

IN THE SUPREME COURT OF TENNESSEE  
AT NASHVILLEMay 28, 2025 Session Heard at Cookeville<sup>1</sup>**STATE OF TENNESSEE v. GINNY ELIZABETH PARKER****Appeal by Permission from the Court of Criminal Appeals  
Circuit Court for Williamson County  
No. B-CR210047 Michael Binkley, Judge**

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**No. M2022-00955-SC-R11-CD**

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In this appeal, we consider whether the evidence is sufficient to support convictions on five counts of forgery. The convictions relate to five checks payable to and cashed by the defendant that were drawn on a bank account that belonged to the defendant's grandparents. The defendant's grandmother handled the grandparents' bank account, and the checks were purportedly signed by her. Shortly after the defendant's grandmother died, the defendant's grandfather discovered their account was overdrawn and reported to the police that the checks written to the defendant were counterfeit. In a statement to police, the defendant maintained that the checks were authorized. After a bench trial, the trial court held the defendant's statement was not credible and found her guilty of forgery. The Court of Criminal Appeals found the evidence sufficient to support the convictions. We agree. Accordingly, we affirm the decision of the Court of Criminal Appeals.

**Tenn. R. App. P. 11 Appeal by Permission; Judgment of the Court of Criminal Appeals Affirmed.**

HOLLY KIRBY, J., delivered the opinion of the court, in which JEFFREY S. BIVINS, C.J., and SARAH K. CAMPBELL, J., joined. DWIGHT E. TARWATER, J., filed a dissenting opinion, in which MARY L. WAGNER, J., joined.

E. Kendall White, IV, Nashville, Tennessee, for the appellant, Ginny Elizabeth Parker.

Jonathan Skrmetti, Attorney General and Reporter; J. Matthew Rice, Solicitor General; Richard D. Douglas, Senior Assistant Attorney General; Kim R. Helper, District Attorney

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<sup>1</sup> Oral argument was heard in this case at Tennessee Technological University in Cookeville, Tennessee, as part of the Tennessee American Legion Boys State S.C.A.L.E.S. (Supreme Court Advancing Legal Education for Students) project.

General; and Hunter C. Knight, Assistant District Attorney, for the appellee, State of Tennessee.

## **OPINION**

### **FACTUAL AND PROCEDURAL BACKGROUND**

The defendant in this case, Ginny Elizabeth Parker (Defendant), is the granddaughter of Rose Gordon and the alleged victim, Lloyd Gordon. When Mrs. Gordon died on April 11, 2020, she and Mr. Gordon had been married for about sixty years.

For most of their marriage, Mr. Gordon suffered from vision impairment significant enough to deprive him of his ability to drive a car or maintain a job. According to Mr. Gordon's sister, Bonnie McCandless, the Gordons were not wealthy but they had stable monthly income from a pension plus social security. She described how the Gordons had handled their finances: "Lloyd was used to [Rose] doing everything. She took care of all the finances, and she paid the bills. She took care of . . . the household expenses, everything."

After Mrs. Gordon died, because Mr. Gordon had such poor vision, Ms. McCandless began helping her brother pay his bills. While assisting Mr. Gordon, she reviewed a recent bank statement that showed the Gordons' joint checking account was overdrawn. In light of this information, Ms. McCandless took her brother to the bank to open a new account with her as co-signer, to prevent anybody else from writing checks or getting any more money from his account.

This was the first time the Gordons' account had been overdrawn. Concerned he had been the victim of theft, Mr. Gordon made a report of stolen/counterfeit checks to their bank and to law enforcement.

The reported crime was assigned to Detective Joseph Cox of the Fairview, Tennessee Police Department. Detective Cox began his investigation by interviewing Mr. Gordon. Detective Cox later described Mr. Gordon as "blind and a little deaf."

After the interview with Mr. Gordon, the investigation focused on several checks cashed by two persons: the Defendant and her boyfriend, Brandon Clark. At the time, the Defendant and Mr. Clark lived together.

Detective Cox decided to speak with the Defendant and Mr. Clark about the checks. When Detective Cox went to their home, the Defendant was not home but Mr. Clark was

there. Mr. Clark called the Defendant and then relayed to Detective Cox that the Defendant said she was out picking up some medication and would be back soon.

Mr. Clark told Detective Cox that the controversy with the checks was a misunderstanding and said he would pay restitution. He assured Detective Cox that when the Defendant returned home, they would come to the police department and “try to get this cleared up.”

But neither the Defendant nor Mr. Clark came to the police department or paid restitution. Detective Cox proceeded with arrest warrants for both the Defendant and Mr. Clark.<sup>2</sup>

The Williamson County Grand Jury returned a five-count presentment against the Defendant for forgery under Tennessee Code Annotated 39-14-114.<sup>3</sup> Each check was made payable to “Ginny Parker,” signed by “Rose Gordon,” and endorsed by “Ginny Parker.”

After she was arrested, the Defendant agreed to an interview with Detective Cox. In talking to Detective Cox, the Defendant referred to Mrs. Gordon as “Nanny” and Mr. Gordon as “Paw” or “Pawpaw.”

In the interview, the Defendant denied stealing money from her grandparents and insisted that she and her boyfriend were not trying to break the law by cashing the checks. The Defendant told Detective Cox that she deposited four thousand dollars into the Gordons’ account, and her grandmother would give her checks to fill out when needed. In that way, the Defendant said, she in effect used checks on the Gordons’ account to spend her own money. The Defendant did not consider the checks to her from the Gordons’ account forged because “Nanny would always have me . . . I was writing them to my mother for [Nanny]; Nanny would say ‘fill it out, fill it out’ . . . And then I would call her, tell her, however much I had to use.”

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<sup>2</sup> Brandon Clark was ultimately charged by information with seven counts of forgery. The charges were based on different checks than those for which the Defendant was charged. The charges as to Mr. Clark were dismissed by the State two months before the Defendant’s trial. The record does not indicate why, and the dismissal of the charges against Mr. Clark was not considered at the Defendant’s trial.

