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IN THE  
**Supreme Court of Virginia**  
AT RICHMOND

RECORD NO. 780049

CYNTHIA A. WARREN  
*Appellant*

v.

COMMONWEALTH OF VIRGINIA  
*Appellee*

JOINT APPENDIX

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VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA

7 MARCH 1977

THE GRAND JURY CHARGES THAT:

On or about the 5th day of November, 1976, in the City of Alexandria, CYNTHIA A. WARREN did unlawfully and feloniously and with intent to defraud, did make, draw, utter and deliver a certain check, dated the 5th day of November, 1976, drawn on Burke & Herbert Bank & Trust Co., to the order of Cash for \$324.00, knowing at the time of making, drawing, uttering and delivering the said check, CYNTHIA A. WARREN had not sufficient funds in, or credit with, the said Burke & Herbert Bank & Trust Co., for payment of said check, with intent to defraud Burke & Herbert Bank & Trust Co.

Va. Code § 18.2-181.

Witness:

Inv. J. Richardson/APD.

*J. Roberts Ballinger*

FOREMAN

A COPY ISSUED:

ALVIN W. FRINKS, CLERK

A TRUE BILL.

BY: *J. P. Bell*

Deputy Clerk

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~~him there and she was unsuccessful.~~

~~THE COURT: Do you have a number you can call?~~

~~MR. COX: We can get a number, I think, Your Honor.~~

~~THE COURT: I will take a short recess. See if you can locate him.~~

~~MR. COX: Thank you. I'd appreciate that.~~

~~(Whereupon, a short recess was taken.)~~

THE COURT: Is the defendant ready to be arraigned, Mr. Cox?

MR. COX: Yes, she is, Your Honor.

THE COURT: The Clerk will arraign the defendant.

THE CLERK: Virginia, in the Circuit Court for the City of Alexandria, 7 March, 1977, the grand jury charges that on or about the 5th day of November, 1976, in the City of Alexandria, Cynthia Warren did unlawfully and feloniously and with intent to defraud, did make, draw, order and deliver a certain check, dated the 5th day of November, 1976, drawn on the Burke & Herbert Bank & Trust Company to the order of cash for \$324.00, knowing at the time of making, drawing, ordering and delivering the said check, Cynthia A. Warren had not sufficient funds in, or credit with the said Burke & Herbert Bank & Trust Company for payment of said check, with the intent to defraud Burke & Herbert Bank & Trust Company,

1 Virginia Code 18.2-181. How do you plead to 18.2-181?

2 THE DEFENDANT: Not guilty.

3 THE COURT: Miss Warren, have you discussed the  
4 matter of a jury trial with counsel?

5 THE DEFENDANT: Yes, we did.

6 THE COURT: Did you elect to be tried by the court  
7 or by a jury?

8 THE DEFENDANT: By the court.

9 THE COURT: Do you understand that under the law  
10 you have the right to a jury trial composed of twelve  
11 qualified jurors?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Do you also understand that in order  
14 for the jury to convict, they have to be unanimous in their  
15 verdict?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Do you wish to waive your rights to a  
18 trial by a jury?

19 THE DEFENDANT: Yes.

20 THE COURT: And be tried by the court?

21 THE DEFENDANT: Yes.

22 THE COURT: Has she executed a Waiver form?

23 MR. COX: Yes.

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~~... to the guilt of the defendant.~~

THE COURT: All right, thank you, Mr. Cox.

Call your first witness.

MR. GREENBACKER: For my first witness, the Commonwealth would like to call Deborah Weatherford.

Whereupon,

DEBORAH WEATHERFORD,

was called as a witness by and on behalf of the Commonwealth of Virginia and, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GREENBACKER:

Q Would you state your name for the court, please.

A Deborah Weatherford.

Q Speak up.

Mrs. Weatherford, were you employed on the 5th of November, 1976?

A Yes, I was.

Q In what capacity?

A I was at the Duke Street branch of the Burke & Herbert Bank as a teller.

~~THE COURT: Could you hold your voice up. It is very difficult hearing you.~~

1           A     I was at the Duke Street branch, at the Burke &  
2 Herbert Bank as a teller.

3           Q     Is that the Burke & Herbert Bank and Trust Company?

4           A     Yes, it is.

5           Q     You say the Duke Street branch? Is the Duke Street  
6 branch in the City of Alexandria?

7           A     Yes, it is.

8           Q     All right, ma'am.

9                     Do you recognize this lady over here?

10          A     Yes, I do.

11          Q     How do you recognize her?

12          A     Cashing a check at the bank.

13          Q     She cashed a check at the bank?

14          A     Yes, she did.

15          ~~Q     Ma'am, I'm going to show you an item marked for  
16 identification as Commonwealth's Exhibit No. 1.~~

17                     ~~THE COURT: Mr. Greenbacker, you better have the  
18 witness reflect which lady she was talking about.~~

19                     ~~MR. GREENBACKER: Thank you, Your Honor~~

20                     Let the record reflect that she was referring to  
21 the defendant.

22                     Now, I am going to show you an item marked for  
23 identification as Commonwealth's Exhibit No. 1 and I want to

1 ask you if you can identify that in any way?

