT: Okay. Ladies and
8 gentlemen, I'm informed by the attorneys we got
9 some matters of law we got to take up outside of
10 your presence that I got to rule on. Instead of
11 having you sit around all afternoon, I'm just
12 going to send you home and we'll start testimony
13 9:30 in the morning. I'll deal with all the legal
14 matters, get through all that, and we'll start
15 testimony in the morning so I need all of you back
16 at 9:30. If you have an emergency this afternoon
17 or tonight and you're not going to be here, you
18 got to call the Clerk's Office or call 9-1-1. You
19 got to let somebody know you have an emergency if
20 you're not going to be here because I got to have
21 all 13 of you show up. So if you don't show up in
22 the morning at 9:30 and you hadn't called in, I'm
23 going to send the sheriff looking for you because
24 I can't get started until all of you are here. So
25 if you'd do that.

1 The other thing I need you to do is
2 you can't talk about this case, and you don't know
3 anything about this case. I don't want you to do
4 any research. Don't go Google anybody, don't go
5 look up anything. Everything you learn about this
6 case you need to learn in this courtroom. So
7 having said that, you have a nice evening the rest
8 of the afternoon, and I'll see you at 9:30 in the
9 morning and we'll get started with the other
10 portion of the trial. Okay. Thank you.

11 (WHEREUPON, the jury was removed from
12 the courtroom at 11:26 a.m.)

13 THE COURT: Okay. Are y'all in a
14 position you want to start now? What you want to
15 do?

16 MR. LITTLE: We can. I think the
17 three motions we'll have is Mr. Griffith's
18 competency motion. I think that's probably the
19 best one to start with.

20 THE COURT: Okay.

21 MR. LITTLE: Then the other motions,
22 I'll be making a motion to amend the indictment to
23 better reflect the language of the statute and
24 also the motion -- about the voluntariness of the
25 statement.

1 THE COURT: Do we need a Jackson v.
2 Denno?

3 MR. LITTLE: Yes.

4 THE COURT: Okay. So which ---

5 MR. LITTLE: I think the competency
6 issue, if we hear that first that might decide
7 everything.

8 THE COURT: Okay. Yes, sir.

9 MR. GRIFFITH: Yes, sir.

10 THE COURT: So is anybody going to
11 offer any testimony or anything on the competency
12 issue? Somebody going to tell me whether there's
13 an issue?

14 MR. LITTLE: Your Honor, it's my
15 understanding that defense counsel made a motion
16 for a mental evaluation based on his concern of
17 lack of competency of the defendant in some
18 unrelated Sumter County case. It's, from what I
19 understand Judge Curtis heard that and is going to
20 issue an order in that; but we would ask that the
21 Court inquire of Mr. McBride as to his competency
22 to make a determination whether he's competent to
23 stand trial.

24 THE COURT: Okay. You want to tell me
25 anything, Mr. Griffith, or do you want to put

1 anything on the record?

2 MR. GRIFFITH: Your Honor, I'm just
3 checking my email to see if I got a reply from
4 Judge Curtis; and the reply, she's just asking if
5 this is the same one that we had discussed before.
6 She didn't make any other reply. I'm sending it
7 again. But, Your Honor, I'd -- in Sumter County
8 Mr. McBride is facing significant charges but not
9 terribly serious. But, Your Honor, Mr. McBride,
10 I'm not a medical doctor, of course, and cannot
11 give any kind of a psychological analysis myself;
12 but, you know, I am afraid that he has some issues
13 with comprehension of the seriousness of the
14 charges against him and some competency as far as
15 understanding his actions as far as being
16 sometimes delusional or -- in communicating with
17 him, Your Honor, sometimes it's difficult for me
18 to communicate to him. We made sure what's
19 happening, and he has difficulty to communicating
20 to me in a coherent manner his defenses, Your
21 Honor.

22 THE COURT: Okay. Mr. McBride, how
23 about stand up and raise your right hand please,
24 sir.

25 WHEREUPON,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MARVIN MCBRIDE,

having been duly sworn by the Court, testified as follows:

THE DEFENDANT: So help me God.

THE COURT: Okay. How old are you, Mr. McBride?

THE DEFENDANT: I'm 31 years of age.

THE COURT: Okay. And where did you go to school?

THE DEFENDANT: Here in South Carolina, Sumter.

THE COURT: In Sumter?

THE DEFENDANT: Yes, sir.

THE COURT: Okay. How far did you get through school?

THE DEFENDANT: Got my GED, WorkKeys.

THE COURT: You got your GED?

THE DEFENDANT: Yes, sir.

THE COURT: Did you -- so what grade did you go through before you got ---

THE DEFENDANT: The last grade I completed was 11th.

THE COURT: You grad-- 11th grade?

THE DEFENDANT: That was the last grade completed.

1 THE COURT: Okay. And when did you
2 get your GED?

3 THE DEFENDANT: 2008.

4 THE COURT: Okay. And are you
5 currently working anywhere?

6 THE DEFENDANT: Currently because of
7 the pandemic -- I was doing self-employment, a
8 little 1099. Now I filed my taxes for 2020.

9 THE COURT: Okay. So you're doing odd
10 jobs for yourself. You don't have anybody you
11 work for?

12 THE DEFENDANT: I filed W-2 Form for
13 2020. And also I got to file a mini 1099 and W-2
14 as well.

15 THE COURT: Are you doing your own
16 taxes? Is somebody else doing them?

17 THE DEFENDANT: I'm going through HR
18 Block. I have a mobile app so we can file your
19 own taxes too.

20 THE COURT: Okay. Do you know what
21 charges you're facing here today?

22 THE DEFENDANT: Yes, sir, I understand
23 the nature of these charges which it alleges ---

24 THE COURT: Okay.

25 THE DEFENDANT: --- to a certain,

1 especially without proof on. Also ---

2 THE COURT: What charges are you
3 facing?

4 THE DEFENDANT: Currently forgery.
5 The alleged offense is forgery.

6 THE COURT: And who is that sitting
7 beside you?

8 THE DEFENDANT: This is Mr. Timothy
9 Griffith.

10 THE COURT: Okay. And what does his
11 do? What's he doing?

12 THE DEFENDANT: He's an attorney at
13 law from my understanding.

14 THE COURT: I can't hear you.

15 THE DEFENDANT: He's an attorney at
16 law.

17 THE COURT: He's an attorney. Is he
18 representing you today in this case?

19 THE DEFENDANT: Well, I hope he's
20 representing me because I contact, you know, the
21 Supreme Court for lawyer disciplinary enforcement
22 because the attorney/client privilege. And also,
23 I'm mentally competent to stand trial because this
24 is a 608 case and -- it's a con ---

25 THE COURT: What is this?

1 THE DEFENDANT: 608 case. Conflict.
2 It's a conflict.

3 THE COURT: Okay. So what does 608
4 mean?

5 THE DEFENDANT: It's a conflict.
6 He's...

7 THE COURT: And, you know that -- the
8 guy sitting in that chair, what's his job? Mr.
9 Little, the prosecutor.

10 THE DEFENDANT: Well, he's a officer
11 of the Court as well, just like you, Your Honor.
12 He's a officer, you know, for the proceeding.
13 He's the officer for, you know, representing the
14 plaintiff. He's the officer ---

15 THE COURT: Who does he represent?

16 THE DEFENDANT: The State.

17 THE COURT: Okay. And what's my job?

18 THE DEFENDANT: From my understanding
19 you should be the supervisor of the proceeding,
20 this case.

21 THE COURT: Okay. Have you ever been
22 in mental health?

23 THE DEFENDANT: No.

24 THE COURT: Have you ever gotten any
25 diagnosis or treatment anywhere?

1 THE DEFENDANT: No, I wouldn't be able
2 to have resume if I was mentally incompetent.

3 THE COURT: Okay.

4 THE DEFENDANT: You know, also, for
5 the record, I have a -- 'cause like I say, we deal
6 with a lot of false reports, you know, media, news
7 media and stuff so it's a lot of stuff that, you
8 know, have to be heard through the jury anyway.

9 THE COURT: Okay. And what's the
10 jury's role in this case?

11 THE DEFENDANT: Basically they just
12 weigh out opinion. That's what, I mean, the
13 jury -- they not actually the judge, you know, but
14 the jurors ---

15 THE COURT: What are they supposed to
16 find?

17 THE DEFENDANT: Not prejudice or
18 anything.

19 THE COURT: Right. Well, it's
20 supposed to be fair and impartial.

21 THE DEFENDANT: Right.

22 THE COURT: But, okay. Are they going
23 to reach a verdict supposedly on guilt and
24 innocence? Is that what they're supposed to do?
25 Whether you're guilty or innocent of this trial?

1 THE DEFENDANT: I mean, from my
2 understanding they can vote, but not reaching a
3 verdict. A verdict is for the officer of the
4 proceeding who is the judge.

5 THE COURT: Yeah, but don't they
6 determine whether you did this or not? The guilt
7 or innocence? Whether the State has proven to
8 them beyond a reasonable doubt that you're guilty
9 of this crime?

10 THE DEFENDANT: Actually, the
11 discovery materials should be, you know,
12 self-explanatory to the nature of the offense of
13 these alleges or alleged. Like I say it's not
14 really the judge or the jurors. Fact is based --
15 the fact findings is actually the discovery
16 material.

17 THE COURT: Let's talk about discovery
18 material. The State gave your lawyer discovery on
19 this case? Have they given you materials?

20 THE DEFENDANT: It's limited --
21 actually nothing.

22 THE COURT: You're charged with
23 supposedly forging a check.

24 THE DEFENDANT: Right.

25 THE COURT: Okay. And where was that

1 check supposedly presented?

2 THE DEFENDANT: It was alleged
3 presented here in Clarendon County?

4 (Attorney and defendant confer.)

5 THE COURT: Okay. And who is that
6 check written on? Whose account was it on?

7 THE DEFENDANT: Mr., Mr., or Ms. --
8 okay, from my understanding I don't know that,
9 Your Honor, currently. We gonna have to have a
10 confidential ---

11 THE COURT: Do you know that guy
12 sitting back there with the mask on?

13 THE DEFENDANT: Yeah, I done work with
14 him. I done did like roofing and all, like
15 installation, electrical.

16 THE COURT: What's his name?

17 MR. GRIFFITH: He wants to know if you
18 know his name.

19 THE DEFENDANT: Yes. I guess on the
20 alleged victim.

21 THE COURT: Yeah, but what's his name?
22 Who is he? You said you worked for him.

23 THE DEFENDANT: Right, but that mean
24 you don't have a personal relationship do. Like
25 say, for instance, you hire me or whatever, I did

1 online application ---

2 THE COURT: When is the time you did
3 some work for him?

4 THE DEFENDANT: Last year.

5 THE COURT: And what -- tell me who
6 all lives with you?

7 THE DEFENDANT: Well, for starters
8 just me.

9 THE COURT: Huh?

10 THE DEFENDANT: Myself and I.

11 THE COURT: You live by yourself?

12 THE DEFENDANT: That's correct.

13 THE COURT: Okay. And you live in
14 Sumter County?

15 THE DEFENDANT: Mayesville.

16 THE COURT: Mayesville?

17 THE DEFENDANT: That's correct.

18 THE COURT: Okay.

19 THE DEFENDANT: It's Sumter County
20 still.

21 THE COURT: Where did you do this work
22 for him? You said you did some work for him.
23 Where was the work done, what county?

24 THE DEFENDANT: Actually, he have a
25 couple of warehouses. I done did work on sky

1 lights and stuff. The gin, he have gin. Beach
2 houses, I did work at the beach houses. Farm, you
3 know, I did work some. It's versatile.

4 THE COURT: You did electrical work
5 for him?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: What kind of electrical?

8 THE DEFENDANT: Electrical appliances,
9 installing, you know, probably like ---

10 THE COURT: You installed? You plug
11 them in or you did some wiring?

12 THE DEFENDANT: Little bit of both.

13 THE COURT: So where did you learn how
14 to do electrical wiring?

15 THE DEFENDANT: That's 608. That's a
16 different 608. That for electrician is, you know,
17 you do electrical engineer. It's -- that's a
18 different 608. Well, that's what they call it.
19 It's 609. One is HVAC, that's 608. And one is
20 MVAC, that's 609. Different tests you can take
21 online.

22 THE COURT: You been to vocational
23 school anywhere to learn how to do heating and air
24 or electrical work?

25 THE DEFENDANT: Yeah. You can take

1 most of these places like technical colleges or

2 ---

3 THE COURT: I understand all that but
4 where did you do that though?

5 THE DEFENDANT: Online.

6 THE COURT: Okay.

7 THE DEFENDANT: Certifications online.

8 THE COURT: You look up YouTube?

9 THE DEFENDANT: No, virtual. They
10 have what you call virtual reality where you --
11 it's the same campus, but it's just virtual
12 online.

13 THE COURT: Okay.

14 THE DEFENDANT: Right.

15 THE COURT: Okay. Any questions the
16 State want to ask him?

17 MR. LITTLE: No, Your Honor.

18 THE COURT: Anything else you want to
19 cover, Mr. Griffith?

20 MR. GRIFFITH: Nothing further, Your
21 Honor.

22 THE COURT: Okay. Thank you, sir.
23 You can sit down.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Anything -- any

1 other evidence the State want me to consider?

2 MR. LITTLE: No, Your Honor.

3 THE COURT: Okay. Mr. Johnson, you --
4 how long have you known him?

5 THE VICTIM: I've known him for a
6 couple of years living -- both from Mayesville. I
7 own a cotton gin in Mayesville. And he's been by
8 through his neighbors and he's worked with me as a
9 casual laborer, you know, odd jobs, whatever.