<sup>3</sup> Count 1 was check #4023 dated October 19, 2019 for \$200;  
Count 2 was check #4027 dated October 22, 2019 for \$200;  
Count 3 was check #4028 dated October 24, 2019 for \$300;  
Count 4 was check #4029 dated October 24, 2019 for \$300;  
Count 5 was check #4055 dated February 7, 2020 for \$230.

Under the arrangement, the Defendant said, Mrs. Gordon would give her “two or three checks at a time.” When the Defendant wrote a check, she would call Mrs. Gordon to tell her the amount of the check. The Defendant said she tried “to write it down so [she] could keep up with how much money was spent on that four thousand dollars.”

In the recording, Detective Cox pointed out to the Defendant that none of the checks at issue had notations on the memo line. The Defendant told Detective Cox to check the bank records: “[W]hen I put the deposit of four thousand dollars—technically, there’s still twenty-three or twenty-six hundred in the account that’s mine . . . . I guarantee you it doesn’t equal my four thousand dollars.” When Detective Cox responded “No, they’re bankrupt,” the Defendant exclaimed, “How in the hell is that possible?”

The Defendant told Detective Cox that Mr. Gordon did not know about the checks written to her because Mrs. Gordon did not tell him everything about their finances. The Defendant described her dilemma:

How do I prove, with my Nanny gone. . . . Cause Nanny had her mind. . . . Pa, he seems like he’s OK, but . . . once you’re around him for a little while, you would realize, he repeats himself, he’s already doing that. . . . He tried to say he only remembered giving me a thousand dollars, I said “well Paw, you all gave me five hundred dollars a week before that, so how do you only remember a thousand”. . . .

Detective Cox noted that Mr. Clark had told him the checks were for Mrs. Gordon’s medicine and for taking Mrs. Gordon to the doctor. The Defendant corrected him that the checks were for the Defendant’s benefit, out of the four thousand dollars supposedly deposited into the Gordons’ account:

No, it was for me going to the doctor or my prescriptions. That’s what they were for . . . because we were in probate. So, she had been giving me the money already, prior to my Momma dying.<sup>4</sup> That’s why I’m saying, you can go back to mom dying in September, so . . . in August, the checks would have been wrote to Shirley Montgomery because she was writing them to my mom, but they were for me, for the doctor, to pay the doctor’s visit, or like, they were making me pay like half of it then, and then when mom got her check, she would give the money back to Nanny. So, whenever Mom passed away, Nanny paid, she gave me the money . . . until . . . they made me the

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<sup>4</sup> In September 2019, the Defendant’s mother (the Gordons’ daughter), Shirley Montgomery, passed away unexpectedly. Ms. Montgomery was living with the Gordons at the time. Her death occurred about a month before the first check offense at issue.

executor of the estate, so they released the funds to me. So, when they released the funds to me, I paid my Nanny and Paw back what they had already given me for that month or two before hand—I think it was like a thousand dollars—because I had to pay my Mom’s storage too . . . . So it was Mom’s storage, and my doctor, and my pharmacy. Then . . . I just said, Nanny, look, I’m going to just give you four thousand and then that way I know that I got that money, to go to the doctor, or if I [need it for something else].

The Defendant claimed she did not have insurance and could not afford pain medicine, “Neurontin [and] oxycodone,” prescribed to her for a tumor the Defendant described as “growing back.” She also admitted she had recently used heroin to control her pain.

Detective Cox told the Defendant that he was investigating computer records for an online account that was used to withdraw funds from the Gordons’ account by electronic transfer. The Defendant agreed with Detective Clark’s observation that Mr. Gordon could not have arranged such online withdrawals, and she said Mrs. Gordon did not “get online.”

After Detective Cox commented that the IP address results from the investigation would tell him who made the electronic withdrawals, the Defendant volunteered that she had accessed funds in the Gordons’ account via PayPal.<sup>5</sup> She said she connected her PayPal “card” to the Gordons’ bank account to pay her doctor and pharmacy bills. The Defendant claimed she never paid the entire amount of a bill from the Gordons’ bank account; she “always had something to go with it.”

Detective Cox then pointed out that Mr. Clark had also cashed checks from the Gordons’ bank account. The Defendant told him Mr. Clark cashed the checks on her behalf.<sup>6</sup> The Defendant insisted she had not “taken a damn dime” from the Gordons.

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<sup>5</sup> The Defendant described connecting her PayPal account to the Gordons’ bank account by a verification process whereby PayPal made two small separate deposits into the Gordons’ bank account and Mrs. Gordon called the bank to find out the amount of the two deposits. The Defendant claimed this showed Mrs. Gordon “helped” her. The Gordons’ October 2019 bank records corroborated the connection the Defendant described; they showed two small deposits from PayPal Verifybank and a corresponding withdrawal by PayPal Verifybank. Detective Cox testified at trial that the PayPal investigation involved a different jurisdiction and was still ongoing.

<sup>6</sup> The Defendant told Detective Cox:

Yeah, and I shouldn’t [have] never done that. . . . A lot of times it was ‘cause I was sick and he would just go do it for me and put it on the card or whatever we had to do. Or he’d

In lieu of a jury trial, the parties agreed to a bench trial.<sup>7</sup> The State presented live testimony from Detective Cox, Mr. Gordon, and Ms. McCandless. The Defendant did not testify, but without objection, the recorded statement of her interview with Detective Cox was played during the trial.<sup>8</sup>

Mr. Gordon's testimony was brief. By the time of trial, he was eighty-two years old and had difficulty hearing the questions posed to him. Mr. Gordon maintained that, until she died, his wife Rose was entirely responsible for their checking account. He also said he and Mrs. Gordon did not pay other people's bills and their bank account had never been overdrawn.

Mr. Gordon testified that Mrs. Gordon told him about two checks she wrote to the Defendant—one for \$15 and one for approximately \$30. Other than those two checks, Mr. Gordon said, he did not know “a thing about” the bank account “because [Rose] always kept up with it.” He said he had little knowledge of Mrs. Gordon's financial dealings with the Defendant.