2 A Yes, by my teller's stamp.

3 Q What is your teller's stamp?

4 A DS4W with a circle around it.

5 Q How do you know that is your stamp?

6 What does DS stand for?

7 A It stands for the branch and the number of the  
8 teller.

9 Q Does "D" stand for Duke Street?

10 A Yes, and the 4th teller.

11 Q Did you receive that check?

12 A Yes, I did.

13 Q In your duties as a teller?

14 A Yes.

15 Q Did you pay any money on it?

16 A Yes, I did.

17 Q How much?

18 A \$325.00.

19 Q To whom, Cynthia A. Warren?

20 A Yes.

21 Q The defendant?

22 A Yes.

23 Q Where was this item presented to you?

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A At the drive-in window.

Q At the branch where you worked?

A Yes, sir.

Q All right.

Did you take any unusual action or any special actions when this item was presented to you for cash?

A Yes, I called up bookkeeping and asked for the balance and I gave her the money after talking to them.

Q All right.

Did they indicate whether or not she had enough money in her account at the time?

A Yes, that is the only way that I would have given it to her, if she had enough money in her account.

~~MR. GREENBACKER: Nothing further.~~

~~THE COURT: All right, Mr. Cox, you may cross examine.~~

~~CROSS EXAMINATION~~

~~BY MR. COX:~~

Q Mrs. Weatherford, how long have you been a bank teller?

A I was in bookkeeping, then I went to the teller's position in, I think, it was August.

Q Of 1976?

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A Yes, 1976.

Q So, how long have you been in the employ of the Burke & Herbert bank?

A Almost two years in August, this August it will be two years.

Q What were your duties, the tour of your duties and the hours of your job on that particular day?

A Every day it is from nine to two, Monday through Friday.

Q What time did you see the defendant?

A It had to be between nine and two. I cannot tell you exactly.

Q You cannot tell me when it was?

A Not exactly, no.

Q The only thing you can state is that it was sometime between nine and two?

A Yes, sir.

Q Do you remember if you had lunch, or if you went to lunch?

A Yes.

Q Do you remember if it was after you had been to lunch that you saw the defendant?

A No, I can't.

1 Q What time did you normally take lunch?

2 A It depends on how the day runs; like, on Friday it  
3 is real early or later; it depends on how business is, on how  
4 busy we are.

5 Q Do you have any particular recollection about that  
6 day?

7 A No, I don't know.

8 Q You seem to have a specific recollection of seeing  
9 this person?

10 A Yes, I did see her.

11 Q I suppose, as a bank teller, you have the occasion  
12 to deal with a lot of people at the drive-in window, is that  
13 correct?

14 A Just on Fridays; it is a lot more people there on  
15 Fridays than on other days.

16 Q Was this a Friday?

17 A I don't know what the 5th day was, I don't know.

18 Q Now, up until the time of the 5th of November, you  
19 were a bank teller at the drive-in window only?

20 A No.

21 Q But on the 5th of November you were in charge of  
22 the drive-in window?

23 A Yes, except for when I go to lunch.

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Q Do you remember what she was wearing?

A I cannot be positive, no.

Q Do you recall if her hair was long or shorter than it is now?

A I don't remember that.

Q Do you recall if she had on sunglasses?

A I don't think she did, no.

Q Do you recall if you had any conversation with her?

A No, I don't remember.

Q In other words, she did not say anything to you?

A Nothing -- just -- well, I always say when I go to the window, I say, like, hello, or good morning; after I give them the money back, I say, thank you, and have a nice day.

Q How long did this transaction take?

A Well, enough time to take a check out of the window, call back, call bookkeeping, hang up the phone and give her the money.

Q Where is the bookkeeping located?

A At King and Fairfax Street.

Q Do you know how the bookkeeping department operates?

A Well, we call down and tell them, ask them what the balance is and they tell us if they have enough money and that is it.

1 Q Do you recall what they told you when you called  
2 down there?

3 A Usually they tell us if they had enough money; they  
4 usually tell us the balance.

5 Q How much money did they say she had?

6 A It was enough to cover the check I cashed.

7 Q Do you recall what it was?

8 A No, I do not recall what it was.

9 Q Do you recall who it was that you spoke with?

10 A No, I don't.

11 Q Do you remember any conversation about a deposit  
12 the day before at your branch?

13 A No, I do not.

14 Q Now, you say this is your stamp, DS-4, because you  
15 were the teller number 4, is that correct?

16 A Yes.

17 Q Do you remember if the defendant wrote this check  
18 in your presence or just presented it to you?

19 A I think she just gave it to me.

20 Q Do you recall if she was walking or if she was in  
21 a car?

22 A She was in a car.

23 Q What kind of car was she in?

1 A I don't know.

2 Q So you don't remember what kind of car or what she  
3 was wearing or the length of her hair but you are confident  
4 that it was her?

5 A Yes, it was her because I wouldn't have cashed the  
6 check if it was not her.

7 Q Well, now, you just testified a moment ago that she  
8 presented the check to you?

9 A Yes, because I had seen her before.

10 Q You had seen her before?

11 A Yes, sir.

12 Q When had you seen her before?

13 A Well, to come and cash a check before.

14 Q At the Duke Street branch?

15 A Yes, sir.

16 Q Are you sure about that?

17 A Yes, pretty sure.

18 Q Do you know where she opened this account?

19 A At Landmark.

20 Q How do you know that?

21 A Because of the account number.

22 Q What is the account number -- what is it about the  
23 account number that tells you it was opened at Landmark?

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A Each branch has a different number.

Q What is the number of Landmark?

A Six.

Q Where is the six on the check?

A Right here.

Q What is the number for Duke Street?

A Three.

Q How many times would you say you have seen this defendant prior to that?

A Once or twice is the most.