10 THE COURT: He's done some work for
11 you?

12 THE VICTIM: Just casual labor, no
13 long term employee relationship.

14 THE COURT: Right. Has he done
15 electrical work for you?

16 THE VICTIM: As far as maybe seeing
17 how it's working or, you know, minor.

18 THE COURT: Okay.

19 THE VICTIM: Two wires connected.

20 THE COURT: Okay. All right, thank
21 you, sir. All right. I'll take -- well, let me
22 ask you something. Before I decide this part, you
23 want me to take a break to decide this or do you
24 want to go into the rest of it? I guess the
25 safest thing to do is decide this.

1 MR. LITTLE: I think, Judge, that how
2 you decide this will affect the rest of the trial.

3 THE COURT: I'm going to take about a
4 15 minute break. I'll let y'all know something.

5 (WHEREUPON, a recess was taken from the
6 proceedings.)

7 (WHEREUPON, State Exhibit No. 1 was
8 marked for identification only.)

9 THE COURT: I find that the defendant
10 has sufficient and present ability to consult with
11 his attorney to a reasonable degree of rational
12 understanding, as well as he has a factual
13 understanding of the charges against him and the
14 proceedings against him. I consulted with
15 probation. He has successfully completed
16 probation at least twice. He had a DJJ case as
17 well. He seems to understand the role of his
18 attorney, the prosecutor, as well as the Court.
19 He has a rational understanding basing his
20 prior -- he's completed probation a number of
21 times. And his competency has not become an issue
22 prior to this, and I don't find it's an issue at
23 this point; that he can assist in his own defense
24 and I find him competent to stand trial.

25 MR. GRIFFITH: Thank you, Your Honor.

1 MR. LITTLE: May it please the Court,
2 I think the next motion before you is Jackson v.
3 Denno motion to determine voluntariness of
4 statement. The State would call Andrew Hughes of
5 the Manning Police Department at this time to the
6 stand.

7 THE COURT: All right. You can come
8 in.

9 THE CLERK: Raise your right hand,
10 place your left hand on the Bible. Repeat your
11 name please.

12 WHEREUPON,

13 **CORPORAL ANDREW HUGHES,**
14 having been duly sworn by the Clerk, testified
15 as follows:

16 **DIRECT EXAMINATION**

17 BY MR. LITTLE:

18 Q Officer Hughes.

19 A Yes, sir.

20 Q I'm showing you what's been marked as
21 State's Exhibit No. 1 for identification. Have
22 you seen this before?

23 A First time I've seen it, but I know
24 what it is.

25 Q Can you tell the Court what this is?

1 A It's a recording of my body cam of the
2 day of the incident.

3 Q All right.

4 MR. LITTLE: Your Honor, at this time
5 I'm going to play the video. I think it would be
6 easier if the Court just watch the short segment
7 to make determination as to whether it's voluntary
8 or not.

9 THE COURT: Okay. Any objection from
10 Defense?

11 MR. LITTLE: Judge, just for the ease
12 of playing the video, I've gone ahead and
13 downloaded State's Exhibit No. 1 on to my hard
14 drive just so it will play smoother.

15 (Publishing of State's Exhibit No. 1 began.)

16 BY MR. LITTLE:

17 Q Officer Hughes, can you tell the Court
18 what this is that you're seeing right now?

19 A Yes, sir. Our policy states that we
20 are to activate our body cam as soon as we exit
21 our vehicle, and that's me entering the rear
22 entrance of the Bank of Clarendon located in
23 Clarendon County in the city of Manning.

24 MR. GRIFFITH: Excuse me, Officer,
25 could you use the microphone?

1 THE WITNESS: Yes. At this time I'm
2 walking over to the ---

3 BY MR. LITTLE:

4 Q Hold on, Officer. I need to figure
5 out the volumes.

6 (Pause.)

7 BY MR. LITTLE:

8 Q Officer Hughes, should there be sound
9 at this time? Do you remember?

10 A Yes, it should be

11 Q I think that there was too.

12 MR. LITTLE: Judge, I apologize. I'm
13 having trouble getting the sound on. I had it
14 this morning just to make sure it worked.

15 THE COURT: Okay.

16 (Publishing of State's Exhibit No. 1)

17 MR. LITTLE: Judge, at that point
18 that's the extent of the video that the State
19 would attempt to introduce ---

20 THE COURT: Okay.

21 MR. LITTLE: --- of Mr. Johnson's
22 statement.

23 BY MR. LITTLE:

24 Q Officer Hughes.

25 A Yes, sir.

1 Q In the segment of video that we just
2 watched, was Mr. McBride under arrest at that
3 point?

4 A No, sir. And not until he was
5 identified as being the individual that brought
6 the check in.

7 Q So when you were questioning him, had
8 it had, to your knowledge, been determined yet
9 whether that check was legitimate or not?

10 A No.

11 Q Okay. And was he free to leave at
12 that time?

13 A Yes, he was. Yeah.

14 Q Okay. Did you make any threats or
15 gestures at him that would coerce him into giving
16 you a statement?

17 A No, I didn't.

18 Q I don't have any further questions.
19 Please answer any questions Mr. Griffith has.

20 MR. GRIFFITH: May it please the
21 Court, Your Honor.

22 **CROSS-EXAMINATION**

23 BY MR. GRIFFITH:

24 Q Officer, isn't it true that -- and as
25 we saw on this video, Mr. McBride was in the

1 company of one of the security people there at the
2 bank; isn't that correct?

3 A No, sir, he wasn't. The gentleman
4 that was there was actually the deputy that
5 responded with me that works for the Sheriff's
6 Office.

7 Q But the bank had his I.D. card and all
8 of his identification and all that kind of stuff.
9 He didn't have possession of that stuff with him,
10 did he?

11 A No. He voluntarily gave it to the
12 bank prior to me arriving.

13 Q So in other words, he wasn't free to
14 just -- he could have gotten up and run away, but
15 he couldn't have -- they weren't gonna just give
16 him his stuff and let him leave; isn't that
17 correct?

18 A I'm not sure the bank would have done
19 that. He could have -- in my -- if it was me, if
20 that was my stuff, up to them whether or not to
21 give it back to them or not.

22 Q Well, isn't it true that when you came
23 into the bank you asked him to get up out of where
24 he was seating and move somewhere else; isn't that
25 true?

1 A Yes, just for his own privacy.

2 Q And so isn't it true that Mr. McBride
3 either perceived or felt that he was being
4 compelled to stay there; isn't that correct?

5 A In my opinion I -- in my
6 professionalism, I didn't block the doorway. Only
7 thing I just asked him to move to that location.
8 It was his choice.

9 Q And Officer, were you carrying your
10 pistol in your holster at the time? Did you --
11 were you armed at that time?

12 A Yes, sir, I'm armed every time I'm on
13 duty.

14 Q Were you wearing a badge?

15 A Yes, sir, I was.

16 Q Okay. And so Mr. -- isn't it
17 reasonable then that we might assume that
18 Mr. McBride felt that he was being compelled to
19 stay there; isn't that correct?

20 MR. LITTLE: Objection, Your Honor.
21 That calls for speculation.

22 MR. GRIFFITH: I withdraw the
23 question.

24 BY MR. GRIFFITH:

25 Q But isn't it true that Mr. McBride did

1 not attempt to run off, he did not; is that
2 correct?

3 A No, he didn't.

4 Q So, but he was not able to leave
5 without leaving his license and all that kind of
6 stuff there; isn't that correct?

7 A He had a choice. If you asked for it,
8 possibly. I didn't have possession of his items
9 so I couldn't say.

10 Q Okay. So Mr. McBride -- I won't ask
11 your opinion, but I will make a statement to the
12 court later. Thank you. No more questions.

13 MR. LITTLE: Your Honor, the State has
14 no more questions of this witness. We have no
15 more witnesses to introduce at this time.

16 THE COURT: Okay. I have a couple. I
17 saw on the video there was a copy of a driver's
18 license or I.D. and social security card; is that
19 correct?

20 THE WITNESS: Yes.

21 THE COURT: And the bank obtained that
22 prior to your arrival?

23 THE WITNESS: Yes.

24 THE COURT: Okay. And after you
25 questioned him, I noticed that you handcuffed him;

1 is that correct?

2 THE WITNESS: Yes.

3 THE COURT: You placed him under
4 arrest at that time?

5 THE WITNESS: After the bank had
6 verified that it was his I.D., his social
7 security, and the check, yes.

8 THE COURT: Okay. And had the bank
9 verified from the owner of the check that he
10 wasn't authorized to cash it?

11 THE WITNESS: Yes.

12 THE COURT: So you had that knowledge

13 ---

14 THE WITNESS: Yes.

15 THE COURT: --- prior to arresting
16 him?

17 THE WITNESS: Yes.

18 THE COURT: The bank had verified from
19 Mr. Johnson?

20 THE WITNESS: Yes. At that point in
21 the video when they walked over to me and showed
22 me the check, his I.D., and his social security
23 card is when they notified me that they had spoken
24 to Mr. Johnson.

25 THE COURT: Okay. Thank you, sir. I

1 don't have anything further. You can step down.

2 Anything from Defense?

3 MR. GRIFFITH: Your Honor, Mr. McBride
4 at that time he was deprived of his driver's
5 license, his social security card. He was asked
6 to move to a certain location. He was not free to
7 leave, Your Honor, and we would submit that he was
8 at that time being detained, was under arrest
9 and/or at least perceived that he was not able to
10 leave at that time so we would ask that the video
11 be -- not be allowed to be submitted as evidence,
12 that particular portion of the video before any
13 ---

14 THE COURT: Okay.

15 MR. LITTLE: Your Honor, the test for
16 voluntary -- for admissibility of the statement is
17 voluntary the courts look at the totality of the
18 circumstances. Judge, you've seen the video. The
19 officer testified that he was not arrested until
20 the bank confirmed. And the officer testified
21 that he didn't know -- he started asking Mr.
22 McBride questions. He didn't know whether that
23 check was going to turn out to be legitimate or
24 not legitimate. He was trying to get information
25 from Mr. McBride. Mr. McBride was seated in a

1 chair at the bank when the officer arrived, and
2 the officer asked him to step over to another
3 section of the bank where he could have a little
4 more privacy where he asked him a few questions to
5 get some information in his investigation.

6 Judge, the fact that the bank was
7 holding on to his identification documents, I
8 don't think this really goes to show whether or
9 not he was under arrest or not. The bank -- banks
10 typically process that sort of information and I
11 don't think that that itself creates a coercive
12 situation.

13 THE COURT: Okay.

14 MR. LITTLE: So it's our position that
15 the video is -- the statement is voluntary.

16 MR. GRIFFITH: Your Honor, we would
17 object to the -- that portion of the video being
18 brought in, in that a armed policeman had asked
19 him to move, obviously someone who was connected
20 to law enforcement. Mr. McBride was not in
21 possession of his identification, etc., and was
22 not free to leave.

23 THE COURT: And what I saw in the
24 video and I may not have seen -- y'all may know
25 something I don't know. What I saw in the video

1 was a copy of a social security card and a, it
2 looked like a driver's license or an I.D. They
3 were not the actual social security card or the
4 driver's license. It was a copy that I assume the
5 bank had made and they had requested
6 identification from him and they obviously
7 presented some type of identification which is
8 normal in negotiating a check at the bank. And in
9 fact, they were copies that the bank had made and
10 not his originals so it wasn't like they were
11 holding social security card or his driver's
12 license. They were simply copies that the bank
13 had made in a normal transaction negotiating a
14 check. And I find that he was not in custody,
15 that it was not a result of an in-custodial
16 interrogation, that even though the bank as well
17 as the police officers were conducting
18 investigation, he was not in custody so his
19 Miranda rights would not need to be read to him.
20 I also find that he -- based on this video he was
21 not threatened in any way, coerced, or promised
22 anything as a result of his statement, and that it
23 was freely and voluntarily given and I think it's
24 admissible. Okay. What else?

25 MR. LITTLE: Thank you, Your Honor.

1 The next motion the State has is a motion to amend
2 the indictment. Your Honor, the point of
3 indictment is to put defendant on notice as to
4 what he's called upon to answer, to apprise the
5 defense of amendments. To state as present, don't
6 change the nature of the offense but it is to
7 change some of the language. Do you have a copy
8 of the indictment in front of you?

9 THE COURT: I do.

10 MR. LITTLE: On the second line it
11 says "or utter and publish as true." The statute
12 actually reads "or utter or publish as true," and
13 we would move to amend and to or on that line.
14 The other language that we would like to change is
15 on the fourth line from the top where it says "To
16 wit: Forged a signature on a check." The State
17 would move to change that "To wit: Publish as
18 true a false check."

19 THE COURT: Okay. What says Defense?

20 MR. GRIFFITH: Your Honor, if --
21 Court's indulgence.

22 (Attorneys confer.)

23 MR. GRIFFITH: Your Honor, no
24 objection to changing the indictment.

25 THE DEFENDANT: May I ask the judge a

1 question?

2 (Attorney Griffith confers with defendant.)

3 MR. GRIFFITH: Your Honor, may my
4 client speak?

5 THE COURT: Yeah.

6 THE DEFENDANT: Okay, your Honor, you
7 stated earlier that you watched the whole video
8 from the start to the end.

9 THE COURT: No, I just watched what
10 they showed me.

11 THE DEFENDANT: Watched what they
12 showed you?

13 THE COURT: I hadn't seen it all.

14 THE DEFENDANT: Okay. In that video,
15 was that video recorded because officers were
16 reported to a scene or was it recorded because
17 some type of disorderly conduct or some type of
18 forgery occur or common law violations?