Bank records from the Gordons' joint checking account at First Federal were introduced into evidence.<sup>9</sup> They reflect regular deposits from December 2018 through October 2020 totaling roughly \$1,620 each month, from a combination of social security and a pension. The records included copies of every check that cleared the account. The Gordons' account was closed on April 21, 2020, ten days after Mrs. Gordon died.

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given me his money that he was going to pay his bills with and then I'd just give him back that way out of Nanny's account.

<sup>7</sup> Prior to trial, the State filed a pre-trial notice of intent to use the Defendant's prior convictions, including two felony drug convictions, for several purposes, including “evidence of prior bad acts.” The defendant filed seven pre-trial motions in limine but none included an objection to evidence pertaining to the Defendant's drug use.

<sup>8</sup> At one point during the trial, while the Defendant's recorded statements on her drug activity were being played, the trial judge paused it and asked the lawyers, “Is any of this is relevant?” The State responded it believed it was relevant. When the trial judge asked if there was a request to redact anything from the recording, the Defendant's attorney answered “No, your honor.” The State then added, “and like I would say or we had discussed Friday, Judge, I trust the Court not to consider evidence that is not admissible,” to which the trial judge responded, “I won't.” The prior discussion referenced is not included in the appellate record. The record does not reflect any objection or argument from the defense, nor does it show what evidence, if any, was deemed “not admissible.”

<sup>9</sup> The bank records also include a check dated in January 2020 for \$200, payable to the Defendant. This check was not included in the presentment.

The Gordons' bank records included a copy of a check to the Defendant for \$1,000, dated October 30, 2019, and signed "Lloyd Gordon." In an apparently related transaction, on December 19, 2019, the account received a single, one-time deposit of \$1000, by a counter-check from "Ginny Parker" payable to Mr. and Mrs. Gordon. The memo line on the deposit check read: "(Loan) payment returned." The Defendant was not charged with a crime relating to the \$1,000 check to her; Detective Cox testified he viewed these transactions, taken together, as showing the Defendant's repayment of a \$1,000 loan from the Gordons. Other than the \$1000 loan repayment, the Gordons' bank records showed no deposits from any other source, including the Defendant.

The Gordons' bank records also included checks made payable to the Defendant's boyfriend, Mr. Clark.<sup>10</sup> All were purportedly signed by Rose Gordon.<sup>11</sup> The last two were the final checks written on the Gordons' account. One of them cleared the account two days after Mrs. Gordon died, and the other resulted in the account being overdrawn.

In addition, after the Defendant's PayPal account was connected to the Gordons' bank account in October 2019, the bank records showed numerous electronic withdrawals sent to "PayPal" each month beginning in December 2019. The final two PayPal withdrawals occurred several days after Mrs. Gordon died.<sup>12</sup>

The State also introduced into evidence a summary of hospital records for Mrs. Gordon, indicating the dates she was hospitalized before she died. Referencing the summary, Detective Cox testified about checks to Mr. Clark and PayPal transactions that occurred while Mrs. Gordon was hospitalized.

In his investigation, Detective Cox evaluated what the Gordons' bank records showed about their spending habits. They showed that the Gordons rarely spent more than their income each month. In contrast, the checks written to the Defendant, taken together with the checks to Mr. Clark and the PayPal withdrawals, "wiped the account out."

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<sup>10</sup> The Defendant objected to the admission of these checks into evidence, based on lack of relevance. The State argued they were relevant to impeach some of the Defendant's statements to Detective Cox. The trial court overruled the relevance objection and allowed the evidence.

<sup>11</sup> Seven checks were written to Mr. Clark, beginning in February 2020 and ending in April 2020.

<sup>12</sup> Defense counsel objected to admission of the PayPal transactions based on relevance, because they were not crimes charged in the presentment. The trial court held they were relevant because the Defendant said in the recorded statement that she connected her PayPal account to Mrs. Gordon's checking account.

On cross-examination, Detective Cox agreed that the Gordons' bank records included checks totaling \$1375 to the Defendant's mother, Shirley Montgomery, with the last one dated in August 2019. The records also included checks totaling \$2,395 to Maggie Gordon, with the last one dated February 14, 2020; \$1,205 to another daughter of the Gordons, Mary Thomas, with the last one dated February 22, 2020; and \$832.33 to Tonya Gordon, with the last one dated April 2, 2020.<sup>13</sup>

The State then rested its case. After the trial court denied the Defendant's motion for judgment of acquittal, the defense rested without presenting additional proof.<sup>14</sup>

At the conclusion of trial, the trial judge took the case under advisement and asked the parties to submit written memoranda on circumstantial evidence, focusing on the credibility of the Defendant in her recorded statement, to "infer forgery beyond a reasonable doubt."

At a hearing approximately two months later, the trial court issued an oral finding that the Defendant was guilty of forgery as charged. The trial judge explained that he inferred that the Defendant acted without Mrs. Gordon's authorization based on his experience, "the collateral facts in this case," and "the circumstances, including the issues of credibility of" the Defendant.

Approximately a week later, before the written order and judgments were entered, the trial court asked the parties to appear for another hearing. The focus of this hearing was further discussion of whether the trial court could infer that a forgery occurred based on the Defendant's credibility. The State argued that the trial judge could use his experience to infer forgery from the circumstantial evidence; the defense argued that the trial judge could not simply rely on circumstantial or "suspicious" evidence.<sup>15</sup>

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<sup>13</sup> On redirect by the State, Detective Cox said he did not investigate Tonya Gordon, Mary Thomas, Maggie Gordon or Shirley Montgomery because the checks written to them were not part of the criminal complaint filed by Mr. Gordon.

<sup>14</sup> A judgment of acquittal is authorized "after the evidence on either side is closed if the evidence is insufficient to sustain a conviction of such offense or offenses." Tenn. R. Crim. P. 29(b).

<sup>15</sup> Defense counsel asked the trial judge, "The fact that we are still here, still tortured over this issue. . . would that not be reasonable doubt?" the trial judge responded:

Well, that's kind of what I just said. I think that is a good point. I just need to think about it. It's just, I mean, it's a serious issue and I have got to look at the proof and decide whether or not I can make that inference from the, to me, obvious issues of credibility with the [D]efendant.