Q And you've cashed a check for her before?

A Yes, sir.

~~MR. COX: Nothing further, Your Honor.~~

~~THE COURT: Any redirect, Mr. Greenbacker?~~

~~MR. GREENBACKER: Yes. Just one question.~~

~~REDIRECT EXAMINATION~~

~~BY MR. GREENBACKER:~~

Q When was the date you received this, ma'am, Commonwealth's Exhibit No. 1?

A Eleventh month, fifth day, 1976.

Q That is the 5th of November?

A Yes, sir.

~~MR. GREENBACKER: I have nothing further.~~

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~~MR. COX: I have a few more questions.~~

~~RECESS EXAMINATION~~

~~BY MR. COX:~~

Q Can you recall how long it has been since the last time you've seen her?

A No, I can't tell you that.

Q Did you require any identification of her on this occasion?

A No, because I had seen her before.

Q Did you require identification the first time you saw her?

A Probably.

Q You don't recall that?

A No, I don't.

Q You have no idea what time it was between nine and two that you saw her?

A No.

~~MR. COX: Thank you. That's all the questions I have.~~

~~THE COURT: Any further questions?~~

~~MR. COX: No, Your Honor.~~

~~THE COURT: Do either of you need this witness again?~~

~~MR. GREENBACKER: No, Your Honor.~~

1 ~~MR. COX: I don't think I will be needing her~~  
2 ~~we'd like to have her subject to recall.~~

3 ~~THE COURT: Don't discuss your testimony with any~~  
4 ~~other witnesses.~~

5 ~~All right, call your next witness.~~

6 MR. GREENBACKER: For my next witness I would like  
7 to call Cheryl Adkins.

8 Whereupon,

9 CHERYL ADKINS,

10 was called as a witness by and on behalf of the Commonwealth  
11 of Virginia and, having been previously duly sworn, was  
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. GREENBACKER:

15 Q Would you state your name for the court, please.

16 A Cheryl Adkins.

17 Q What do you do for a living?

18 A Secretary.

19 Q Were you employed on the 5th of November, 1976?

20 A Yes, I was employed on the 5th of November, 1976.

21 Q By whom were you employed?

22 A The Burke & Herbert Bank & Trust Company.

23 Q And, in what capacity?

1 A As a teller.

2 Q Where?

3 A At the Landmark branch.

4 Q At the Landmark branch? Where is that located?

5 A 1055 North Patrick Street.

6 Q Is that in the City of Alexandria?

7 A Yes, it is.

8 Q Uh, now, drawing your attention to that date. Did  
9 you have occasion to see the defendant on that date?

10 A Yes, I did.

11 Q Under what circumstances?

12 A I was working the drive-in window and she came to  
13 the drive-in window to cash a check.

14 ~~MR. COY: Would you please talk louder.~~

15 ~~BY MR. GREENBACKER:~~

16 Q I am going to show you an item marked for  
17 identification as Commonwealth's Exhibit No. 2 and I am going  
18 to ask if you can identify that?

19 A Yes, I can.

20 Q What is it?

21 A It's the check she cashed with my teller's stamp.

22 Q What is your teller's stamp?

23 A LN-3.

1 Q What is LM, what does it stand for?

2 A Each teller is issued a stamp; that is their stamp,  
3 and it shows they cashed whatever check their stamp is on.

4 Q What is LM?

5 A That stands for Landmark.

6 Q You're teller number 3?

7 A Right.

8 Q Ms'am, uh, what did you do, if anything, when the  
9 defendant presented that Commonwealth's Exhibit No. 2 to you?

10 A Well, I called bookkeeping and the balance was  
11 insufficient so she told me she had made a deposit the night  
12 before, I believe it was at the Duke Street branch, so I  
13 called the Duke Street since the work had not been sent down  
14 to the main office. They looked up the information and said,  
15 yes, there had been a deposit made and what she had in the  
16 bank covered the check so I cashed the check.

17 Q What was the amount of the check?

18 A \$324.00.

19 Q Did you give that to her in cash?

20 A Yes.

21 Q Now, was anyone present with you at the time this  
22 transaction took place?

23 A I don't recall.

1  
2 A I don't recall for sure. Mr. Burke was down there  
3 quite often.

4 Q Is that Taylor Burke, III?

5 A Yes.

6 Q What is his position?

7 A Branch Manager.

8 Q Is there any particular reason why you know or  
9 recognize Cynthia Warren?

10 A Yes; she opened the account there and it was such  
11 a new bank that all of our customers we knew very well who  
12 they were when they came.

13 Q All right. Fine.

14 Your Honor, at this time the Commonwealth would  
15 move Commonwealth's Exhibit No. 1 and 2 be admitted into  
16 evidence.

17 MR. COX: Your Honor, I'm going to object to No. 1.  
18 It seems to be a photo-copy. I'd prefer that the Commonwealth  
19 would introduce into evidence the real check. I would like to  
20 be able to examine the real check. I'd like to see what  
21 writing is on the other side of the check.

22 THE COURT: Where is the original, Mr. Greenbacker?

23 MR. GREENBACKER:

We can develop this through testimony but the original one was

## CROSS EXAMINATION

BY MR. COX:

Q Miss Weatherford, how long have you been working at the Landmark branch of the Burke & Herbert Bank?

A I am not Miss Weatherford.

Q Miss Adkins?

A I've been at the Landmark branch since it opened up in February.

Q '76?

A Yes.

Q And during part of that you were somewhere else?

A Yes.

Q Where?