19 THE COURT: My understanding that what
20 the officer testified to me that their policy is
21 once they arrive, he cut on his body cam when he
22 got out his vehicle so he didn't know what he was
23 facing. He just simply recorded everything he was
24 facing when he got in the bank. Then, you know,
25 he just -- his body cam automatically records

1 whatever is there so it showed them walking in the
2 bank, going to one office, then turning around and
3 talking to you in that little glass cubby hole.
4 At that point I assume he didn't know what he had;
5 it just recorded whatever was there. I don't know
6 how long it is. All I know is all what I seen,
7 what they presented to me in evidence and I ruled
8 on that evidence. Okay?

9 THE DEFENDANT: Okay. You stated
10 earlier he just was assuming. Can a officer give
11 you a date and time of that video since it was his
12 video recorded? There no other officer ---

13 THE COURT: They haven't put that in
14 because the date and time would necessarily --
15 based on the indictment it occurred on April the
16 19th, 2018. I assume that's when.

17 THE DEFENDANT: Allegedly.

18 THE COURT: Right. But that wasn't
19 necessarily an issue before me.

20 THE DEFENDANT: Okay. And another
21 thing I heard you say earlier was about the
22 documentation, a copy of the driver license and
23 social security. That video did not show, like,
24 anybody from the bank, you know, on the video
25 that -- I mean, it's audible, right?

1 THE COURT: Yeah.

2 THE DEFENDANT: Audio, volume high,
3 okay. So I didn't heard any confirmation from
4 another, you know, person that work at the bank,
5 from employees or anything ---

6 THE COURT: I know. There wasn't any
7 evidence put in.

8 THE DEFENDANT: --- to the scene,
9 okay. And also, you said earlier about the
10 documentation. I didn't see on that video also
11 showing that the bank return the said items which
12 was my driver's license and social security card
13 ---

14 THE COURT: And I don't know if they
15 did or not.

16 THE DEFENDANT: --- that have to be
17 made ---.

18 THE COURT: I'm just ruling on what I
19 observed on the tape, and what I observed was a
20 Xeroxed copy on a piece of white paper of a social
21 security card and some type of I.D. I couldn't
22 tell whether the drive's license or whatever, but
23 I didn't see an actual social security card and
24 actual I.D. It was just a Xeroxed copy on a page
25 is what I saw on the video, and that's what I

1 ruled on.

2 THE DEFENDANT: Okay. Did you observe
3 any criminal law violation during the video?

4 THE COURT: Not at that point. I
5 mean, based on the officer's testimony he placed
6 you under arrest after that because based on the
7 information he obtained from the bank that you had
8 presented a check, I assume the \$10,000 you
9 presented to the teller or somebody in the bank
10 and they had contacted the victim in this case and
11 Mr. Johnson -- and he informed them and the
12 information he passed on to the police officer
13 that he had not written that check and didn't
14 authorize you to negotiate it. That's why they
15 arrested you based on information that I -- that's
16 what I learned.

17 THE DEFENDANT: They showed that in
18 the video?

19 THE COURT: No, sir. They -- the
20 officer testified to that on the stand.

21 THE DEFENDANT: So all this is just
22 based off of hearsay?

23 THE COURT: Yeah. Okay? All right.

24 MR. GRIFFITH: No objection to the
25 change in the indictment.

1 THE COURT: All right. Then I will
2 allow the change. If you will actually write out
3 on a copy of the indictment what changes that you
4 intend to prove.

5 MR. LITTLE: Do I handwrite it in the
6 margin.

7 THE COURT: You can and then we'll
8 have it, Ms. Beulah or whatever, or I will, write
9 it on the actual indictment.

10 MR. LITTLE: Okay.

11 THE COURT: Okay. Anything else?

12 MR. LITTLE: Nothing from the State.

13 MR. GRIFFITH: Nothing, Your Honor.

14 (Court was adjourned at 12:31 p.m. and resumed on
15 July 27, 2021.)

16 (WHEREUPON, State Exhibits Nos. 2 and
17 3 were marked for identification only.)

18 MR. LITTLE: Your Honor, before we
19 bring the jury out, one matter of law. I have a
20 copy of the indictment; and for myself I wrote
21 out, crossed out the words that we talked about
22 changing the other day and wrote the new language.

23 MR. GRIFFITH: Without objection, Your
24 Honor.

25 THE COURT: Okay. All right, we ready

1 for the jury?

2 MR. LITTLE: State's ready.

3 MR. GRIFFITH: We're ready.

4 THE COURT: All right, bring me the
5 jury please.

6 (WHEREUPON, the jury was returned to
7 the courtroom at approximately 9:37 a.m., and the
8 following proceedings commenced in open court.)

9 THE CLERK: Ladies and gentlemen of
10 the jury, please stand and raise your right hand.

11 (WHEREUPON, the jury was sworn at 9:38
12 p.m.)

13 THE COURT: Thank you. You may be
14 seated. Ladies and gentlemen of the jury, we're
15 about to begin the trial of the State v. Marvin
16 McBride, and Mr. McBride has been indicted for the
17 crime of forgery and I will explain to you at the
18 end of this trial the elements of that crime the
19 State has to prove. But Mr. McBride has entered
20 the plea of not guilty to this, so, therefore, it
21 casts the burden upon the State to prove the
22 elements of this indictment to you beyond a
23 reasonable doubt.

24 Now your job is to determine the facts
25 in this case. My job is to determine the law that

1 applies in this case. I'm not allowed to have an
2 opinion about the facts, and you have to accept
3 the law as I give it to you. Now your job in
4 making that determination is you make it through
5 the evidence that's presented in this court. That
6 evidence will come to you in basically three
7 forms. First of all, through sworn testimony.
8 Witnesses will get on the stand under oath and
9 testify to you as to what they think the facts are
10 in this case or what the evidence will show in
11 this case. The other way is through exhibits and
12 photographs or documents that under our rules is
13 admissible and I will rule upon their
14 admissibility. And the third way that you may
15 receive evidence in this case is through the
16 stipulation of the attorneys. Sometimes in a case
17 a certain fact is a fact that's undisputed, that
18 both sides agree that this is a fact that we will
19 agree on and they will present that to you as a
20 fact in this case for your consideration.

21 It's important that you pay close
22 attention and get this right because if you make a
23 mistake, it's really hard to correct it. If I
24 make a mistake, at some other time and some other
25 place, that will be reviewed and corrected. But

1 your job is to determine the facts. It's very
2 hard to correct a mistake if you make one so it's
3 important that you have an open mind, listen close
4 to the evidence in this case when you determine
5 what the facts are in this case.

6 Now in a few minutes the State's going
7 to get up and make an opening statement to you.
8 That's not evidence. The attorneys are simply
9 going to tell you what they think the evidence is
10 going to show in this case and then the evidence
11 will be presented, and at the end of the case the
12 lawyers will get up and make closing arguments to
13 you as to what they think the evidence shows or
14 does not show. The State has the burden of proof
15 and they go first. Defense counsel will get up
16 and make an opening statement to you as to what he
17 thinks the evidence is going to show or not show
18 in this case. He doesn't have to -- he doesn't
19 have to prove anything, but usually both sides
20 make opening statements and both sides make
21 closing arguments in a case.

22 Now I'm going to try to take a break
23 every hour or so. I try not to break in the
24 middle of a witness' testimony, if possible.
25 Sometimes witnesses' testimony is so long we have

1 to take a break. Having said that, if any of you
2 are uncomfortable for any reason whatsoever, raise
3 your hand, and we'll stop because it's important
4 that all 13 of you pay close attention. If you're
5 uncomfortable you can't pay attention so if you
6 need a break, just raise your right hand, I'll
7 stop, we'll take a break and come back and
8 continue the trial.

9 Now I'm also going to tell you, you
10 can't talk about this case till I tell you you
11 can. You can't -- you know, many times you say,
12 well, we go back on a break, why can't we talk
13 about what the first witness said. And the reason
14 I don't want you to do that is because if you do
15 it that way, at the end of the trial you're going
16 to want to defend that opinion you had at the
17 beginning of the trial to your fellow jurors and I
18 don't want you to start sharing your opinions
19 about a case till you've heard everything. And
20 then once you've heard all the evidence in that
21 case as well as the law that I'm going to charge
22 you, then and only then will it be proper for you
23 to discuss the case with each other. So when you
24 go back there, you can talk about the weather or
25 talk about anything else; but don't talk about the

1 case yet till I tell you you can talk about it.
2 And we should finish this case today. If we
3 don't, you can't talk about it when you go home
4 tonight to your family until you finish it; but I
5 think we should in all probability, unless
6 something happens, we'll finish all the testimony
7 in this case today. I need you to pay close
8 attention throughout this trial; and, you know,
9 your job is to determine the facts in this case
10 based on that testimony and the credibility of the
11 witnesses that come before you. So you pay close
12 attention.

13 The attorneys will get up and make
14 opening statements. That's not evidence. That's
15 simply their arguments as to what they think the
16 evidence is going to show. Even the questions
17 that the attorneys ask is not evidence. The
18 evidence is what's testified from this chair, as
19 well as the exhibits that are introduced and any
20 stipulations. Thank you.

21 Solicitor.

22 MR. LITTLE: Thank you. May it please
23 the Court.

24 This is a case about a man who traded
25 the integrity of work for the deceit of fraud.

1 Mr. James Johnson and Mr. Marvin McBride knew each
2 other. Marvin McBride did some work for Mr.
3 James, just a little bit of odds and ends here and
4 there, and he was paid for his labor; but he got
5 greedy. He took a blank che-- he found a blank
6 check and wrote himself a check on his boss'
7 account for \$10,000, took it to the Bank of
8 Clarendon. He tried to cash it. But he got
9 caught redhanded at the bank, and y'all are going
10 to hear about that today.

11 My name is Philip Little. I represent
12 the State of South Carolina. As the judge just
13 said, we have the burden of proof in this case.
14 We have to prove that Mr. McBride is guilty of
15 forgery, and we have to prove it beyond a
16 reasonable doubt. That means that we have to
17 present evidence that leaves each and every one of
18 you as members of the jury, firmly convinced as to
19 Mr. McBride's guilt. And I believe that at the
20 end of this trial, you will find that that is what
21 the State has done and we have met our burden.

22 This is going to be a short trial, but
23 it doesn't mean it's not an important trial. It's
24 important to the State. It's important to Mr.
25 Johnson, and it's important to the defendant

1 Mr. McBride. I ask only that each of you pay
2 close attention to the evidence and to the
3 testimony today and that you use the common sense
4 that each of you brought into the courtroom with
5 you. And at the end of trial you'll hear more
6 from me and from the judge. We'll explain to you
7 what the law is, and we'll talk about that. But I
8 thank you for your time, I thank you for being
9 here. I am confident that at the end of the
10 trial, you're going to find the State has met its
11 burden of proof. Thank you.

12 MR. GRIFFITH: May it please the
13 Court, Your Honor.

14 THE COURT: Yes, sir.

15 MR. GRIFFITH: Ladies and gentlemen,
16 first of all, thank you very much for serving as
17 our jury. We couldn't do it without you. And
18 that's what makes it very important because we're
19 being tried in our American courts by 12 people,
20 our peers, people in our own community, and in
21 that light, 12 people have to decide unanimously
22 that whether or not something occurred the way
23 that the State may present that it occurred. But
24 it's your job to listen to the evidence, of
25 course, weigh the evidence but not just one side.

1 You have to weigh both sides because there's a
2 possibility the State could get it wrong, of
3 course; and in this case we believe the State has
4 gotten it wrong.

5 Mr. McBride is, of course, under our
6 system, unlike some countries, he is innocent
7 until proven guilty beyond a reasonable doubt.
8 Now beyond a reasonable doubt, the judge will
9 explain to you how that works, what you're
10 supposed to do, what to consider and beyond a
11 reasonable doubt. Beyond a reasonable doubt is
12 pretty serious. I mean, you got to say it's a
13 definite. So we want you to listen carefully, of
14 course, to all the evidence, and you're going to
15 have to hear all the facts that are presented and
16 keep an open mind, make a decision, but consider
17 both sides is what we want you to look at. What
18 the Solicitor, assistant solicitor just presented
19 to you, is his side of the story and his theory of
20 what happened. It's not evidence. So no matter
21 what he says or what I say, that's not evidence.
22 The evidence will be given right there on that
23 stand and that's the evidence you need to
24 consider. Please don't -- just because he's the
25 assistant solicitor, that's not our job. Our job

1 is to listen to the facts and find out what we
2 believe at the end.

3 We, of course, have a different theory
4 that Mr. Johnson gave Mr. McBride a check; and
5 Mr. McBride regularly worked with Mr. Johnson and
6 did business with him. Mr. Johnson will show that
7 he'd written other checks to Mr. McBride, and
8 Mr. McBride took this check to the local bank. He
9 didn't take it to Columbia or some place where
10 nobody knew who anybody was. He took it to our
11 local bank and the people that know their
12 neighbors. He didn't run away or try to hide
13 anything so. If you'll listen and make your
14 decision based on the facts, that's all we want
15 and that's all we can ask for. And again, I thank
16 you for serving.