Several months later, after considering the parties' post-trial briefs and the additional argument, the trial court entered lengthy written findings. It found that the evidence established the Defendant "intended to defraud or harm" the victim, Mr. Gordon. It also inferred that the checks were "forged" and not authorized under Tennessee Code Annotated section 39-14-114 based on "collateral facts and circumstances" and the fact that the defendant gave false testimony. The trial court found the Defendant guilty on all five counts of forgery, an E felony, as charged in the presentment. It imposed a total effective sentence of incarceration for six years as a Range II multiple offender.

In her motion for new trial, the Defendant made two claims relevant to the issue before this Court: (1) that the use of inferences to establish an essential element of the offense violates Due Process; and (2) the evidence is insufficient because there is "absolutely no evidence of a forgery" due to a lack of proof showing "the fictitiousness of the name" on the check. The trial court denied the motion.<sup>16</sup>

On appeal to the Court of Criminal Appeals, the Defendant challenged the sufficiency of the evidence to support the convictions.<sup>17</sup> *State v. Parker*, No. M2022-

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<sup>16</sup> At the hearing on the motion for a new trial, without objection, the Defendant introduced records of withdrawals from an account at Regions Bank, a different bank from the bank on which the disputed checks were written. These records were from the Defendant's mother's account "to which [the Defendant] was the executor and was given signatory privileges." They show checks and withdrawals processed on that account between December 9, 2019, through February 28, 2020. One of the checks, dated December 19, 2019, was payable to Ginny Parker for \$4,000 and was signed and endorsed by Ginny Parker. The memo line for the check had a handwritten notation that appears to state: "Returned payment from outstanding loans floral expense on funeral." The record contains no indication that the check was deposited into any account. At the hearing, the State conceded that "the [State] had misunderstood what exactly was said about those numbers" and "the \$4000 check is consistent with [the defense] version of events," so it withdrew the inference that the Defendant lied about giving the Gordons \$4,000.

We include this information from the hearing on the motion for new trial for completeness. However, the hearing on the motion for new trial is not part of the *trial* record, so it is not considered in our assessment of the sufficiency of the evidence at trial.

Nevertheless, the dissent appears to consider it in the dissent's sufficiency assessment. The dissent says: "[N]o rational trier of fact could have found Parker guilty beyond a reasonable doubt based upon the lack of a \$4,000 deposit alone, particularly given . . . the State's concession that no inferences could be drawn from the comment about the \$4,000." Respectfully, in conducting a sufficiency assessment, we consider the *trial* record, not the record of other proceedings. And the trial record is crystal clear: there was no deposit of \$4000 into the Gordons' bank account, as the Defendant claimed.

<sup>17</sup> On appeal, the Defendant also challenged admission of the PayPal evidence based on Tenn. R. Evid. 404(b). The Court of Criminal Appeals held that this issue was waived because, at trial, the Defendant

00955-CCA-R3-CD, 2024 WL 468690, at \*1 (Tenn. Crim. App. Feb. 7, 2024), *review granted in part*, No. M2022-00955-SC-R11-CD, 2024 WL 4204679 (Tenn. Sept. 12, 2024). The intermediate appellate court observed that “all evidence admitted at the trial, even if erroneously admitted, can be considered when addressing a defendant’s challenge to the sufficiency of the evidence to sustain the conviction.” *Id.* at \*8 (citing *State v. Watkins*, 648 S.W.3d 235, 256 (Tenn. Crim. App. 2021)). After noting multiple contradictions between the Defendant’s recorded statement and other evidence, it concluded that “[t]he circumstantial evidence presented [at trial] allowed a logical inference that the Defendant acted without authorization to pass the checks.” *Id.* at 7–8. Accordingly, the Court of Criminal Appeals held that the evidence was sufficient to support the Defendant’s convictions for forgery. *Id.* at 8.

The Defendant sought review by this Court on multiple issues. We granted permission to appeal on the question of whether the evidence is sufficient to support the convictions for forgery.

## ANALYSIS

### *Standard of Review*

Before trial and at trial, a person accused of a crime is entitled to a presumption of innocence. *Clardy v. State*, 691 S.W.3d 390, 406 (Tenn. 2024) (citing *Herrera v. Collins*, 506 U.S. 390, 398–99 (1993); Tenn. Code Ann. § 39-11-201(c)). At trial, the prosecution must prove the defendant’s guilt beyond a reasonable doubt. *State v. White*, 362 S.W.3d 559, 566 (Tenn. 2012).

But a guilty verdict “has the effect of crediting the testimony of the witnesses for the State [and] resolving all conflicts in favor of the State.” *Clardy*, 691 S.W.3d at 406 (citing *State v. Clayton*, 535 S.W.3d 829, 844 (Tenn. 2017)). The determination of guilt “replaces the defendant’s presumption of innocence with a presumption of guilt so that, on appeal, the defendant has the burden of proving that the evidence is insufficient to sustain his convictions.” *State v. Rimmel*, 710 S.W.3d 640, 645 (Tenn. 2025) (citing *State v. Carruthers*, 35 S.W.3d 516, 557–58 (Tenn. 2000)). The appellate court must view the evidence “in the light most favorable to the prosecution.” *State v. Lyons*, 669 S.W.3d 775, 783 (Tenn. 2023) (first quoting *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); and then citing Tenn. R. App. P. 13(e)). On appeal, the State is “entitled to ‘the strongest legitimate view of the evidence and any reasonable inferences that may be drawn from it.’” *Rimmel*, 710 S.W.3d at 645 (quoting *State v. Hawkins*, 406 S.W.3d 121, 131 (Tenn. 2013)).

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challenged admission of the PayPal evidence based only on relevance, did not raise the issue in her motion for new trial, and did not seek plain error review on appeal. 2024 WL 468690, at \*9–10.