A I was at the main office since 1973.

Q And your job up at the Landmark branch up until November 5, 1976, had been that of a teller?

A Yes.

Q Would it be fair to say a teller at the drive-in window?

A Yes, I was the receptionist there and it was slow that day and I went to the teller's line. I was a teller for one day out of the week and I became a full-time teller there at the window later.

1 Q When you say it would be slow --

2 A Well, it was a new branch and the amount of new  
3 accounts were being opened up and they would be handled by  
4 Mr. Burke.

5 Q Do you remember when the Cynthia Warren account  
6 was opened?

7 A Yes.

8 Q When?

9 A Well, I don't know the date but I do remember  
10 Miss Warren.

11 Q What month?

12 A I don't know.

13 Q Was it six months prior to this incident?

14 A No, I don't think so. I really don't recall the  
15 time the account opened; I recall her coming in. I saw her  
16 when she opened the account.

17 Q She opened the account at the Landmark branch?

18 A Yes.

19 Q And subsequent thereto, you saw her on a regular  
20 basis, did you not?

21 A Yes.

22 Q Now, directing your attention to the 5th of  
23 November, what was your tour of duties then?

1 A I was the teller at the drive-in window.

2 Q How many hours did you work?

3 A I worked from nine to two.

4 Q And, uh, do you recall, when did you leave -- at  
5 two o'clock?

6 A The window closes at two. By the time I settle, it  
7 is about two-thirty.

8 Q Do you remember what time it was that you saw  
9 Miss Warren?

10 A Well, it had to be before eleven because her  
11 deposit from the previous night was at the Duke Street branch  
12 and the runner does not pick it up until about eleven.

13 Q So it had to have been before eleven. Do you know  
14 that for a fact?

15 A I know it had to be before the first run.

16 Q What is the first run, what time is it; what do you  
17 mean by first run?

18 A We have a runner that goes from branch to branch  
19 and picks up all the work and takes it down to the main  
20 office to the bookkeeping deposit. The deposit was made the  
21 night before, so he does not run at night; he only comes in  
22 the morning, two or three times a day.

23 Q Let me ask you this. You're telling us what the

1 normal procedure is for the runner. Do you have any  
2 independent recollection today as to what time the runner left  
3 the Landmark branch?

4 A No.

5 Q When you say it had to have been before the runner  
6 left, is that supposition on your part?

7 A Yes.

8 Q You say Miss Warren -- you saw her at the drive-in  
9 window?

10 A Yes.

11 Q Did you have any conversation with Miss Warren?

12 A I only told her there were insufficient funds to  
13 cover her check.

14 Q You said there were insufficient funds to cover her  
15 check?

16 A Yes.

17 Q And yet you went ahead and cashed the check?

18 A She told me she made a deposit the night before.

19 Q Did you verify that?

20 A Yes, I called the Duke Street branch.

21 Q And they verified that there had been a deposit?

22 A Yes.

23 Q Now, how long did that take?

1 A The whole transaction, or to call?

2 Q To call Duke Street?

3 A Maybe five minutes, if that long. They just had to  
4 look through their deposits from the night before.

5 Q Did she say anything else to you during this  
6 transaction?

7 A No.

8 THE COURT: Did she say where she made the deposit?

9 THE WITNESS: Yes, the Duke Street branch.

10 BY MR. COX:

11 Q You verified and came back, is that correct?

12 A Yes.

13 Q Really, you don't know what time it was?

14 A Only from my knowledge of how things work; that is  
15 the only way that I know it was in the morning.

16 Q Well, now, is the drive-in window closed at two  
17 o'clock?

18 A Not until five, but I'm not there. There is a  
19 night teller there.

20 Q So the only information that you inquired about  
21 this was whether or not there had been a deposit the night  
22 before?

23 A Yes.

1 Q Well, let's get back on this runner business again.  
2 The runner takes the previous day's work from the branch down  
3 to the main branch?

4 A Yes.

5 Q The previous night's. So he had to have taken the  
6 work for November 4th down on the 5th, is that correct?

7 A Anything after two o'clock, he makes his final  
8 run when the bank closes. Everything up to two o'clock is  
9 taken down that afternoon. The work from five until eight is  
10 picked up the next day.

11 Q So, therefore, the check could have been lodged in  
12 as a transaction on the 5th of November. Is it fair to say  
13 from your testimony that it would have had to have been  
14 transacted by two o'clock?

15 A Yes.

16 Q And then, Miss Adkins, did you have any recollection  
17 as to the transaction of business, was it heavy, light or  
18 slow?

19 A It was light.

20 Q That was on the 5th?

21 A Yes.

22 Q Have you previously had to supply any information  
23 or been in touch with the Duke Street branch in connection

1 with the Warren account?

2 A No.

3 Q Do you have any recollection today of having  
4 testified previously in general district court about this  
5 case?

6 A No.

7 Q You did not testify about this case?

8 A No.

9 MR. COX: If Your Honor will indulge me for a  
10 minute. All right, no further questions.

11 THE COURT: Any redirect, Mr. Greenbacker?

12 MR. GREENBACKER: Nothing further, Your Honor.

13 THE COURT: Do you need this witness again?

14 MR. GREENBACKER: I think we better keep her.

15 THE COURT: You are excused subject to recall.  
16 Please do not discuss your testimony with any of the other  
17 witnesses.