17 MR. LITTLE: Your Honor, at this time
18 the State will call our first witness, Officer
19 Andrew Hughes to the stand.

20 THE COURT: Okay. If you'd come
21 around please, sir, and place your left hand on
22 the Bible, raise your right.

23 THE CLERK: Raise your right hand.
24 Place your left hand on the Bible. Repeat your
25 name please.

SW - A. HUGHES - DIRECT

1 THE WITNESS: Corporal Andrew Hughes,
2 Manning Police Department.

3 WHEREUPON,

4 **ANDREW HUGHES,**
5 having been duly sworn by the Clerk, testified
6 as follows:

7 **DIRECT EXAMINATION**

8 BY MR. LITTLE:

9 Q Can you please give your name to the
10 jury.

11 A Yes. Corporal Andrew Hughes.

12 Q And where do you work?

13 A City of Manning Police Department.

14 Q How long have you worked there?

15 A Five years. Correction, I'm sorry,
16 four years.

17 Q Were you working for Manning Police
18 Department on April 19th, 2018?

19 A Yes.

20 Q Did you respond to an incident on that
21 date?

22 A Yes.

23 Q Can you tell the Court where that was?

24 A In the city of Manning at the Bank of
25 Clarendon.

1 Q What county is that located in?

2 A Clarendon County.

3 Q I'm going to set up the video for a
4 minute.

5 MR. LITTLE: Beg the Court's
6 indulgence.

7 BY MR. LITTLE:

8 Q Corporal Hughes, I'm handing you
9 what's been marked as State's No. 1 for
10 identification. Have you seen that before?

11 A Yes. This is a copy of the -- my body
12 cam for the case 182661.

13 Q Your body cam. Were your wearing body
14 camera ---

15 A Yes, it's our policy.

16 Q --- that day?

17 A It's our policy wear body cam whenever
18 we come in contact with public for any incidents.

19 Q Have you reviewed this video?

20 A Yes, I have.

21 Q And the video that you saw, is that a
22 fair and accurate representation of the events
23 that you'd experienced on that day?

24 A Yes.

25 MR. LITTLE: Your Honor, at this time

1 I'd move to admit State's No. 1 into evidence.

2 THE COURT: Any objection?

3 MR. GRIFFITH: Your Honor, of course,
4 we continue to object to certain parts of the
5 video as we discussed yesterday pretrial; but as
6 far as the rest of it, without objection.

7 THE COURT: Okay. It is in subject to
8 your objection.

9 (WHEREUPON, State Exhibit No. 1 was
10 admitted into evidence.)

11 MR. LITTLE: Thank you, Your Honor.
12 Your Honor, at this time I would like to play the
13 video. For ease of playing it, I've downloaded
14 copies on my hard drive. If the Defense does not
15 object, I would like to play that.

16 THE COURT: Any objection?

17 MR. GRIFFITH: Without objection, Your
18 Honor.

19 THE COURT: Okay.

20 BY MR. LITTLE:

21 Q I'm going to set it right there,
22 Officer. What are we looking at?

23 A That's the main entrance of the Bank
24 of Clarendon.

25 Q Okay.

1 (Publishing of State's Exhibit No. 1 began.)

2 BY MR. LITTLE:

3 Q Who is that that you're talking to?

4 A That's one of the clerks that works at
5 the bank, Christina Blanding.

6 Q And where are you going now?

7 A Heading over to the gentleman that's
8 in question, didn't know his name at the time.

9 Q Is he on -- is he on screen here?

10 A Yes.

11 Q And who is this that you're talking
12 to?

13 A That's Mr. McBride.

14 Q Is he in the courtroom today?

15 A Yes, the gentleman sitting right over
16 there (indicating).

17 Q Let the record show he pointed to the
18 defendant. I'm going to back up just a second.
19 What were you asking him there?

20 A Say it one more time.

21 Q I'm sorry. What was the question you
22 were asking him?

23 A I just basically asked him where the
24 check come from that he had.

25 Q And what did he say?

SW - A. HUGHES - DIRECT

1 A If I can remember, I think he said
2 from his employer.

3 Q So to recap, you were asking him where
4 he got the check?

5 A Yes.

6 Q And he replied it was a legitimate
7 check?

8 MR. GRIFFITH: Objection, Your Honor,
9 leading the witness.

10 MR. LITTLE: I'll withdraw the
11 question.

12 THE COURT: Okay, go ahead.

13 BY MR. LITTLE:

14 Q And he didn't respond verbally. Were
15 you able to see on the video what he did?

16 A He mumbled and shook his head in a
17 "yes" motion.

18 Q So at this point have you put
19 Mr. Johnson under arrest at this point in the
20 video?

21 A No, sir. I just explained to him we
22 were just trying to get information about the
23 check.

24 Q All right. What are you doing here?

25 A Placing Mr. McBride under arrest.

SW - A. HUGHES - DIRECT

1 Q Okay. All right. I'm going to shift
2 gears a little bit. I'm going to show you what's
3 been marked as State's Exhibit No. 2. Can you
4 tell the Court what that is?

5 A Yes, sir. Just in the video as you
6 see, it's the check that was presented to the bank
7 that was presented to me as being illegitimate
8 check.

9 Q Okay. Where -- where has that check
10 been up until now?

11 A In a evidence locker at the Manning
12 Police Department.

13 Q And did you receive that particular
14 check at the bank?

15 A Yes, I did.

16 Q And who handed that to you?

17 A That was handed to me by the bank, the
18 bank president.

19 Q Okay. Do you remember his name?

20 A Tommy -- I can't think of Tommy's last
21 name right now.

22 MR. LITTLE: Your Honor, at this point
23 I would move to admit State's No. 2 into evidence.

24 THE COURT: Any objection?

25 MR. GRIFFITH: Without objection, Your

1 Honor.

2 THE COURT: Okay, it's in without
3 objection.

4 (WHEREUPON, State Exhibit No. 2 was
5 admitted into evidence.)

6 BY MR. LITTLE:

7 Q Next I'm going to show you what's been
8 marked as State's Exhibit No. 3. Can you tell us
9 what that is?

10 A That's the stub that comes along with
11 the check.

12 Q And where has that stub been?

13 A The same place that the check has
14 been. They were together in evidence.

15 Q Where did you -- where did you get the
16 stub?

17 A That also was presented to me at the
18 same time the check was presented to me.

19 Q So they were handed to you together?

20 A Yes.

21 MR. LITTLE: Your Honor, I'd also move
22 to admit State's No. 3 into evidence at this time.

23 THE COURT: Any objection?

24 MR. GRIFFITH: Without objection, Your
25 Honor.

1 THE COURT: All right. It's in
2 without objection.

3 (WHEREUPON, State Exhibit No. 3 was
4 admitted into evidence.)

5 BY MR. LITTLE:

6 Q Officer Hughes, I don't have any
7 further questions. Please answer any questions
8 Mr. Griffith may have for you.

9 A Yes, sir.

10 MR. GRIFFITH: May it please the
11 Court.

12 **CROSS-EXAMINATION**

13 BY MR. GRIFFITH:

14 Q Officer Hughes, what gave you the
15 impression -- in fact, you were told by the clerks
16 that this was not a valid check; isn't that
17 correct?

18 A The information that was given to me
19 is that they had checked with Mr. Johnson who is
20 the owner of the check and that they received
21 information that the check was not written by him.

22 Q But you didn't talk to Mr. Johnson
23 yourself, did you?

24 A No, I didn't.

25 Q And isn't it true that when they

SW - A. HUGHES - CROSS

1 handed you this check, along with the check they
2 handed you several articles of identification;
3 isn't that correct?

4 A The identification I got was a copy of
5 Mr. McBride's driver's license and social security
6 card.

7 Q Okay. But you also got some actual
8 I.D.s; isn't that correct? Social security cards
9 and his EBT card or whatever that was?

10 A No, sir. That I retrieved from
11 Mr. McBride himself from his person. Once I
12 searched him -- once you're under arrest we search
13 you for any weapons or anything like that, and I
14 found on his person in his wallet social security
15 card and a EBT card.

16 Q Okay. All right. Now when -- I'm
17 just looking at this video and I'm moving it
18 forward a little bit. Okay, this particular
19 picture right here, can you see that?

20 A Uh-huh.

21 Q And you see on here that in the hand
22 of this person Chief Blair Schaeffer, ---

23 A Uh-huh.

24 Q --- is a copy of a social security
25 card and, you know, from a copy machine?

SW - A. HUGHES - CROSS

1 A Yes.

2 Q But there's also physical ones in his
3 hand; isn't that correct?

4 A I got to step down to see. I can't
5 see from this far.

6 Q Okay, I'm sorry, go ahead.

7 A (Steps down.) Okay, that's his I.D.
8 and social security card, yes. Uh-huh.

9 Q Okay. So the -- so obviously the bank
10 had a hold of those still; didn't they?

11 A Yes.

12 Q Okay. All right.

13 (Attorney confers with defendant.)

14 BY MR. GRIFFITH:

15 Q Officer Hughes, did you at any time
16 later go and talk to Mr. Johnson?

17 A Between myself and cap---

18 Q Did you yourself go to talk to Mr.
19 Johnson?

20 A I can't remember. I can't remember.
21 I can't say I did or I didn't.

22 Q Okay.

23 A But I know he was called from the
24 police department.

25 Q Okay. I have no further questions.

SW - J. JOHNSON - DIRECT

1 MR. LITTLE: I have no further
2 questions for this witness, Your Honor.

3 THE COURT: Okay. You can step down.

4 MR. LITTLE: Your Honor, at this time
5 the State would call James Johnson to the stand.

6 THE CLERK: Raise your right hand.
7 Place your left hand on the Bible please. Repeat
8 your name.

9 THE WITNESS: James Johnson.

10 WHEREUPON,

11 **JAMES JOHNSON,**

12 having been duly sworn by the Clerk, testified
13 as follows:

14 **DIRECT EXAMINATION**

15 BY MR. LITTLE:

16 Q Mr. Johnson, if you could take off
17 your mask so that the jury can hear you and speak
18 in that microphone, I'd appreciate it. Mr.
19 Johnson, what town do you live in?

20 A Mayesville, South Carolina.

21 Q And where do you work?

22 A Family owned business, RN Johnson Gin
23 in Mayesville farms.

24 Q What kind of work does RN Johnson do?

25 A We gin cotton, farm cotton, warehouse

SW - J. JOHNSON - DIRECT

1 cotton.

2 Q Now long you been doing that?

3 A Close to four years. Close to four
4 years.

5 Q Do you know Marvin McBride?

6 A Yes, I do.

7 Q Is he in the courtroom today?

8 A Yes.

9 Q How do you know him?

10 A I've worked him as a casual labor at
11 different odd jobs.

12 Q What kind of odd jobs would he do for
13 you?

14 A He's done deck painting, outdoor
15 painting, grass cutting, helped un-tarp modules,
16 wash cars, whatever.

17 Q Back in -- has he done any work for
18 you after this happened in April of 2018?

19 A Probably has done some general odd
20 jobs.

21 Q Okay. Mr. Johnson, I'm going to hand
22 you a blank piece of paper and a pen. Could I get
23 you to sign your name in the middle of that paper?

24 A (Complies.)

25 Q Thank you.

SW - J. JOHNSON - DIRECT

1 (WHEREUPON, State Exhibit No. 4 was
2 marked for identification only.)

3 MR. LITTLE: Your Honor, I marked this
4 as State's No. 4 for identification. At this time
5 I would move to admit it into evidence.

6 THE COURT: Any objection?

7 MR. GRIFFITH: Without objection, Your
8 Honor.

9 THE COURT: All right. It's in
10 without objection.

11 (WHEREUPON, State Exhibit No. 4 was
12 admitted into evidence.)

13 BY MR. LITTLE:

14 Q Mr. Johnson, I'm going to show you
15 what's been marked as State's Exhibit No. 2. Tell
16 me if this looks familiar to you?

17 A Yes, it does.

18 Q Can you tell the Court what that is?

19 A That's a check off our business
20 account.

21 Q Okay. And that business account, who
22 has permission to write checks on that?

23 A My brother and I.

24 Q All right. Can you tell the Court who
25 that check is endorsed out to?

SW - J. JOHNSON - DIRECT

1 A Marvin McBride.

2 Q And how much is the check written for?

3 A \$10,000.

4 Q Is that your signature at the bottom?

5 A No, it is not.

6 Q Do you recognize that as your
7 brother's signature?

8 A No, it is not.

9 Q Did you write that check to
10 Mr. McBride?

11 A No, I did not.

12 Q Have you ever written him a check for
13 \$10,000?

14 A No, I have not.

15 Q Okay. I'm showing you what's been
16 marked as State's Exhibit No. 3. Can you tell the
17 Court what this is?

18 A That's the check stub for that
19 particular check number.

20 Q Okay. And how would that -- how would
21 that check stub and that check be kept together?

22 A I keep a couple of hand checks in my
23 pickup for miscellaneous use when I'm not in the
24 office; and if I write them, I keep the stub to
25 carry it back to the office instead of the check.

1 Q I'm sorry, I think I took this
2 prematurely. Is this your handwriting on there?

3 A No, it is not.

4 Q And it say, what it's for. Can you
5 read that to the Court?

6 A It says ginning equipment.

7 Q What -- did you buy any ginning
8 equipment from Mr. McBride?

9 A No, I did not.

10 Q You mentioned that you keep checks
11 like that in your truck. Where's the last place
12 you saw this check?

13 A It would have been in my truck.

14 Q Okay. Just to reiterate, did you give
15 this check to Marvin McBride?

16 A No, I did not.

17 Q I don't have any further questions.
18 Please answer any questions Mr. Griffith may have.

19 MR. GRIFFITH: May it please the
20 Court. Your Honor, may I approach the witness.

21 **CROSS-EXAMINATION**

22 BY MR. GRIFFITH:

23 Q Mr. Johnson, would you please look at
24 this. Could you tell us what that is?

25 A That's a casual labor check that I

SW - J. JOHNSON - CROSS

1 wrote to Marvin McBride off our farm account.