The standard of review is “the same whether the conviction is based upon direct or circumstantial evidence.” *State v. Sutton*, 166 S.W.3d 686, 689 (Tenn. 2005) (citing *Carruthers*, 35 S.W.3d at 557). And in a case tried without a jury, the finding of guilt by the trial judge is accorded the same weight on appeal as a jury verdict. *State v. Hatchett*, 560 S.W.2d 627, 630 (Tenn. 1978) (citations omitted). Regardless, the appellate court must affirm the conviction if “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Lyons*, 669 S.W.3d at 783–84 (first quoting *Jackson*, 443 U.S. at 319; and then citing Tenn. R. App. P. 13(e)).

### ***Sufficiency of the Evidence***

“The first step in evaluating the sufficiency of the evidence is to identify the elements of the offense.” *Rimmel*, 710 S.W.3d at 646 (citing *State v. Miller*, 638 S.W.3d 136, 158 (Tenn. 2021)). We examine the relevant statutes “to determine the elements that the State must prove to establish the offense” and then “analyze all of the evidence admitted at trial in order to determine whether each of the elements is supported by adequate proof.” *State v. Stephens*, 521 S.W.3d 718, 723–24 (Tenn. 2017) (citations omitted). We conduct statutory interpretation of the elements of the offense before we conduct the sufficiency review. *Id.* at 724 (citing *State v. Smith*, 436 S.W.3d 751, 761–65 (Tenn. 2014)). *See also State v. Gentry*, 538 S.W.3d 413, 420 (Tenn. 2017) (stating that, “[t]o begin,” we determine the statutory elements the State must prove) (citing *Stephens*, 521 S.W.3d at 723–24); *State v. Mitchell*, 592 S.W.3d 431, 437 (Tenn. 2019) (“[W]e must evaluate the proof in light of the elements of the crime.”).

Tennessee’s forgery statute states: “A person commits an offense who forges a writing with intent to defraud or harm another.” Tenn. Code Ann. § 39-14-114(a) (2018). In pertinent part, the statute defines the key terms as follows:

- (b) As used in this part, unless the context otherwise requires:
  - (1) “Forge” means to:
    - (A) Alter, make, complete, execute or authenticate any writing so that it purports to:
      - (i) Be the act of another who did not authorize that act;  
\* \* \* [or]
      - (C) . . . utter a writing that is forged within the meaning of subdivision (b)(1)(A)[.]

Tenn. Code Ann. § 39-14-114(b)(1)(A),(C). Here, the parties do not dispute that a check is a “writing” within the meaning of the statute. *See* Tenn. Code Ann. § 39-14-114(b)(2) (definition of “writing”). The parties also do not dispute that the checks were “uttered”

within the meaning of section 39-14-114(b)(1)(C), because the Defendant endorsed them and presented them for payment.<sup>18</sup> The question on appeal is whether the evidence is sufficient to find the Defendant “forged” the checks in the sense that she did “[a]lter, make, complete, execute or authenticate” the checks so that they “purport[ed] to . . . [b]e the act of another who did not authorize that act[.]” Tenn. Code Ann. § 39-14-114(b)(1)(A).

In the trial, there was no direct proof about the source of the handwriting on the checks. However, there is evidence in the record that the Defendant participated in writing the checks. In her recorded statement to Detective Cox, the Defendant said: “I was writing [the checks] to my mother for [Nanny]; Nanny would say ‘fill it out, fill it out’. . . .” She recounted that Mrs. Gordon would give her several checks at a time for the Defendant’s own medical and pharmacy bills; the Defendant would then call Mrs. Gordon and “tell her, however much I had to use.” From this, it could be inferred that the Defendant wrote at least the amount on the checks. And she told Detective Cox to look at the bank records to “see the amount of checks *that we wrote* . . . .” (emphasis added). In the light most favorable to the State, the record includes proof from which a rational trier of fact could have found that the Defendant did “[a]lter, make, complete, execute or authenticate” the checks in the presentment by participating in the writing of the checks.

The crux of the appeal, then, is whether the checks “purport[ed] to . . . be the act of another who did not authorize” the writing or amount of the checks. Tenn. Code Ann. § 39-14-114(b)(1)(A)(i). Mr. Gordon testified affirmatively that he did not authorize any checks, so the question is whether the evidence is sufficient to support the trial court’s finding that Mrs. Gordon did not “authorize” the checks.

The Defendant notes that Mr. Gordon conceded in his testimony that Mrs. Gordon took care of the checks on their joint bank account, and he knew “nothing” about them. She observes that none of the checks to the Defendant were flagged as stolen until after Mrs. Gordon died, and each time the Defendant presented one of the checks of conviction for payment, there was enough money in the account to pay it. In her brief, she points to the following as “crucial missing facts” in the proof at trial:

1. Any evidence that Rose Gordon did not sign the checks, could not sign the checks or did not authorize the checks.
2. Any evidence that the checks were fictitious or drawn on a fictitious account.

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<sup>18</sup> “A forged check is uttered or transferred by the action of presenting it for payment.” *State v. Combs*, No. E2014-01175-CCA-R3-CD, 2015 WL 2400793, at \*6 (Tenn. Crim. App. May 20, 2015) (citation omitted).

3. Any evidence that there was not enough money in the Gordons' account to cover the checks.
4. Any evidence that Rose Gordon or Lloyd Gordon did not exist.

The Defendant cautions the Court against “[u]sing inferences to substantiate an element” of the offense. She contends that the only inferences from circumstantial evidence permissible are inferences provided by statute or in prior forgery caselaw not applicable here.<sup>19</sup> The Defendant characterizes her convictions as “primarily based on bad character, instead of facts and law.”

We agree with the Defendant that the only direct evidence at trial on whether the checks at issue were “authorized” was Mr. Gordon’s testimony that he did not authorize them, and the Defendant’s recorded statement that Mrs. Gordon did authorize them. The remaining evidence relevant to authorization was circumstantial. *See Evidence*, Black’s Law Dictionary (12th ed. 2024) (defining “circumstantial evidence” as “[e]vidence based on inference and not on personal knowledge or observation,” “indirect evidence,” and “[a]ll evidence that is not given by eyewitness testimony”). However, we respectfully disagree with the Defendant that the only permissible inferences here are those that are provided by statute or recognized in prior forgery caselaw.