18 All right. Call your next witness.

19 MR. GREENBACKER: For my next witness I would like  
20 to call Taylor Burke, III.

1 ~~Whereupon,~~

2 TAYLOR BURKE, III,  
3 was called as a witness by and on behalf of the Commonwealth  
4 of Virginia and, having been previously duly sworn, was  
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. GREENBACKER.

8 Q What is your name?

9 A Taylor Burke, III.

10 Q Sir, where are you employed?

11 A Burke & Herbert Bank.

12 Q What capacity?

13 A Branch manager of Landmark branch.

14 Q Is this in the city of Alexandria?

15 A Yes, sir.

16 Q Were you so employed on the 5th of November, 1976?

17 A Yes, I was.

18 Q Sir, did you have occasion to see the defendant,  
19 Cynthia A. Warren on that day?

20 A Yes, I did.

21 Q Under what circumstances?

22 A She was cashing a check at our drive-in window.

23 Q Did you happen to see the check she was cashing

1 on that day?

2 A Yes, I did.

3 Q I am going to show you Commonwealth's Exhibit No. 2  
4 and ask if you can identify that, sir?

5 A Yes, I can.

6 Q What is it?

7 A This was the check.

8 Q Do you recall whether or not any procedures were  
9 taken by any bank officials before cashing it?

10 A When she got up to the window with the check, the  
11 teller who cashed it calls our bookkeeping department for a  
12 balance.

13 ~~MR. COX: If this testimony is based on hearsay,  
14 I'm going to object.~~

15 ~~MR. GREENBACKER: We won't get into that, Your  
16 Honor.~~

17 ~~BY MR. GREENBACKER.~~

18 Q were you present when the teller made the call?

19 A I'm not sure.

20 Q How do you know she did?

21 A She told me that she did.

22 THE COURT: Objection sustained.

23

1 BY MR. GREENBACKER:

2 Q Did you actually see the transaction when the  
3 check was cashed?

4 A Yes, I did.

5 Q Was money passed to the defendant?

6 A Yes.

7 Q Now, sir, I am going to ask you -- well, let me ask  
8 you another question. I noticed that on Commonwealth's  
9 Exhibit No. 2 there is no endorsement on the back. Is that  
10 the usual thing when a person comes in to cash a check, do you  
11 usually ask for an endorsement on it when the check is ready  
12 to be cashed, is that a policy of the bank or procedure  
13 commonly used at the bank?

14 A It is a procedure commonly used.

15 Q Now, sir, did you have an occasion to testify in  
16 the preliminary hearing held in this case?

17 A Yes, I did.

18 Q Do you remember the defendant taking the stand in  
19 her own behalf?

20 A Yes, I do.

21 Q Do you remember her seeing the item marked  
22 Commonwealth's exhibits Nos. 1 and 2?

23 A Yes, I did.

~~MR. COX: All right.~~

~~BY MR. GREENBACKER:~~

1  
2  
3 Q Drawing your attention to Commonwealth's Exhibit  
4 No. 1, did the defendant make any statement with respect to  
5 the signature line down there?

6 A She indicated this was her signature.

7 Q All right.

8 Did she say anything about Commonwealth's Exhibit  
9 No. 1?

10 A She said this was a check she had cashed at the  
11 Landmark branch of the Burke & Herbert Bank.

12 Q At the Landmark branch?

13 A Yes, sir.

14 Q I draw your attention to the circle on the face of  
15 Commonwealth's Exhibit No. 1 that is matched with hers and the  
16 number DS-4 in the center. What does DS stand for?

17 A Duke Street. This was stamped by a teller at our  
18 Duke Street branch when it was cashed.

19 Q But she said she cashed it at the Landmark branch  
20 where you were the branch manager on the 5th of November.

21 A Yes.

22 Q Did she say whether she got any money for  
23 Commonwealth's Exhibit No. 1 when it was passed?

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A Yes, she said she received \$324.00.

Q Did she say if Commonwealth's exhibits No. 1 and 2 were checks for her account?

A Well, Commonwealth's Exhibit No. 1 was a check from her account; Commonwealth's Exhibit No. 2 has her name printed on it and it is from her check book which she said was in her possession.

Q But did she say whether or not she had written, in the course of that hearing, Commonwealth's Exhibit No. 2?

A She said Commonwealth's Exhibit No. 2 was a forgery.

Q And, Commonwealth's Exhibit No. 2 was the one you saw her pass?

A Yes.

Q In the presence of your teller?

A Yes, stamped with our Landmark stamp.

Q Did she say whether she passed Commonwealth's Exhibit No. 2 to you?

A She said she did not pass Commonwealth's exhibit No. 2.

~~MR. GREENBACKER: All right, I think there is sufficient basis now to move the introduction of Commonwealth's Exhibit No. 1.  
THE COURT: You have not met Mr. Cox's objection.~~

~~MR. GREENBACKER: That is correct but the witness testified that the bank procedure does not require the endorsement.~~

~~THE COURT: Does that not meet the objection?~~

~~MR. COX: If I might be able to voir dire the witness as to the policy, as to checks in general.~~

~~THE COURT: The question is not what the policy is, the question is whether or not the person who cashed the check in question required an endorsement.~~

~~MR. GREENBACKER: Well, I have nothing further.~~

~~THE COURT: Well, Mr. Cox, you may cross examine Mr. Burke.~~

CROSS EXAMINATION

~~BY MR. COX:~~

Q Mr. Burke, at the time of this transaction, were you not, in fact, upstairs?

A At the beginning of the transaction I was upstairs but Cheryl came up to get my okay on the check and I went downstairs with her.