2 MR. LITTLE: Your Honor, can we get
3 that marked for identification?

4 MR. GRIFFITH: I'm about ---

5 THE COURT: Okay.

6 BY MR. GRIFFITH:

7 Q It's been identified as this is a
8 check you wrote to Marvin McBride?

9 A Yes, I did.

10 MR. GRIFFITH: Defense would enter
11 this as Defense 1.

12 THE COURT: Any objection?

13 MR. GRIFFITH: Any objection?

14 MR. LITTLE: No, Your Honor.

15 (WHEREUPON, Defense Exhibit No. 1 was
16 marked for identification and admitted into
17 evidence.)

18 BY MR. GRIFFITH:

19 Q So Mr. Johnson, you did write this
20 check; isn't that correct?

21 A Yes, I did.

22 Q And so you did in the past write
23 checks for Mr. McBride; isn't that correct?

24 A Yes, I have.

25 Q And have you ever done any other

SW - J. JOHNSON - CROSS

1 business with Mr. McBride such as purchase items
2 from him?

3 A No, I have not.

4 Q Now you said that you leave some
5 checks in the office for your secretary; is that
6 correct?

7 A No, I leave checks in my pickup, just
8 a few.

9 Q And isn't it -- isn't it true that
10 anyone could have possibly taken that check out of
11 your pickup; isn't that right?

12 A It could have happened.

13 Q And isn't it true that you didn't see
14 Mr. McBride take that check, ---

15 A No, I did not see him take it.

16 Q --- correct? And isn't it true
17 that -- is it true that sometimes you may have
18 maybe a secretary or something sign your check.
19 Has that ever happened?

20 A Well, yeah, she may sign it.

21 Q And so ---

22 A Well, it's on my approval and that's
23 done in the office.

24 Q Right. So ---

25 A And that would have been done on a

1 computerized check.

2 Q And so somebody besides you sometimes
3 sign the checks and sometimes besides your
4 brother; isn't that right?

5 A My secretary.

6 Q Okay.

7 A Nobody else.

8 Q Okay. And so, so then, even though
9 you said you did not sign this check, it could
10 have been signed by someone else who you say
11 sometimes signs those checks?

12 A No, it was not. We have a good -- I
13 have a long term secretary. She's very honest,
14 polite, and she's -- knows the business, and so
15 I'll say no to that.

16 Q I have no further questions, Mr.
17 Johnson.

18 **REDIRECT EXAMINATION**

19 BY MR. LITTLE:

20 Q Mr. Johnson, Mr. Griffith asked you
21 about your secretary signing checks and you said
22 something about that happens with computerized
23 checks. Can you explain how that works?

24 A We use Quick Books and run it through
25 the printer; and the only hand checks, there's

SW - J. JOHNSON - REDIRECT

1 less than probably 5 percent of my checks are
2 written by hand.

3 Q Okay.

4 A Or less.

5 Q Okay. Are you able to tell the
6 difference looking at one whether it's written by
7 hand or not?

8 A Oh, yes.

9 Q I'm going to hand you State's 3 and
10 State's 2. Do those look to you like the
11 computerized checks look from your business?

12 A No, they're not. They're hand checks.

13 Q When your office makes a computerized
14 check, does it -- do you print out a stub with
15 that? You ---

16 A Yes.

17 Q Okay. Can you look at State's No. 2
18 and that signature. When your secretary signs the
19 signature on your behalf, how does she sign it?
20 Does she write it by hand or is there a saved ---

21 A She has a stamp with my signature on
22 it.

23 Q A stamp with your signature. And the
24 stamp of your signature, would that be something
25 that you had written and made into a stamp?

1 A Yes.

2 Q Okay. And that signature on the
3 check, is that your signature?

4 A No.

5 MR. LITTLE: I don't have any further
6 questions, Your Honor.

7 THE COURT: Okay. You can step down.

8 MR. LITTLE: Your Honor, at this point
9 the State rests.

10 THE COURT: Okay.

11 MR. GRIFFITH: May it please the
12 Court, I just need to consult with my client just
13 briefly.

14 THE COURT: All right. Ladies and
15 gentlemen, I'm gonna send you to the jury room for
16 a few minutes. While you're back there, I want
17 you to appoint a foreperson. That foreperson
18 needs to be appointed out of the original 12.
19 They don't have a greater vote than any other
20 juror; they simply will sign the verdict form. So
21 we're going to take a break. If you'll decide who
22 you want to be the foreperson. It can't be the
23 alternate. Any of the 12 of you. Get you back
24 out in a few minutes and tell me who the
25 foreperson is, and we'll continue. Okay. Don't

1 discuss the case yet, just decide who you want to
2 be the foreperson.

3 (WHEREUPON, the jury was removed from
4 the courtroom at 10:19 a.m.)

5 THE COURT: Okay. We'll take a recess
6 to give you the opportunity to talk to your
7 client.

8 (WHEREUPON, a recess was taken from the
9 proceedings.)

10 THE COURT: Mr. McBride, stand up and
11 raise your right hand for me.

12 WHEREUPON,

13 **MARVIN MCBRIDE,**
14 having been duly sworn by the Court, testified as
15 follows:

16 THE COURT: We've gotten to the point
17 in trial where the State has rested. You have an
18 opportunity to put up evidence if you want to.
19 You have an opportunity to testify. You have a
20 constitutional right to remain silent if you want
21 to. That is your constitutional right to choose.
22 If you decide not to testify, I will instruct the
23 jury that they cannot consider that against you in
24 any way. You understand that. They can't even
25 discuss that in the jury room. However, if you do

1 decide to testify, you'll be treated like any
2 other witness. You'll be subject to impeachment
3 like in cross-examination like any other witness.
4 If you have a criminal record that qualifies, they
5 can impeach you on that criminal record. You
6 understand?

7 THE DEFENDANT: (Shakes head.)

8 THE COURT: And you can talk to your
9 lawyer and get advice from him as to whether he
10 thinks you should testify or not testify, but it
11 is ultimately your decision. You understand that.
12 You're the one with the constitutional right and
13 so it's your decision whether to testify or not.
14 If you need more time to discuss it with him, you
15 can, about what he thinks. But ultimately, it's
16 your call. You understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: You need anymore time to
19 talk to your lawyer about this?

20 THE DEFENDANT: No.

21 THE COURT: Okay. All right. Have
22 you made up your mind whether you want to testify
23 or not?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You have?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: And do you want -- do you
3 intend to testify in this trial?

4 THE DEFENDANT: That's right, yes,
5 sir.

6 THE COURT: Okay. Now, Mr. Griffith,
7 do y'all have an issue as far as ---

8 MR. GRIFFITH: Your Honor, just to
9 clarify on the record, I advised Mr. McBride that
10 he may not want to testify or should not testify;
11 but, of course, it's his decision.

12 THE COURT: Okay.

13 MR. LITTLE: Your Honor, while we're
14 on the subject, I have Mr. McBride's criminal
15 history. The only conviction he has in the past
16 ten years I could find is a burglary. I'm not
17 sure if that would qualify or not.

18 THE COURT: Is what?

19 MR. LITTLE: A burglary third degree.
20 I'm not sure if that will qualify or not.

21 THE COURT: Okay.

22 MR. LITTLE: If it would qualify, it
23 would be my intention to introduce that into
24 evidence as impeachment.

25 MR. GRIFFITH: Your Honor, I don't

1 know if burglary comes under the category of being
2 untruthful or dishonest to be brought in.

3 THE COURT: And how old was the
4 burglary?

5 MR. LITTLE: Burglary on the
6 sentencing sheet, it's 2014.

7 THE COURT: 2014. Okay. What's the
8 State's position?

9 MR. LITTLE: Your Honor, the State's
10 position is that burglary is a crime of
11 dishonesty. I believe there's some case law that
12 says shoplifting is a crime of dishonesty so as a
13 step crime I think that it would show a dishonest
14 character.

15 THE COURT: Okay. Well, the Bauknight
16 case which basically said armed robbery wasn't. I
17 mean, and the Supreme Court, the issue at that
18 point is I have to apply the Crawford factor; and
19 I think if it's a crime of dishonesty, I don't
20 have to apply. If it's not, I have to weigh the
21 probative value versus prejudicial value and I
22 have to go through those five factors.

23 MR. GRIFFITH: Judge, we would object
24 to it in that with Mr. McBride testifying, I
25 believe the State would have to present some

1 falsehood in his past such as forgery or lieing
2 under oath or some type that shows he would
3 testify falsely and that a burglary, Your Honor, I
4 would say would not qualify in this instance where
5 he's just about to tell his side of the story. We
6 would object.

7 THE COURT: Well, I don't think based
8 on State v. Bauknight or whatever. That's a Court
9 of Appeals case of 2013 where they decided that
10 armed robbery, even though used to be the rule is
11 stealing was a crime of dishonesty and the theory
12 was everybody that lies won't necessarily steal,
13 but everybody that steals will lie. Well, then
14 the court decided that armed robbery was not a
15 crime of dishonesty on its face and that you add a
16 gun into it, you go into a convenience store and
17 steal something, in the past that had already --
18 you'd always been admitted as a crime of
19 dishonesty. In that situation I don't have to
20 weigh the 403 analysis, probative value versus,
21 you know, prejudicial value. But since that case,
22 I think burglary is probably not gonna be a crime
23 of dishonesty so I have to weigh those factors.

24 MR. GRIFFITH: Your Honor, we would
25 also object on the probative value in that it

1 would be highly prejudicial against my client and
2 wouldn't particularly show the jury that he was a
3 liar so, Your Honor, we would object on that
4 basis.

5 THE COURT: Well, I'm not sure that
6 all five factors apply in this case and that it's
7 a 2014 burglary third.

8 MR. LITTLE: Yes, sir.

9 THE COURT: And I don't know --
10 there's no similarities between the prior crime
11 and this. I'm not gonna allow it in. I think it
12 is, you know, I don't have an issue in this case
13 but the prejudicial value probably will outweigh
14 any probative value to have -- okay, anything
15 else?

16 THE DEFENDANT: Yes, Your Honor.
17 Burglary third is like considered as trespassing.
18 It is not, you know, stole -- have to stolen,
19 dealing, or anything.

20 THE COURT: I understand. I
21 appreciate your analysis of the law, but I've
22 already ruled in your favor unless you want to
23 talk me out of it, and I ---

24 MR. LITTLE: Thank you, Your Honor.

25 THE COURT: Any -- your analysis of

1 burglary third even goes more to your credibility
2 to stand trial. All right, we ready for the jury?

3 MR. LITTLE: Your Honor, I don't know
4 if Defense has a motion for directed verdict.

5 MR. GRIFFITH: Your Honor, we would
6 ask for a directed verdict in that Your Honor
7 heard testimony that other people wrote checks
8 besides Mr. Johnson and that the State has not
9 proved that Mr. McBride actually took the check
10 out of the truck. He doesn't -- hadn't proved
11 that Mr. McBride signed the check. And Your
12 Honor, if Mr. McBride was given the check by
13 someone else who had falsely signed the name or
14 not, or even someone who is authorized to sign the
15 check, the State has not proved or shown whether
16 that's the case, and so Your Honor, we would ask
17 for a directed verdict.

18 THE COURT: Okay. You want to argue
19 that?

20 MR. LITTLE: Your Honor, the elements
21 of a crime do not require proof that Mr. McBride
22 actually signed the check. It just proved -- we
23 have to prove he uttered or published it as true
24 fact that he told the officer in the bank that
25 this was a legitimate check as publishing as a

1 true check, was handed to the officer by the bank
2 teller.

3 THE COURT: Okay.

4 MR. LITTLE: Indication he was in the
5 bank, the State has met and proven that the
6 elements of the crime.

7 MR. GRIFFITH: Your Honor, we would
8 disagree in that if Mr. McBride believed that it
9 was a legitimate check because someone else signed
10 it and gave it to him, there would be no reason
11 why he would not tell the officer, yeah, this is a
12 legitimate check. Also, Your Honor, we continue
13 to object to that particular part of the testimony
14 being entered because now we can see in the
15 video -- I don't know if Your Honor was able to
16 see it, it's there, but there was a physical card
17 actually in the possession of Mr. McBride -- you
18 may or may not have going to be, of course, have
19 to make that decision under arrest at that time,
20 but had not been Mirandised.

21 THE COURT: Right. And I found at
22 that time that he was not in custodial
23 interrogation, that at the point of -- he made
24 that first statement, he was not under arrest,
25 Miranda didn't apply. And I will stand by that

1 ruling. And I'll -- I think there's sufficient
2 evidence in this record to go to the jury in that
3 it's evidence from the testimony that as well as
4 body cam video, he was in the bank and he, in
5 fact, had presented that check and published that
6 check to be cashed at the Bank of Clarendon. He
7 presented his I.D., as well as his social security
8 card, to have that check cashed. I have testimony
9 from the owner of the account who said that he did
10 not sign that check, it was not authorized to be
11 cashed, and that he didn't owe defendant \$10,000,
12 so I'll respectfully deny your motion. Anything
13 else?

14 MR. LITTLE: Thank you, Your Honor.

15 THE COURT: All right. We're ready
16 for the jury?

17 MR. LITTLE: State's ready.

18 THE COURT: Okay. Bring me the jury.
19 I assume they have selected a foreperson now. If
20 they haven't, I'll give them some more time.

21 (WHEREUPON, the jury was returned to
22 the courtroom at approximately 10:38 a.m., and the
23 following proceedings commenced in open court.)

24 THE COURT: Tell me who the foreperson
25 is. All right, I need you to swap seats with --

SW - M. MCBRIDE - DIRECT

1 and anybody else can sit anywhere else they want
2 to sit, but you always got to sit in that front
3 seat, okay? Thank you.

4 (No. 8, foreperson.)