Circumstantial evidence “consists of proof of collateral facts and circumstances which do not directly prove the fact in issue but from which that fact may be logically inferred.” *State v. Vann*, 976 S.W.2d 93, 113–14 (Tenn. 1998) (appendix) (quoting prior version of the Tennessee Pattern Jury Instructions); 7 Tenn. Prac. Pattern Jury Instr. T.P.I.-Crim. 42.03 (24<sup>th</sup> ed. 2020). A logical inference is any “rational connection between the circumstances giving rise to the inference and the conclusion drawn.” *State v. James*, 315 S.W.3d 440, 448 (Tenn. 2010). This Court has recognized that the fact finder at trial “must use its experience with people and events in weighing the probabilities” when considering any inference from the evidence. *State v. Dorantes*, 331 S.W.3d 370, 380 (Tenn. 2011) (quoting *Holland v. United States*, 348 U.S. 121, 140 (1954)). However, on appeal, when we review the sufficiency of an inference drawn from circumstantial evidence at trial, “the only question under *Jackson [v. Virginia]* is whether that [inference] was so insupportable as to fall below the threshold of bare rationality.” *Coleman v. Johnson*, 566 U.S. 650, 656 (2012).

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<sup>19</sup> For example, the Defendant mentions Tennessee Code Annotated section 39-15-503, which permits an inference that a transfer by a vulnerable adult of more than \$1,000 to a nonrelative is effectuated without effective consent. Tenn. Code Ann. § 39-15-503(1) (2024). The Defendant also cites *Keebler v. State*, 463 S.W.2d 151 (Tenn. Crim. App. 1970), and *Smith v. State*, 535 S.W.2d 162 (Tenn. Crim. App. 1976), which involved checks drawn on a fictitious account or owned by a fictitious person.

Here, the trial court did not believe the Defendant's assertion in her recorded statement that Mrs. Gordon authorized the checks to the Defendant as a mechanism for the Defendant to spend her own \$4000 purportedly deposited into the Gordons' account. As we discern it, then, the Defendant frames the issue as whether the fact finder's disbelief of her claim that the checks *were* authorized is sufficient to infer the opposite, that the checks were *not* authorized.<sup>20</sup>

It is a "general principle of evidence law that the factfinder is entitled to consider a party's dishonesty about a material fact as 'affirmative evidence of guilt.'" *Reeves v. Sanderson Plumbing Products, Inc.*, 530 U.S. 133, 147 (2000) (quoting *Wright v. West*, 505 U.S. 277, 296 (1992)). "[A] false statement made by a defendant in explanation of conduct which is the subject of criminal charges against him is admissible as tending to show consciousness of guilt." *State v. Jones*, No. M2018-00200-CCA-R3-CD, 2019 WL 2371945, at \*11 (Tenn. Crim. App. June 5, 2019) (quoting *Nelson v. United States*, 601 A.2d 582, 595–96 (D.C. 1991)). The Defendant does not address this general premise but contends that the trial court's disbelief of the Defendant's testimony is not enough, in and of itself, to support an inference that Mrs. Gordon did not authorize the checks to her.

This Court has stated that, "while the fact-finder is permitted to disbelieve a witness' testimony, 'it may not construct a theory based on no evidence at all.'" *Napolitano v. Board of Professional Responsibility*, 535 S.W.3d 481, 501 (Tenn. 2017) (quoting *State v. West*, 844 S.W.2d 144, 148 (Tenn. 1992)). *See also Bose Corp. v. Consumers Union of U.S., Inc.*, 466 U.S. 485, 512 (1984) ("When the testimony of a witness is not believed, the trier of fact may simply disregard it. Normally, the discredited testimony is not considered a sufficient basis for drawing a contrary conclusion.").<sup>21</sup> In *Napolitano*, the evidence was deemed sufficient because, in addition to the referenced statement of denial, the record

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<sup>20</sup> One commentator terms this the "antithesis inference." Andrew S. Pollis, *The Death of Inference*, 55 B.C.L. Rev. 435, 461 (2014). In other words, when evidence supports a belief that a witness's testimony is not true, whether the fact finder may infer, based on "human experience," that the truth is in fact the opposite of the lie. *Id.* at 436, 461.

<sup>21</sup> Similarly, some jurisdictions have held that disbelief of a witness's testimony on a fact is circumstantial evidence of the opposite fact, but it cannot be the *only* proof of the opposite fact. *See, e.g., Grimm v. State*, 135 A.3d 844, 859–60 (Md. 2016); *Evans-Reid v. District of Columbia*, 930 A.2d 930, 940–41 (D.C. 2007); *Com. v. Graham*, 596 A.2d 1117, 1118 (Pa. 1991); Olin Guy Wellborn III, *Demeanor*, 76 Cornell L. Rev. 1075, 1101 n.127 (1991) (gathering cases). *See also Janigan v. Taylor*, 344 F.2d 781, 784–85 (1st Cir. 1965) ("[H]owever satisfied a court may be from the witness's demeanor or his demonstrated untruthfulness in other respects that certain testimony is false, it cannot use such disbelief alone to support a finding that the opposite was the fact. . . . Were the rule otherwise a case could be made for any proposition in the world by the simple process of calling one's adversary and arguing to the jury that he was not to be believed.").

included circumstantial evidence to establish that the denial was knowingly false when made. 535 S.W.3d at 501. In *State v. West*, upon which *Napolitano* relies, the only evidence of the element of premeditation was the mere disbelief of the defendant's testimony. 844 S.W.2d at 147–48. Without additional evidence of premeditation, the prosecution's theory of what happened was deemed insufficient to support a finding that the murder was premeditated. *Id.* at 148.

Here, as in *Napolitano*, the record contains evidence beyond the trial court's mere disbelief of the Defendant's assertion that she did not commit forgery. In the recorded statement discredited by the trial court, the Defendant did not stop at denying guilt.<sup>22</sup> She went further and insisted that she deposited \$4000 into the Gordons' bank account and the checks written to the Defendant were in effect paying her back with her own money. This assertion was embellished with details like her claim that each check was to pay a legitimate expense of the Defendant, such as car insurance or pharmacy and medical bills.