Q What did you do when you went downstairs?

A Uh, I didn't do anything. I just watched the transaction take place.

Q Did you talk with the defendant?

1 A No, I did not.

2 Q How long did this transaction take?

3 A Only a few seconds.

4 Q Now, this transaction was sometime between five and  
5 eight, was it?

6 A It was during the morning.

7 Q What time?

8 A Sometime between eleven or eleven-thirty, between  
9 nine and eleven-thirty.

10 Q Mr. Burke, do you have any recollection today of  
11 your own testimony at the preliminary hearing?

12 A Yes, I do.

13 Q Didn't you testify that it was between seven and  
14 eight o'clock in the evening?

15 A I said I was not sure of the time, it was either  
16 in the evening or during the business day, which is including  
17 the evening before.

18 Q So it could have been in the evening, could it not  
19 have been?

20 A Well, I had not been at the branch on a week day;  
21 I would probably not have been at the branch on -- I think  
22 that was a Wednesday in the evening.

23 Q But do you recall testifying in General District

1 Court that it was between seven and eight o'clock in the  
2 evening?

3 A I did not testify between seven and eight o'clock,  
4 no.

5 Q Do you remember what your testimony was?

6 A I said it might have been between five and eight in  
7 the evening or --

8 Q You said between five and eight, right?

9 A Right.

10 Q Now, at the initial outset of this transaction, you  
11 were upstairs and you were drawn downstairs?

12 A Right.

13 Q And after the transaction was over, what did you do?

14 A Went back upstairs.

15 Q Did you have an occasion to call the main office  
16 to check on any transactions that may have affected the status  
17 of her account?

18 A No, I did not.

19 Q Do you remember if she signed the check in your  
20 presence?

21 A I have no idea.

22 Q Isn't it a fact that your branch up there at  
23 Landmark services a lot of black folks?

1 A Yes, it is.

2 Q Back in November of 1976, how many black accounts  
3 did you have?

4 A I have no idea.

5 Q Have you ever seen her before?

6 A She opened the account at my desk about a month  
7 before she cashed the check.

8 Q About a month before?

9 A Right.

10 Q Isn't it possible that the check was processed  
11 between five and eight o'clock at the Landmark branch for  
12 \$235.00?

13 A No.

14 Q It is not possible?

15 A I think it was for \$324.00 and it could have been  
16 processed the next morning. It was probably processed the  
17 next morning.

18 Q When you say processed, what do you mean?

19 A Cashed and sent to our proof department.

20 Q The next morning?

21 A Yes.

22 Q It is possible she was in the bank the next  
23 morning to cash her check at the window?

1           A     The check was probably cashed the morning of the  
2 5th of November.

3           Q     Now, are you saying that she was at the bank  
4 between the hours of five and eight on the 4th?

5           A     No, I am not.

6           Q     Well, now, you said it is possible it was between  
7 the hours of five and eight on what day?

8           A     On the 4th.

9           Q     On the 4th?

10          A     Yes.

11          Q     Is it possible that it was between the hours of  
12 five and eight on the 5th?

13          A     It is not possible.

14          Q     Why do you say that?

15          A     It was because the check was processed as of the  
16 business day of the 5th, which includes five to eight on the  
17 4th and nine to two on the 5th.

18          Q     Now, show me where on the check it tells you that  
19 it was processed as a transaction on the 5th instead of the  
20 6th?

21                   MR. GREENBACKER: That is Commonwealth's Exhibit  
22 No. 2 he is looking at?

23                   THE WITNESS: Yes. The check is dated November 5.

1 Our proof department has a stamp with the date that the check  
2 was processed, which is on the back of the check.

3 Q Where is that?

4 A Where is what?

5 Q The stamp that was used?

6 A Right here, Burke & Herbert Bank, November 5, 1976,  
7 Burke & Herbert Bank & Trust Company.

8 Q Would it be fair to say the same thing would apply  
9 to Commonwealth's Exhibit No. 1?

10 A Yes.

11 Q It would indicate when it was processed?

12 A Yes.

13 ~~MR. COX: Your Honor, at this time I would further~~  
14 ~~object as to the admissibility in evidence of Commonwealth's~~  
15 ~~Exhibit No. 1. The testimony of the witness clearly indicates~~  
16 ~~that the stamp on the back does have a real bearing as to when~~  
17 ~~the check was processed and I think we are entitled to know~~  
18 ~~when it was processed.~~

19 THE COURT: Is the date the check was processed  
20 material?

21 MR. COX: I think it is, Your Honor.

22 THE COURT: Or is it the date the check was cashed?

23 MR. COX: There has been testimony, Your Honor.

1 ~~think I saw it a minute ago in Mr. Dell-Wrinkles' possession.~~  
2 He is another witness we are going to recall soon.

3 BY MR. COX:

4 Q Did you personally deny seeing Commonwealth's  
5 Exhibit No. 1 processed down at Duke Street, did you?

6 A No, sir.

7 Q You're only going by virtue of the DS-4?

8 A Yes.

9 Q Can you infer from that that it was negotiated at  
10 the Duke Street branch but you do not know by whom it was  
11 negotiated, do you?

12 A Right now I do, yes.

13 Q You were not there, were you, sir?

14 A The teller's stamp is very important in the day-to-  
15 day operation of the bank and the teller is supposed to supply  
16 his or her stamp at all times and lock them in the vault at  
17 the close of the business day so they do not get into anyone  
18 else's possession because they are a very determining mark on  
19 a transaction. The teller at Duke Street on the 5th of  
20 November who cashed the check was Deborah Weatherford.