5 THE COURT: Okay.

6 MR. GRIFFITH: Your Honor, if it
7 please the Court, the Defense would call
8 Mr. Marvin McBride.

9 THE COURT: All right. If you'd come
10 around please, sir. Place your left hand on the
11 Bible and raise your right.

12 THE CLERK: Raise your right hand.
13 Place our left hand on the Bible. Repeat your
14 name please.

15 THE WITNESS: Marvin Keith McBride,
16 Jr.

17 WHEREUPON,

18 **MARVIN MCBRIDE, JR.**

19 having been duly sworn by the Clerk, testified
20 as follows:

21 BY MR. GRIFFITH:

22 Q Mr. McBride, please state your full
23 name for the record.

24 A It's not Marvin McBride. It's Marvin
25 Keith McBride, Jr.

SW - M. MCBRIDE - DIRECT

1 Q Okay.

2 A For the record.

3 Q And what is your -- where do you live,
4 Mr. McBride?

5 A I live in Mayesville, South Carolina.

6 Q Okay. And how long have you lived in
7 this area?

8 A I've been a resident in that area over
9 20 years.

10 Q Okay. And have you ever done any work
11 for Mr. Johnson?

12 A Plenty.

13 Q Please tell us a little more about
14 what you mean.

15 A I done did like roofing for him. He
16 forgot to mention that I done did the skylight.
17 You know, me and Jerry for the -- well, he have
18 these warehouses and stuff so we go to like the
19 farms or even warehouses. I did like the beach
20 houses. We did some metal roofing for the couple
21 of beach houses he -- I think his family own in
22 Saluda, North Carolina.

23 Q And how many -- would you say you've
24 worked for him over a period of time, how long?

25 A It was seasonal.

SW - M. MCBRIDE - DIRECT

1 Q Why don't you tell us, be a little
2 more specific?

3 A Well, Mr. Johnson would contact me
4 when he need me like carpentry. Like, me and
5 Jerry was doing that, a couple of other guys he
6 had in the crew. A couple of Mexicans were
7 working there, but they wasn't legal so he was, I
8 guess, contacted by Mr. Johnson because he was
9 contacting them because they was immigrants so. I
10 did a lot of work like ginning. I engage service
11 wherever or whenever Mr. Johnson contacted me.

12 Q Okay. And so how do you get paid?

13 A Not only by check, Mr. Johnson forgot
14 to mention earlier when he took the stand that he
15 pay me cash too.

16 Q So over how many years would you say
17 you worked for him?

18 A It was seasonal. I engaged service
19 from Mr. Johnson, I want to say 2017 was the first
20 year I engaged service with Mr. Johnson.

21 Q And did you work for Mr. Johnson after
22 April 18th of 2018?

23 A Correct.

24 Q Okay. How many times did you work for
25 him after that?

SW - M. MCBRIDE - DIRECT

1 A Multiple.

2 Q Pardon me?

3 A Multiple.

4 Q What did you do for him?

5 A Whenever he call me I probably did
6 some installing like installation of, you know,
7 some wirings, tool wirings, or something like that
8 for wires, whatever. Mr. Johnson called me. I
9 did some painting, priming, deck work, you know,
10 by the square feet. Even though I notify him
11 that, you know, we wasn't supposed to have contact
12 thereafter this alleged, you know, we still engage
13 service because it was false report or defamation
14 of character.

15 Q Okay. I'm going to show you -- this
16 is State's 2, State's Exhibit 2. Do you recognize
17 that?

18 A Yes, sir.

19 Q Okay, what is that?

20 A That's a check.

21 Q Okay.

22 A With a real account number and route
23 number.

24 Q Is that your signature on the back of
25 the check?

SW - M. MCBRIDE - CROSS

1 A Yes, sir.

2 Q Why don't you tell the Court now
3 where and how you got that check?

4 A Where, was from Mr. Johnson himself.
5 It was signed by Mr. Johnson himself in South
6 Carolina, Mayesville. Because, if anything was
7 missing, it would have been a report made. If
8 anything -- like his truck was, let's say,
9 vandalized or broken into, it would have been a
10 police report to support the alleged. It's no
11 report made. Also, every way that we work at from
12 the gin to farms have surveillance. There's no
13 other video showing that, you know, checks was in
14 the truck or office or whatever the checks
15 supposed to be at, because I didn't have ownership
16 for his account or his check books.

17 Q I have no further questions. Please
18 answer any questions the Solicitor may have.

19 **CROSS-EXAMINATION**

20 BY MR. LITTLE:

21 Q Mr. McBride, you just testified you
22 got the check from Mr. Johnson himself.

23 A That's correct.

24 Q You didn't get it from his brother?

25 A That's correct.

SW - M. MCBRIDE - CROSS

1 Q You didn't get it from his secretary?

2 A That's correct.

3 Q You got it from him, and that's his
4 signature on that check?

5 A His signature.

6 Q And I'm going to show you what's been
7 marked as State's Exhibit No. 3. You recognize
8 this?

9 A That's correct.

10 Q What is this?

11 A That's a check stub.

12 Q He gave you the check stub too?

13 A That's correct.

14 Q And that check stub says for ginning
15 equipment?

16 A That's correct.

17 Q What did he give you \$10,000 check
18 for?

19 A I engage service, like I say, for Mr.
20 Johnson multiple times. I just mentioned from
21 roofing, interior/exterior carpentry, ginning,
22 painting, priming, pressure washing. You know, I
23 do a whole lot of tasks and work performance for
24 Mr. Johnson in his company that's family owned.

25 Q Did you sell him ginning equipment?

SW - M. MCBRIDE - CROSS

1 A I mean, he can put down whatever he
2 want to put down on his check or check stub. That
3 check could have easily been cashed at any other
4 place like these alcohol stores that cash checks,
5 Super Walmart. It could have been cashed anywhere
6 else besides.

7 Q But you took it to the Bank of
8 Clarendon?

9 A Because I thought it was, you know,
10 legitimate.

11 Q You took it to the teller?

12 A Right.

13 Q And you tried to cash the check at the
14 bank?

15 A Yeah, day after I spoken with Mr.
16 Johnson, probably like a couple hours prior.

17 Q When you got to the bank to cash the
18 check, you showed him your identification so they
19 could know who it was cashing the check?

20 A That's correct.

21 Q Okay. So your attorney introduced a
22 check earlier today -- that you got for being
23 paid?

24 A Uh-huh.

25 Q --- that you got for being paid. What

SW - M. MCBRIDE - CROSS

1 services specifically were you paid for for the
2 \$10,000 check from Mr. Johnson?

3 A I just named multiple services from
4 interior/exterior roofing, painting, priming ---

5 Q Those all went with that check?

6 A Of course. When I mentioned earlier
7 about being paid per square feet or per se per
8 square yards because I do like farm work for him
9 too, like, see for instance, he might call me and
10 need some help out there on the farm, you know. I
11 did plenty of farm work for Mr. Johnson too 'cause
12 they have, they have family owned property which
13 is farms.

14 Q But he paid you other times. You said
15 he paid you in cash some other times.

16 A Exactly. It's no ---

17 Q He paid you in a check at least one
18 time.

19 A No, he paid me checks multiple times
20 prior to ---

21 Q So what did he pay you \$10,000 worth
22 of work for? If he's paying you these other
23 times, what's he paying you \$10,000 for this time?

24 A Like I mentioned earlier, I didn't
25 give you exact amount for the cash. He don't know

SW - M. MCBRIDE - CROSS

1 how much he paid me directly with cash because
2 that wasn't mentioned by Mr. Johnson. He just say
3 by check. Just like earlier when he got on the
4 stand, it wasn't mentioned that other people were
5 signing the check of, you know, had access to the
6 checks. He said it was just his brother. That
7 was forgot. He mentioned when Mr. Johnson being
8 on the stand so a lot of things is not mentioned.

9 Q So did you ever -- when he paid you in
10 a check, did he ever pay you out in the field,
11 write a check from his truck?

12 A Like I mentioned earlier, he paid me
13 cash and I did not discuss the exact amount
14 because it was a different amount ---

15 Q I'm talking about the times he paid
16 you in a check.

17 A Never out of the truck or vehicle. I
18 just say he have a gin company that's family owned
19 so, you know, we clock in and clock out. I still
20 have a time card in my wallet so you can clock in
21 and clock out; or it's up to the founder or
22 cofounder to say, you know. It's up to the
23 cofounder or founder or any person involved with
24 that family owned company to say, well, you don't
25 have to clock in, you know, I still pay you cash

SW - M. MCBRIDE - CROSS

1 or check so sometimes you don't have a record of
2 me clocking in and out because it's up to the
3 founder or cofounder if they want you to clock in
4 or clock out.

5 Q Okay. So you work for Mr. Johnson a
6 lot?

7 A That's correct.

8 Q So you've seen him work with other
9 people besides you?

10 A Most of the time that's true; but when
11 me and him engage in service, most of the time
12 Mr. Johnson call me or probably Jerry pass away so
13 he would have called me, Jerry. Jerry deceased
14 now, but. Normally me and Mr. Johnson take road
15 trips personally ourselves like when he need me to
16 do what I mentioned earlier, engage services.

17 Q So you've seen him write checks
18 before?

19 A Did I seen him? No.

20 Q You never seen him write you a check?

21 A Right, he never mentioned ---

22 Q You never seen him write you a check?

23 A I seen he hand-delivered a check.

24 Like, see, I'm going to hand to you but I never
25 seen him, you know -- because I don't know where

SW - M. MCBRIDE - CROSS

1 his check at. He have a office. He have a
2 residence. So when he give you a check or cash,
3 it's hand delivered.

4 Q You've seen checks stole in his truck?

5 A Never. I never mentioned that. He
6 never mentioned that.

7 Q You took a check from his truck?

8 A Never. I never mentioned that. He
9 never mentioned that.

10 Q You took that check and you wrote it
11 for \$10,000 to yourself?

12 A No.

13 Q You took it to the Bank of Clarendon
14 to cash it?

15 A I didn't mention that. He didn't
16 mention it.

17 Q I don't have any further questions for
18 this witness.

19 MR. GRIFFITH: No further questions.
20 Your Honor.

21 THE COURT: You can step down.

22 THE WITNESS: Yes, sir.

23 THE COURT: Any further witnesses?

24 MR. GRIFFITH: No further witnesses,
25 Your Honor. We rest.

1 THE COURT: Anything in reply?

2 MR. LITTLE: No, Your Honor.

3 THE COURT: All right. Y'all ready to
4 proceed with closing arguments?

5 MR. LITTLE: State's ready.

6 MR. GRIFFITH: We're ready, Your
7 Honor.

8 THE COURT: Okay. You've heard all
9 the evidence, ladies and gentlemen. Now you're
10 going to hear the arguments of the attorneys, then
11 I will charge you on the law.

12 MR. LITTLE: May it please the Court.

13 THE COURT: Yes, sir.

14 MR. LITTLE: Ladies and gentlemen,
15 you've heard all the evidence now that there is in
16 this case. I want to talk to you briefly about
17 the law and about what y'all have heard today.
18 First let's talk about burden of proof. The State
19 has the burden of proof. We have to prove Mr.
20 McBride committed the crime of forgery more than
21 \$10,000 or more beyond a reasonable doubt. That
22 doesn't mean we have to prove beyond any shadow of
23 doubt or any possible doubt, only beyond a doubt
24 that's reasonable. Proof beyond a reasonable
25 doubt is doubt -- is proof that leaves you, the

1 jury, firmly convinced of Mr. McBride's guilt.

2 Now we talked about the burden. Let's
3 talk about what we have to prove. We have to
4 prove every element of the crime. An element is a
5 legal term that means every distinct idea in a
6 definition of the crime. The judge will explain
7 the law to y'all in a minute here. Let me touch
8 briefly on each of the elements and show that we
9 have, in fact, proved all of them beyond a
10 reasonable doubt.

11 The first element that has to be
12 proven is that the document has to be uttered or
13 published as true. Utter means putting the
14 document into circulation. Publish it means
15 communicating that the document is true. You've
16 heard Mr. McBride testify. He said he went to the
17 bank, he tried to cash the check. He told the
18 officer it was a legitimate check. That's
19 uttering or publishing; he's trying to cash the
20 check.

21 The second element we have to prove is
22 that it's a false, forged, or counterfeit writing
23 or instrument of writing. Mr. James got up here
24 and told y'all he never wrote Mr. McBride a check
25 for \$10,000; he didn't write that check. I had

1 Mr. -- I had Mr. Johnson sign his signature on a
2 piece of paper, and you've also got another check
3 Mr. Johnson wrote Mr. McBride in evidence. That
4 will be sent back into the room with y'all. I
5 suggest that you take a look at the signatures on
6 those, see if they match, see if it looks like
7 it's the same signature. You're going to see it's
8 a forged check.

9 Intent. We have to prove that Mr.
10 McBride's actions were intentional. Now we can't
11 read his mind, but the best proof we have of
12 someone's intent is to look at their actions. Mr.
13 McBride is in the bank with a forged check trying
14 to cash it, telling the officer it's legitimate,
15 telling the bank it's legitimate. He's doing this
16 intentionally. The next thing we have to prove is
17 the value, value that is \$10,000 or more. It's
18 not necessary that Mr. McBride actually got any
19 money. You look at the check and it says \$10,000.
20 We can see that it meets the value. He doesn't
21 have to have gotten the money. In fact, he got
22 caught redhanded in the act of trying to get
23 \$10,000 doesn't mean he's any less guilty. We
24 also have to prove the identity. You heard the
25 officer testify that Mr. McBride is sitting in the

1 courtroom today. You heard Mr. McBride say he
2 tried to cash that check.