In her interview, the Defendant never claimed that Mrs. Gordon intended to gift the Gordons' money to her. Taking the Defendant's statement to law enforcement at face value, any authorization by Mrs. Gordon was explicitly premised on the Defendant's act of depositing \$4000 of her own money into the Gordons' bank account, so that the checks were merely a mechanism for the Defendant to spend her own money. The Defendant never claimed that Mrs. Gordon authorized the checks in order for the Defendant to access *the Gordons'* money. Indeed, the Defendant was indignant at the suggestion that she spent the Gordons' money: "If my Nanny was here right now . . . alive, she would tell you I had never, ever, taken a damn dime from [her]." Thus, even if the Defendant's version of the facts were credited, if the Defendant never deposited \$4000 of her own money in the Gordons' account, the checks were not authorized.

But here, the trial judge did not credit the Defendant's version of events. And the trial judge here did not simply choose to disbelieve the Defendant's statement based on

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<sup>22</sup> The dissent points out that the Defendant's interview with law enforcement "was an audio recording, with no video. The trial court was unable to view Parker's demeanor during this interview." That is of no moment here. The Defendant's recorded statement, admitted into evidence, was subject to being discredited or impeached by other evidence just as if she had testified at the trial. Tenn. R. Evid. 806; see *State v. Ellis*, 453 S.W.3d 889, 904 (Tenn. 2015) (the credibility of a witness may be evaluated from a transcript of testimony and from the exhibits at trial).

And here, the trial court's finding on the Defendant's lack of credibility was not based on her demeanor. Her factual assertions to the interviewer were plainly contradicted by documentary evidence in the record, such as the Gordons' bank records.

demeanor or a general lack of veracity. He found that it was discredited by other evidence in the record.<sup>23</sup>

And there is substantial evidence in the record to support this conclusion. The records of the Gordons' bank account showed no \$4000 deposit was ever made.<sup>24</sup> The funds the Defendant inherited from her mother, purportedly the source of the \$4000 she claimed to have deposited, were already in *another* bank account from which the Defendant could—and did—write checks. This is shown by the \$1000 loan repayment check she wrote to the Gordons.

The Defendant's version of the events was further discredited by evidence showing the checks at issue were written in round amounts and made payable to the Defendant, not to a doctor's office, a pharmacy, or any other entity to which a debt was owed.<sup>25</sup> They were simply cashed by the Defendant. Under these circumstances, to credit the Defendant's testimony, the trial court would have had to believe the Defendant deposited her own

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<sup>23</sup> See Wellborn, *Demeanor*, 76 Cornell L. Rev. at 1104 (arguing that inference of the opposite fact should be permitted "where the judgment of falsity reasonably derives not from demeanor, but from the testimonial content or other record evidence.").

<sup>24</sup> The phrasing used by the dissent appears to adopt the defense's minimizing of the Defendant's falsehood that she gave her grandparents \$4000. It says that the Defendant perhaps "misspoke", may have lacked "accuracy", made only unclear "passing references" to the \$4000, and at worst "possibly lied." Perhaps the dissent, in the shoes of the trial judge, would have credited Ms. Parker's claim she deposited \$4000 in her grandparents' bank account, despite contradiction by documentary evidence in the trial record. Or perhaps the dissent would have viewed the Defendant's falsehoods as innocent mistakes.

The temptation to do so may be understandable, as the trial judge himself struggled with reconciling the evidence. But that struggle belongs to the fact finder; it is not ours. Here, any question about whether the Defendant was mistaken or intentionally lying about having deposited \$4000 into the Gordons' account has been resolved, and we are bound to accept the fact finder's resolution that the Defendant was untruthful. Appellate courts must take it as a given that any conflicting views of the proof are resolved in favor of the conviction. *State v. Shackelford*, 673 S.W.3d 243, 250 (Tenn. 2023) (citation omitted); *Rimmel*, 710 S.W.3d at 645. The role of the appellate court is to view the evidence "in the light most favorable to the prosecution." *Lyons*, 669 S.W.3d at 783 (quoting *Jackson*, 443 U.S. at 319).

<sup>25</sup> In discussing the round amounts of these checks, the dissent compares them to the grandparents' gifts to other family members. In her interview with Detective Cox, the Defendant could have claimed that the checks were gifts to her, similar to gifts her grandmother gave to other family members. But she did not. Instead, she insisted to law enforcement that the Gordons' checks were written to spend the Defendant's own money that happened to be residing in the Gordons' bank account, for the Defendant's medical and pharmaceutical expenses. The round amount of the checks supports a rational inference that the Defendant was untruthful about them. *Napolitano*, 535 S.W.3d at 501. And again, on appeal, we are bound to accept *all* rational inferences in favor of the conviction.

money into the Gordons' bank account, withdrew those same funds in checks to herself that were cashed, and then turned around and used the cash to pay her bills.

Overall, on appeal, the State is "entitled to 'the strongest legitimate view of the evidence . . . .'" *Rimmel*, 710 S.W.3d at 645 (quoting *Hawkins*, 406 S.W.3d at 131). Viewing the evidence through this lens, it can reasonably be inferred from the evidence that (1) the Defendant never deposited her own funds into the Gordons' account, as she claimed; (2) the Defendant's claim that the checks of conviction went to pay her medical expenses was false; (3) the Defendant knew the checks of conviction were not paying herself back her own money parked in the Gordons' account; and (4) the Defendant well understood that cashing the checks of conviction meant she was accessing *their* funds, not hers, contradicting her insistence that she "had never, ever, taken a damn dime" from her grandmother.