21 Q All right. But you were not there, you don't know  
22 who presented the check, do you?

23 A No, I don't.

1 Q Mr. Burke, what is the policy of your bank with  
2 reference to overdrafts? Does it not, in fact, have a lenient  
3 policy as far as overdrafts are concerned?

4 A I cannot really compare it to that of any other  
5 bank. I am not too sure about the policy of any other bank.  
6 In the event of a customer that has been with us for awhile  
7 or a new account, we are inclined to give them the benefit of  
8 the doubt and to hold a check for twenty-four hours, which we  
9 are entitled to do before returning it.

10 Q Okay. And what do you do after -- how do you  
11 return it?

12 A It is sent back to the bank that sent it to us.

13 Q And if somebody presents the check in person at the  
14 bank, what is your policy?

15 A If, in fact, there are not sufficient funds in the  
16 account, the check is sent back to the branch where it was  
17 cashed to be collected.

18 Q Yes; and if the check is cashed at the home branch  
19 where the account was opened, what is the policy of the bank?

20 A The check is sent to the head teller or to the  
21 office in charge of the tellers at the main office.

22 Q Isn't there also a policy of the bank to charge  
23 against a depositor's account in the event of insufficient  
funds?

1           A     To charge what against the account for insufficient  
2 funds?

3           Q     Well, to enter a charge against an account in the  
4 event the check comes in for which an account has insufficient  
5 funds?

6           A     When the check is sent back to another bank there  
7 is a charge; when it is sent back to the teller there is no  
8 charge.

9           Q     What kind of charge is that?

10          A     Seven dollars returned check fee.

11          Q     When it is sent back to the teller, there is no  
12 charge?

13          A     Right.

14          Q     Assuming the following depositor had a balance in  
15 his or her account of fifty dollars and a check was to come in  
16 for one hundred dollars, won't you charge the account the  
17 fifty dollars plus the charge against that account?

18          A     No, sir.

19          Q     If there was fifty dollars in the account and the  
20 teller cashed a check for a hundred dollars, the one hundred  
21 dollar check would be sent back to the teller to be collected?

22          A     It is up to the teller to put a hold on the account  
23 for fifty dollars. This is on there pending such time the

1 balance is collected for the check; when it is charged off at  
2 the time of the charge off the fifty dollars in the account  
3 will be credited to the charge, profit and loss, be charged  
4 to the bank reserve account, which covers bad checks.

5 Q Now, I want to ask if you can identify these  
6 documents.

7 THE COURT: Have them marked, please.

8 MR. COX: Allright. Defense Exhibits 1 and 2.

9 THE COURT: Have them marked A and B.

10 BY MR. COX:

11 Q Can you identify Defendant's Exhibit A?

12 A Yes, I can.

13 Q What is it?

14 A It is a statement sheet that we send out every  
15 month.

16 Q All right. When was that statement sheet sent out?

17 A At the end of November.

18 Q Please tell the court how much that shows in her  
19 account.

20 A Eight dollars and forty-three cents.

21 MR. COX: Your Honor, I'd like to have this  
22 admitted into evidence.

23 THE COURT: Any objection? This is the account of

1 ~~December 8 at the end of November.~~

2 MR. GREENBACKER: I have no objection.

3 THE COURT: Defense A will be admitted.

4 (The document previously referred  
5 to as Defense Exhibit A was  
6 received in evidence.)

7 BY MR. COX:

8 Q I now will hand you Defense Exhibit B and ask if  
9 you can identify that?

10 A Yes, sir.

11 Q What is it?

12 A It is a copy of a manila envelope with the Burke &  
13 Herbert letterhead.

14 Q Take a look at the second sheet.

15 A With a statement for the end of April, '77.

16 Q All right. What does that indicate, the amount in  
17 the Warren account as of that time?

18 A Zero.

19 Q As a matter of fact, it was until April, was it  
20 not, that they debited her account in the amount of eight  
21 dollars and forty-three cents?

22 A That is when we charged off the bad check.

23 Q Well, does that say bad check?

1           A     That would have been a little superfluous since  
2 she had been summoned to court well after that.

3           Q     Well, what I'm asking, what does DM mean?

4           A     Debit memo.

5           Q     Does that mean, enter a debit memo in April, is  
6 that correct?

7           A     That's right.

8           MR. COX: Your Honor, I would like to have this  
9 admitted into evidence as Defense Exhibit B.

10          THE COURT: Any objection, Mr. Greenbacker?

11          MR. GREENBACKER: No, Your Honor.

12          THE COURT: Defense B will be admitted.

13                                 (The document previously referred to  
14 as Defense Exhibit B was admitted  
15 into evidence.)

16          MR. COX: Nothing further.

17          THE COURT: Any redirect, Mr. Greenbacker?

18          MR. GREENBACKER: Nothing, Your Honor. We'd like  
19 the witness to remain subject to recall.

20          THE COURT: All right.

21                 Thank you, Mr. Burke. You may step down here.

22                 You are excused subject to recall. Please don't discuss your  
23 testimony with any of the other witnesses.

~~whereupon,~~

STEVEN DOUGLAS,

was called as a witness by and on behalf of the Commonwealth  
of Virginia and, having been previously duly sworn, was  
examined and testified as follows:

DIRECT EXAMINATION

BY MR. GREENBACKER:

Q Would you state your name, please.

A Steven Douglas.

Q What do you do for a living?