3 So, ladies and gentlemen, this is a
4 case about a man who traded the integrity of work
5 for the deceit of fraud. Not content to work for
6 his money, he thought that he had a get-rich-quick
7 scheme. He was going to write himself a check for
8 \$10,000 on his boss' work account. He took it to
9 the bank, tried to collect. Unfortunately for
10 him, he got caught redhanded in the act. He tried
11 talking his way out of it by lying to the officer.
12 He said it was a legitimate check. He tried
13 talking his way out of it here in this courtroom
14 by lying to you; but ultimately, he failed. You
15 heard from his boss. He didn't have authorization
16 for that check. You've got the check. Look at
17 the signature. He couldn't even give you clear
18 answer today of what he was given a check for
19 \$10,000. He did odds and ends for him. We've got
20 a check here that you can see for a few hundred
21 dollars. He said he was paid in cash for some
22 work. Mr. Johnson said he did odds and ends for
23 him. He didn't -- he couldn't think of a reason
24 to explain to y'all why he got a check for \$10,000
25 from Mr. Johnson. He didn't really explain why

1 Mr. Johnson would have given him the stub to the
2 check. Mr. Johnson needed that stub so he could
3 balance the checkbook. Why would he give that
4 check to him? I submit that the logical
5 explanation is that he didn't give him that check.

6 You've heard all the evidence. As I
7 told you at the beginning, it's going to be a
8 short trial, but it's important. It's important
9 for the State. It's important to Mr. Johnson.
10 It's important for the defendant Mr. McBride. So
11 I ask that you carefully consider all the evidence
12 you've heard. Pay close attention to the judge
13 when he explains the law to you so that you can
14 see that the facts match up with the elements of
15 this crime. Use the common sense that each of you
16 has, each of you brought to court today with you.
17 I submit that when you consider all the evidence,
18 you're going to find that we have proven our case
19 beyond a reasonable doubt and that you're going to
20 come back with a verdict of guilty. Thank you.

21 MR. GRIFFITH: May it please the
22 Court.

23 Ladies and gentlemen, thank you,
24 again, for sitting through trial. The assistant
25 solicitor has told you his theory, but that's not

1 evidence. You can only consider the evidence that
2 was presented from that chair right there. And
3 the State put Mr. Johnson up there, of course, who
4 initially said he's the only one who signed checks
5 and brother signed checks and then secretary and
6 his office signed checks so they have not proved
7 that Mr. Johnson or someone in his office or
8 someone else, they have not proved that no one
9 else signed that check. The State has not proved
10 that Mr. McBride signed that check. The State has
11 not proved that Mr. McBride knew that the check
12 was not a legitimate check. Mr. McBride didn't
13 try to sneak off somewhere in one of those cash
14 your checks for you places and cash the check. He
15 went to the bank where the check was written on.

16 So the State, having not proved that
17 someone else did not write the check and
18 Mr. Johnson admitting that sometimes the secretary
19 might write a check, they haven't proved that
20 somebody else didn't write it.

21 And as to the stub, the State has not
22 shown that Mr. Johnson didn't hand him the whole
23 check and, for instance, he got paid and said, oh,
24 here's the check and forget to take the stub off,
25 we can put it back. That didn't happen. And so

1 there remains some doubt as to whether the State
2 has proved to you that a crime was committed by
3 Mr. McBride.

4 Mr. McBride, you heard his testimony.
5 And so after considering all the evidence and all
6 the testimony and making the decision that doesn't
7 leave any doubt -- in this case there is some
8 doubt. We don't -- we can't be certain of a lot
9 of the pieces of it, and so we would ask that you
10 find Mr. McBride not guilty because there is some
11 doubt. And please just take time to consider and
12 think of all the things that were said, consider
13 all the evidence, and we appreciate you very much
14 your work.

15 THE DEFENDANT: Your Honor, can I ask
16 you a question?

17 THE COURT: No, not right now.

18 MR. LITTLE: Your Honor, may I reply?

19 THE COURT: Okay.

20 MR. LITTLE: Ladies and gentlemen,
21 don't be distracted by the argument from Mr.
22 Griffith that Mr. Johnson's secretary writes this
23 check, writes checks, Mr. Johnson's brother writes
24 checks. You heard from Mr. McBride. He said
25 Mr. Johnson himself wrote that check. Mr. Johnson

1 says he didn't. It's your job to view the
2 credibility and determine the credibility of the
3 witnesses. You're going to be able to look at the
4 signatures, see how they look together. Look at
5 Mr. Johnson's signature. Look at the check that
6 Mr. McBride brought to the bank. You're going to
7 see that they don't match. There's no reasonable
8 doubt in this case, ladies and gentlemen. This is
9 a man who got caught redhanded trying to get rich
10 quick by stealing money from his boss. I'm
11 confident that when you evaluate the evidence,
12 you'll be able to return a verdict of guilty.
13 Thank you.

14 THE COURT: Ladies and gentlemen, now
15 that you've heard all the evidence in this case as
16 well as the arguments of both the State and the
17 Defendant, I'm going to explain to you the law
18 that you're to apply in this case. Under our
19 Constitution and Code of Laws, only you can
20 determine the facts of a case. I am not allowed
21 or permitted to have an opinion about the facts so
22 if I've said anything or done anything in this
23 trial that you think I have an opinion about the
24 facts, you're to disregard that because you, and
25 only you, can determine the facts in a case based

1 on the evidence that is presented to you. That
2 same law and constitution that makes you the
3 exclusive judge of the facts makes me the
4 exclusive judge of the law. So if you have an
5 idea of what you think the law is or what the law
6 ought to be and it differs from what I now tell
7 you the law is, under your oath you're to
8 disregard that idea and apply the law exactly as I
9 give it to you.

10 The fact that this defendant was
11 arrested, charged, and indicted in this case is
12 not evidence in this case and cannot be considered
13 by you as evidence of guilt in this case. Nor
14 does it create any presumption or inference of
15 guilt. The indictment is simply a formal written
16 instrument which contains the charges against this
17 defendant. It serves as a formal document to
18 process this case through the court system.

19 Now the defendant has entered a plea
20 of not guilty to this indictment and that casts
21 the burden upon the State of South Carolina to
22 prove each and every element of this indictment
23 beyond a reasonable doubt. A person charged with
24 committing a criminal offense in South Carolina is
25 never required to prove himself or herself

1 innocent. It is an important rule of law in this
2 country that a defendant in a criminal trial will
3 always be presumed innocent of the crime for which
4 he or she is charged, unless and until his guilt
5 has been proven by evidence that satisfies you of
6 that guilt beyond a reasonable doubt.

7 The presumption of innocence is not a
8 mere legal theory. It is not just a legal phrase.
9 It is a substantial constitutional right which
10 every defendant is entitled. This presumption of
11 innocence accompanies the defendant from the time
12 he's charged throughout the trial until you reach
13 a verdict of guilt based on the evidence that
14 satisfies you of that guilt beyond a reasonable
15 doubt. A reasonable doubt is a doubt which makes
16 an honest, sincere, conscientious juror, in search
17 of the truth to hesitate to act. Proof beyond a
18 reasonable doubt must be proved of such a
19 convincing character that a reasonable person
20 would not hesitate to rely and act upon it in the
21 most important of his or her own personal affairs.
22 Proof beyond a reasonable doubt can also be
23 described proof that leaves you firmly convinced
24 of the defendant's guilt.

25 Now there are very few things in this

1 world we know with absolute certainty; and in a
2 criminal case, the law does not require proof that
3 overcomes every possible doubt. If based on your
4 consideration of the evidence, if you're firmly
5 convinced the defendant is guilty of the crime
6 charged you must find him guilty. If on the other
7 hand you think there's a real possibility he's not
8 guilty, you're to give him the benefit of that
9 doubt and find him not guilty.

10 Now in determining the facts of the
11 case, you necessarily must pass upon the
12 credibility which simply means believability of
13 the witnesses and the weight and the value to be
14 given to their testimony. You, alone, must decide
15 the force and effect of the truth of that
16 testimony. In making these decisions there are
17 many things that you may and should take into
18 consideration, such as: The manner or appearance
19 of the witness on the stand, sometimes referred to
20 as the demeanor of the witness; was the witness
21 forth right or hesitant; was the witness'
22 testimony consistent or did it contain
23 discrepancies; what was the ability of the witness
24 to know the facts about which he or she testified;
25 and did the witness have reason to be biased and

1 prejudiced or prejudiced in favor of their
2 testimony; was the testimony of a witness
3 corroborated or made stronger by other testimony
4 or evidence, or was it made weaker or impeached by
5 such other testimony or evidence. As jurors, you
6 have a right to believe a small portion of a
7 witness' testimony and disregard the larger, or
8 vice versa. You may believe all of a witness'
9 testimony or none. You may believe the testimony
10 of a single witness against that of many
11 witnesses, or the other way around.

12 Now criminal intent is a necessary
13 element of each crime that the State must prove
14 beyond a reasonable doubt. Criminal intent is
15 always a matter that must be determined by the
16 jury from the circumstances surrounding the
17 situation. There's no way to prove intent to a
18 mathematical certainty. There's no way medical
19 science can dissect a person's brain and determine
20 what he or she had in mind. So the law states
21 criminal intent may be inferred from the
22 circumstances shown to have existed both before
23 and after the fact. This is how you, the jury,
24 make a determination of whether or not the
25 elements like intent was present.

1 Criminal intent is a state of mind
2 that operates jointly with a act or omission in
3 the commission of a crime. Criminal intent is a
4 mental state of conscious wrongdoing, so it is up
5 to you, the jury, to determine what the defendant
6 intended to do based on the circumstances shown to
7 have existed. And I tell you, the State must
8 prove criminal intent beyond a reasonable doubt
9 just as the State must prove every element beyond
10 a reasonable doubt.

11 Now there are two types of evidence
12 that are generally presented during a trial --
13 direct evidence and circumstantial evidence.
14 Direct evidence directly prove the existence of
15 fact and does not require deduction.
16 Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating the existence
18 of a fact. Crime may be proven by circumstantial
19 evidence. The law makes no distinction between
20 the weight or value to be given to either direct
21 or circumstantial evidence. However, to the
22 extent the State relies on circumstantial
23 evidence, all the circumstances must be consistent
24 with each other and when taken together form
25 conclusively to the guilt of the accused beyond a

1 reasonable doubt. If these circumstances merely
2 portray the defendant's behavior as suspicious,
3 the proof has failed. The State has the burden of
4 proving the defendant guilty beyond a reasonable
5 doubt and this burden rests on the State
6 regardless of whether the State relies on direct
7 evidence, circumstantial evidence, or the
8 combination of the two.

9 Now the defendant in this case is
10 charged with forgery. The State must prove beyond
11 a reasonable doubt that the defendant put into
12 circulation or published as true, any false,
13 forged, or counterfeit writing or instrument; and
14 in this case, that counterfeit writing or
15 instrument was \$10,000 or more. And the State
16 must prove that beyond a reasonable doubt. And
17 the State must also prove that the acts and
18 conduct of the defendant and other circumstances
19 which may naturally and reasonably infer intent.

20 Now, ladies and gentlemen, you're not
21 partisans or advocates of the State of South
22 Carolina or this defendant. You do not serve as
23 jurors to reward your friends or punish your
24 enemies. That system of justice simply would not
25 be tolerated. It is your duty then by your joint

1 deliberation to determine the facts in this case
2 giving to the defendant the benefit of every
3 reasonable doubt on each and every issue, then
4 apply the facts in this case to the law that I've
5 given you and reach a verdict in this case and you
6 would have satisfied your duty.

7 Now Mr. Foreman, I've had my law clerk
8 draw up a potential verdict form. And it's simply
9 the caption of the case: The State of South
10 Carolina v. Marvin Keith McBride. And it says:
11 One, the charge of forgery value of \$10,000 or
12 more, we, the jury, unanimously find the defendant
13 guilty or not guilty. The order that he put these
14 in, you should draw no conclusion from whatsoever.
15 We had to just put them in some order. Once you
16 have reached a verdict -- and it must be
17 unanimous verdict in that all 12 of you must
18 agree -- you're to check the appropriate block,
19 sign your name and date it and knock on the door
20 and we will bring you out and receive that
21 verdict.

22 Now I've got to discuss my charge with
23 the attorneys. I may have left something out. If
24 so, I'm going to bring you back out and charge you
25 further on the law. If I have covered everything,

1 I will send this verdict form into the jury room
2 along with the evidence in this case and that will
3 be your signal to begin your deliberation. When
4 you start discussing this case, all twelve of you
5 must be present. If one of you has to leave to go
6 to the restroom or anything, you've got to stop
7 talking about the case until that person returns
8 to the room so all twelve of you got to be present
9 when you talk about it. And the verdict must be
10 unanimous in that all twelve of you must agree to
11 the verdict. Once that's been done, you will
12 check the appropriate block, sign your name, date
13 it, and knock on the door. I'm going to send you
14 to the jury room. Let me talk to the lawyers.
15 Either I'll send everything back to you and you
16 can begin, or I'll bring you back out and charge
17 you further.

18 Mr. Alternate, I need you to stay with
19 me because I only needed you if somebody got sick.
20 It looks like all of them are going to make it so
21 if you hang with me, the rest of you go to the
22 jury room, okay? So you can go to the jury room.

23 (WHEREUPON, the jury was removed from
24 the courtroom at 11:14 p.m.)

25 THE COURT: Are there any exceptions,

1 deletions, additions from the State or Defense?