The most salient of these is the Defendant's lie to law enforcement that she deposited \$4000 into the Gordons' bank account. We agree with the dissent that this "goes to credibility," but not that it "goes to credibility alone." This evidence is *directly* relevant and material to the element of authorization. The only authorization claimed by the Defendant in her interview was authorization to spend her *own* \$4000 purportedly sitting in the Gordons' bank account. Thus, the Defendant's dishonesty about the \$4000 supports a rational inference of guilt as to authorization. Again, "the factfinder is entitled to consider a party's dishonesty about a material fact as 'affirmative evidence of guilt.'" *Reeves*, 530 U.S. at 147. "[A] false statement made by a defendant in explanation of conduct which is the subject of criminal charges against him is admissible as tending to show consciousness of guilt." *Jones*, 2019 WL 2371945, at \*11 (citations omitted).

When we review the sufficiency of an inference drawn from circumstantial evidence at trial, "the only question under *Jackson* [v. *Virginia*] is whether that [inference] was *so insupportable as to fall below the threshold of bare rationality*." *Coleman*, 566 U.S. at 656 (emphasis added). *See also State v. Thomas*, 687 S.W.3d 223, 249 (Tenn. 2024) (requiring only a "rational" basis for the conviction); *James*, 315 S.W.3d at 448 ("The rational connection between the circumstances giving rise to the inference and the conclusion drawn satisfies constitutional safeguards."). Here, the evidence rationally supports an inference that the Defendant lied to law enforcement about the real source of the funds because she was conscious of her guilt about having accessed the Gordons' funds without authorization to do so.

The record also includes evidence from which the fact finder could reasonably conclude that, during the time period in which the Defendant obtained and cashed the checks of conviction, the Defendant needed the Gordons' money for drugs, both prescription drugs and illegal drugs. This includes the Defendant's statement to Detective

Cox that she had no insurance and could not afford “Neurontin [and] oxycodone” prescribed to her for a tumor that was “growing back,” and her admission that she had recently used heroin to control her pain. This evidence supports a rational inference that the Defendant’s need for drugs she could not afford was a motive for her to access the Gordons’ funds, even without authorization to do so. And motive buttresses the inference of guilt to be drawn from the Defendant’s dishonest claim that she was taking her own \$4000 from the Gordons’ bank account, not the Gordons’ funds.

But here, we need not consider the evidence on the Defendant’s drug use. The evidence on lack of authorization is sufficient to support the Defendant’s conviction, even without considering evidence on the Defendant’s motive.

Similarly, the trial record also includes the Defendant’s admissions that she benefitted from the PayPal withdrawals from the Gordons’ account and the checks to the Defendant’s boyfriend, Mr. Clark.<sup>26</sup> And though the charges against the Defendant in the proceedings below were not based on the PayPal transactions or the boyfriend checks, they may be considered in a sufficiency assessment.<sup>27</sup> *See Stephens*, 521 S.W.3d at 724 (stating that the appellate court will “analyze all of the evidence admitted at trial in order to determine whether each of the elements is supported by adequate proof”).

However, in this case, we need not. As noted above, the Defendant “has the burden of proving that the evidence is insufficient” to support the trial court’s finding that Mrs. Gordon did not “authorize” the checks of conviction. *Rimmel*, 710 S.W.3d at 645 (citing

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<sup>26</sup> The Gordons’ bank records confirm that there was only one PayPal account linked to the Gordons’ bank account, which the Defendant admitted was hers, and the Defendant said the checks to Mr. Clark were for her benefit. And all of the various types of transactions overlapped in time: the checks to the Defendant were written in October 2019 and February 2020; the Defendant connected her PayPal account with the Gordons’ bank account in October 2019; and the checks to the Defendant’s boyfriend commenced in February 2020.

<sup>27</sup> Here, the only issue before us is sufficiency of the evidence. In a sufficiency review, we do not reevaluate whether the evidence would have been inadmissible had the defendant properly objected to it in the trial court. *See State v. Smith*, 24 S.W.3d 274, 280 (Tenn. 2000) (“When a party does not object to the admissibility of evidence, . . . the evidence becomes admissible notwithstanding any other Rule of Evidence to the contrary, and the jury may consider that evidence for its natural probative effects as if it were in law admissible.”); *id.* at 279 (“A trial court, however, generally has no duty to exclude evidence or to provide a limiting instruction to the jury in the absence of a timely objection.”). In our adversarial system, appellate courts do not reweigh evidence to which a party failed to object in the trial court, absent plain error; and once admitted, if a party fails to request a limiting instruction, evidence may be considered for any purpose. *See Tenn. R. Evid.* 103, 105. Once evidence is admitted, “[i]f [it] is to be found insufficient [to support the conviction], it must be because no reasonable jury could convict based on such evidence, not because the evidence was inadmissible.” *State v. White*, 269 S.W.3d 903, 906 (Tenn. 2008) (citing *Smith*, 24 S.W.3d at 280).

*Carruthers*, 35 S.W.3d at 557–58). Even without considering the evidence on the PayPal transactions and the boyfriend checks, the evidence of the Defendant’s falsehoods in her interview, taken together with the documentary evidence of their falsity, amount to affirmative evidence sufficient to support the trial court’s finding that the checks to the Defendant on the Gordons’ bank account were not authorized. The Defendant has not carried her burden of proof. *Id.*

Perhaps other inferences could be drawn from the evidence. No matter. “Circumstantial evidence alone is sufficient to support a conviction, and the circumstantial evidence need not exclude every reasonable hypothesis except that of guilt.” *Hawkins*, 406 S.W.3d at 131 (first citing *State v. Wagner*, 382 S.W.3d 289, 297 (Tenn.2012); and then citing *Dorantes*, 331 S.W.3d at 379–81). From all of the evidence in the record, viewed in the light most favorable to the prosecution, we hold it was reasonable for the fact finder to infer that the checks of conviction were not authorized. *Reeves*, 530 U.S. at 147; *Jones*, 2019 WL 2371945, at \*11. Therefore, we conclude that the evidence is sufficient to support the convictions. *Coleman*, 566 U.S. at 656.

### CONCLUSION

For the foregoing reasons, we hold that the evidence in the record is sufficient to support the Defendant’s convictions for forgery. Consequently, we affirm the judgment of the Court of Criminal Appeals.

S/HOLLY KIRBY, JUSTICE  
HOLLY KIRBY, JUSTICE