2 MR. LITTLE: None from the State, Your
3 Honor.

4 MR. GRIFFITH: None from Defense, Your
5 Honor.

6 THE COURT: All right. If y'all will
7 get up the evidence. Now this -- the exhibit of
8 the video, the disk, is -- that is the only what's
9 been presented to the jury on that disk or is it
10 the whole body cam?

11 MR. LITTLE: The whole video is on
12 that. I don't think the rest of it is admissible.

13 THE COURT: Okay. I didn't want to
14 send it back there for them to play it if wasn't
15 admissible. So if they want to see that again, I
16 got to bring them out and play it.

17 MR. LITTLE: Yes, Your Honor.

18 THE COURT: Will you send everything
19 else back there to them, okay.

20 (Attorneys review exhibits.)

21 THE DEFENDANT: Can I ask a question,
22 Your Honor?

23 THE COURT: Yes, sir.

24 THE DEFENDANT: Correct me if I'm
25 wrong, but by law if it was, let's say I make a

1 report about forgery or whoever the case may be
2 and I wrote you another check thereafter when we
3 not supposed to have no contact, is that lawful?
4 Write another check thereafter, is that lawful?

5 THE COURT: I'm not real sure -- you
6 have to -- you'll have to ask your attorney. I'm
7 not going to give you any legal advice. I assume
8 what you're talking about is bond stipulations.
9 It has nothing to do with writing a check after
10 that.

11 Y'all going to give it to the jury?

12 MR. LITTLE: We both looked at it and

13 ---

14 THE COURT: All right. Somebody carry
15 it to the jury. The verdict form is there too?

16 MR. LITTLE: I don't know where the
17 verdict form is. Here's the verdict form.

18 THE DEFENDANT: I was not talking
19 about bond. I'm just saying if I was to make a
20 report and I wasn't one damage my credibility or
21 word, if I'm writing you another check when I
22 allege endorse the first check you sign to, why
23 would I wrote, you know, a check or two or three
24 after.

25 THE COURT: I don't know.

1 THE DEFENDANT: Take off.

2 THE COURT: You have to get that
3 advice from your lawyer. I don't exactly
4 understand what you're talking about.

5 MR. GRIFFITH: He's going to the
6 restroom.

7 THE COURT: Where are you going?

8 THE DEFENDANT: To the restroom.

9 THE COURT: You got to get permission
10 to just get up and walk out.

11 THE DEFENDANT: Oh, okay. Who do I
12 need to ask?

13 THE COURT: All right. You come right
14 back. Go ahead. You go to the restroom; you come
15 back.

16 THE DEFENDANT: Yeah, I ain't going
17 nowhere.

18 THE COURT: All right. It'd behoove
19 you to be here.

20 Mr. Harrison, I appreciate you
21 serving. I only needed you if somebody got sick
22 so you're free to go.

23 (Alternate was excused.)

24 (Defendant leaves courtroom.)

25 THE COURT: We'll stand at ease until

1 I get a knock on the door.

2 (WHEREUPON, a recess was taken from the
3 proceedings.)

4 THE COURT: All right. Bring me the
5 jury.

6 (WHEREUPON, the jury was returned to
7 the courtroom at approximately 11:58 a.m., and the
8 following proceedings commenced in open court.)

9 THE COURT: You may publish the
10 verdict.

11 THE CLERK: On indictment No.
12 2019-GS-14-20, the State v. Marvin Keith McBride.
13 As to the charge of felony, value \$10,000 or more:
14 We, the jury, unanimously find the defendant
15 guilty. Signed William B. Ward, Jr., foreperson,
16 July 27th, 2021.

17 MR. GRIFFITH: Judge, we would ask
18 that the jury be polled.

19 THE CLERK: Okay. Ladies and
20 gentlemen of the jury, I'm going to ask you to --
21 as I call your number to stand, and I have two
22 questions for you I need you to answer. Beginning
23 with our foreperson, William Ward, Jr., is this
24 your verdict?

25 JUROR WARD: Yes.

1 THE CLERK: And still your verdict?

2 JUROR WARD: Yes.

3 THE COURT: Thank you, sir.

4 Gerald T. Wilder, III, is this your
5 verdict?

6 JUROR WILDER: Yes.

7 THE CLERK: And still your verdict?

8 JUROR WILDER: Yes.

9 THE CLERK: Thank you, sir.

10 David C. Feagin, is this your verdict?

11 JUROR FEAGIN: Yes.

12 THE CLERK: And still your verdict?

13 JUROR FEAGIN: Yes.

14 THE CLERK: Joseph C. McDonald, II, is
15 this your verdict?

16 JUROR MCDONALD: Yes.

17 THE CLERK: And still your verdict?

18 JUROR MCDONALD: Yes.

19 THE COURT: Mary B. Anderson, is this
20 your verdict?

21 JUROR ANDERSON: Yes.

22 THE CLERK: And still your verdict?

23 JUROR ANDERSON: Yes.

24 THE CLERK: Hunter W. Thynes, is this
25 your verdict?

1 JUROR THYNES: Yes, ma'am.

2 THE CLERK: And still your verdict?

3 JUROR THYNES: Yes.

4 THE CLERK: Thank you.

5 Nichole D. Wilson, is this your
6 verdict?

7 JUROR WILSON: Yes.

8 THE CLERK: And still your verdict?

9 JUROR WILSON: Yes.

10 THE CLERK: Patricia M. Avant, is this
11 your verdict?

12 JUROR AVANT: Yes.

13 THE CLERK: And still your verdict?

14 JUROR AVANT: Yes.

15 THE CLERK: Thank you, ma'am.

16 Timothy A. Daniels, is this your
17 verdict?

18 JUROR DANIELS: Yes.

19 THE CLERK: And still your verdict?

20 JUROR DANIELS: Yes.

21 THE CLERK: Bryan K. Hacker, is this
22 your verdict?

23 JUROR HACKER: Yes.

24 THE CLERK: And still your verdict?

25 JUROR HACKER: Yes.

1 THE CLERK: Thank you, sir.

2 Martin C. Lowder, is this your
3 verdict?

4 JUROR LOWDER: Yes.

5 THE CLERK: And still your verdict?

6 JUROR LOWDER: Yes, ma'am.

7 THE CLERK: Thank you.

8 And Robert S. Corbett, Jr., is this
9 your verdict, sir?

10 JUROR CORBETT: Yes.

11 THE CLERK: And still your verdict?

12 JUROR CORBETT: Yes.

13 THE CLERK: Thank you, sir.

14 Your Honor, the jury has been polled.

15 THE COURT: Thank you. Anything else
16 from either side?

17 MR. LITTLE: Nothing from the State,
18 Your Honor.

19 THE COURT: Okay, ladies and
20 gentlemen, I want to thank you for serving on this
21 case. I've been telling you you can't talk about
22 it. Now you can talk about anything but you don't
23 have. You're free to go the rest of the day.
24 Thank you.

25 (Jury was dismissed at 12:01 p.m.)

1 MR. LITTLE: Your Honor, Mr. Craven is
2 downstairs printing the sentencing sheet.

3 MR. GRIFFITH: Please the Court, Your
4 Honor, we would ask for judgment notwithstanding
5 the verdict or new trial.

6 THE COURT: Okay. I think there's
7 adequate evidence in the record to support the
8 jury's verdict. I'll deny your notion.

9 MR. GRIFFITH: Thank you, Your Honor.

10 THE COURT: Okay.

11 MR. LITTLE: Do you wish to hear from
12 the State at this time about sentencing, or do you
13 want to wait?

14 THE COURT: I want to wait till I get
15 the sheet.

16 MR. LITTLE: Yes, sir.

17 (Pause.)

18 THE COURT: I'll be glad to hear from
19 the State on sentencing.

20 MR. LITTLE: Yes, Your Honor. Your
21 Honor, this charge carries up to ten years active.
22 One thing I would add is he does have a 2011
23 conviction for failure to stop for a blue light,
24 as well as a 2014 conviction, burglary in the
25 third degree. He got five years suspended 18

1 months probation on that charge. Your Honor, in
2 preparing for this trial I spoke with Mr. Johnson
3 about this case, and he had wanted me to make it
4 known that he was reluctant to come to court. He
5 had indicated that he had some fears for -- to
6 testify, and some anxiety about this, and I tried
7 to work this out by offering a time served or
8 probation at one point. Those offers were turned
9 down. I believe that an active time sentence is
10 appropriate in this case, Your Honor. Your Honor
11 heard the trial facts. I believe the time is Your
12 Honor's discretion, but I think than an active
13 time in the Department of Corrections is the
14 appropriate sentence in this case.

15 THE COURT: Okay.

16 MR. GRIFFITH: If it please the Court,
17 Your Honor, as Mr. Little pointed out he was
18 offered, given several offers. He did spend some
19 time over in the jail. And I spoke with my
20 client, had recommended that he accept that plea
21 offer; but as we have discussed previously in the
22 pretrial motions, that my client was not, I don't
23 believe, capable of comprehending the -- what was
24 going to happen. And Your Honor, we would ask for
25 some leniency for Mr. McBride. Also, after

1 talking to the probation department, he has
2 successfully completed probation multiple times;
3 that is to say, the times he was on it. And so,
4 Your Honor, we would ask for some consideration in
5 that. Of course, he does not have a serious
6 record. The burg 3 was from 2014; the other one
7 was 2011 quite some time back. And so, if Your
8 Honor would consider some lenience and, of course,
9 the situation that we have previously discussed
10 concerning Mr. McBride. Thank you.

11 THE COURT: How much time did he
12 serve? I have to put it down here.

13 MR. LITTLE: It looks like he posted
14 bond on June 1st, 2018, and he was arrested on
15 April the 19th of 2018.

16 THE COURT: So April 19.

17 MR. LITTLE: So...

18 THE COURT: 41 days. All right, the
19 sentence of the Court is you're committed to the
20 State Department of Corrections for a term of six
21 years. I'm giving you credit for 41 days.

22 THE DEFENDANT: Your Honor, can I ask
23 a question?

24 THE COURT: Yes, sir.

25 THE DEFENDANT: Why was I sentenced

1 six years when, you know, I wasn't, like, me
2 personally, why was it -- okay, the offer they
3 gave my attorney from my understanding because I
4 had advise him before the trial to relieve, you
5 know, the motion to relieve his duty, and that was
6 not mentioned. So the time served and probation,
7 you know, with me ---

8 THE COURT: That's what they offered
9 you. You should have taken it.

10 THE DEFENDANT: I didn't, I mean, I
11 didn't see no -- I didn't spoken to the solicitor
12 or anyone, you know, about the time served or
13 anything so I'm trying to see why was I sentenced
14 to six years.

15 THE COURT: Well, I started to give
16 you ten, but I give you the benefit of the doubt
17 and only gave you six because your record wasn't
18 that bad. But I -- it carries ten years. That's
19 what the legislature was recommending; and I
20 started to give you ten, but I was cutting you a
21 break.

22 THE DEFENDANT: I'm just trying to
23 figure -- I'm gonna appeal it, but I'm just
24 saying, like, six year sentence nonviolent. What
25 was this offense for? Like, I mean, you ---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THE COURT: You were looking at ten years for forgery. You rolled the dice. Okay.

* * * END OF REQUESTED TRANSCRIPT OF RECORD * * *

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

I, FRANCES B. RAY, Registered Professional Reporter (RPR), court reporter for the State of South Carolina, Third Judicial Circuit, do hereby certify that the foregoing proceeding is a stenographic report and was transcribed through computer-aided transcription; that the foregoing transcript contains a true record of the proceedings.

I further certify that I am neither counsel for, nor related to nor employed by any of the parties connected to the action, nor am I financially interested in the action.

Witness my hand at Florence, South Carolina, this 28th day of October, 2021.

Frances B. Ray

FRANCES B. RAY, RPR

STATE OF SOUTH CAROLINA)
)
COUNTY OF CLARENDON)

INDICTMENT FOR
Forgery, value \$10,000 or more

At a Court of General Sessions, convened on January 22, 2019 the Grand Jurors of
CLARENDON County present upon their oath:

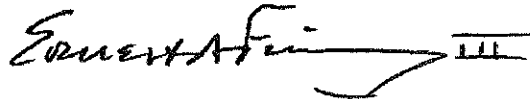
COUNT ONE

That Marvin Keith McBride did in Clarendon County on or about April 19, 2018, with intent to defraud, falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged or counterfeited, or utter ~~and~~ publish as true any false, forged or counterfeited writing or instrument of writing, or willingly act or assist in any of the foregoing to wit: ~~forged his signature on a check~~, where the amount of the forgery was ten thousand (\$10,000.00) dollars or more, in violation of Section 16-13-0010, S. C. Code of Laws, 1976, as amended.

published as true a false check

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

Solicitor



WITNESSES

Sonia Daniels
Manning Police Department

DOCKET NO. 2019-GS-14-0020

The State of South Carolina

County of CLARENDON

COURT OF GENERAL SESSIONS

January TERM 2019

THE STATE

vs.

MARVIN KEITH MCBRIDE

ARREST WARRANT NUMBER

2018A1420100116

Indictment for

Forgery, value \$10,000 or more

ACTION OF GRAND JURY

True Bill

Kelly Meares

Foreperson of Grand Jury
Date: *1/22/19*

Ernest A. Finney III

VERDICT

ERNEST A. FINNEY, III, SOLICITOR

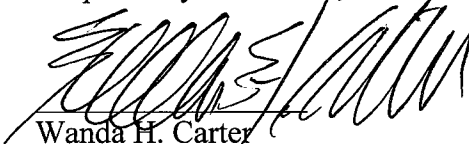
Foreperson of Petit Jury
Date:

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
Jan 04 2022
SC Court of Appeals

Respectfully Submitted,


Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 4th day of January, 2022.