A Auditor and security officer for the Burke &  
Herbert Security & Trust.

Q All right, sir.

Do you have control or familiarity with the keeping  
of the records of the bank?

A Yes, I do.

Q Sir, are you familiar with the account of Miss  
Cynthia A. Warren, the defendant here?

A Yes.

Q All right, sir.

How often is an individual account updated?

A Daily.

Q And when does the business day close?

1 A Two o'clock.

2 Q Is that in the afternoon?

3 A Yes.

4 Q So, the business day which closes at two o'clock in  
5 the afternoon on any one day began at what time?

6 A It began at nine in the morning.

7 Q Is that every morning?

8 A Well, in other words, you are saying we close at  
9 two and go on the next business day, which would be after two.

10 Q When you are dealing with the calendar day, it is  
11 not the same as a business day?

12 A No.

13 Q I am going to show you Commonwealth's Exhibit No. 3  
14 and ask if you can identify that, sir.

15 A Yes.

16 Q What is it?

17 A That is the ledger, bookkeeping ledger account of  
18 Cynthia A. Warren, the defendant.

19 Q I'm going to draw your attention to a transaction  
20 on that account which occurred, let's say, the beginning of  
21 November 3rd.

22 ~~MR. COX. I am going to object to any testimony~~  
23 ~~unless the gentleman has the original document. I would like~~

1 to be able to examine to see if they are the same.

2 THE COURT: Why don't you use the original. If  
3 you want to withdraw it at the conclusion of the trial,  
4 subject to a copy, you may do so.

5 MR. GREENBACKER: All right, Your Honor.

6 I could have the document --- with that procedure  
7 my concern is, my objection is that sometimes it is difficult  
8 to get counsel together to get an order entered and all of  
9 these other ministerial acts.

10 THE COURT: All you have to do is ask for leave to  
11 get a Xerox copy; then we don't have to go through this  
12 exercise all the time about the Xerox and the original copy.

13 MR. GREENBACKER: Would Your Honor prefer if I  
14 used the original on this?

15 THE COURT: Mr. Cox has satisfied himself that the  
16 copy is accurate. I am not going to insist -- he has not  
17 satisfied himself -- use the original, Mr. Greenbacker. You  
18 may substitute a Xerox copy at the conclusion of the trial.

19 MR. GREENBACKER: All right, sir.

20 BY MR. GREENBACKER:

21 Q I am going to show you Commonwealth's Exhibit No. B--

22 A Yes

23 Q I repeat the question that I asked you before --

1 drawing your attention to the transaction marked the 3rd of  
2 November, can you tell us anything about that transaction?

3 A Okay. On the 3rd of November a deposit was made  
4 for \$225.00.

5 Q What did that bring her balance in that account up  
6 to?

7 A \$244.43.

8 Q Was there any transaction that occurred thereafter?

9 A Not on the 3rd but on the 4th -- ten dollars -- a  
10 ten dollar check came in that was posted to the account, which  
11 lowered the balance by ten dollars.

12 Q So it left \$234.43 in the account?

13 A Yes. And then on the 5th we had a deposit of  
14 \$100.00. We also had two checks come in, one for 324 -- the  
15 other check was for 325, both on November 5th.

16 Q So, you say there was a deposit of \$100.00 posted  
17 to the November 5 work?

18 A Right.

19 Q Just taking that \$100.00 deposit with the balances  
20 that existed prior to that from the 4th of November post to  
21 the 5th of November, what was her total credit?

22 A That would be \$334.43.

23 Q You said you had two checks that came in on the

1 5th of November?

2 A Yes.

3 Q What were the amounts of those checks, sir?

4 A 324 and the other was 325.

5 Q All right, sir.

6 What was done with those checks with respect to  
7 the records of the bank?

8 A We returned one check, of 324, which we could not  
9 pay, and service charge at \$100, and \$325 we were able to pay,  
10 which left the balance of \$9.43.

11 Q I am going to show you Commonwealth's Exhibit  
12 No. 1-A. Is that the \$325.00 check you said was paid?

13 A Right.

14 Q All right.

15 I am going to show you --

16 ~~MR. COX: Objection to that last piece of  
17 testimony unless he was actually there. I think it would be  
18 hearsay.~~

19 ~~MR. GREENBACKER: I think he can explain why it is  
20 that he knows that.~~

21 THE COURT: The check was cashed against the  
22 account. How does he know it was paid?

23 THE WITNESS: The only reason I'd know if it was

1 paid would be because of the paid stamp on it, the date on the  
2 back saying what day it came by in accordance with the ledger  
3 card, those two items. That is the only way I could identify  
4 it, is by the amount paid on this date. The check was posted  
5 this day and we paid it by our paid stamp.

6 ~~MR. GREENBACKER: We will admit it for the~~  
7 ~~explanation he just offered. I'm going to cover -- re-plot~~  
8 ~~that ground a little bit later on -- I hope to counsel's~~  
9 ~~satisfaction.~~

10 THE COURT: Do you still object, Mr. Cox?

11 MR. COX: I still object, Your Honor.

12 THE COURT: He is offering it not to show the  
13 defendant passed the check but that the check was charged  
14 against her account.

15 MR. COX: Well, I think he can certainly testify  
16 what his records reflect -- I mean, he is entitled --

17 THE COURT: The check and interest thereon are  
18 part of their records. You have to read the two together.  
19 Are they not? The stamps were put on them in the ordinary  
20 course of business and they become a part of the record in  
21 that.

22 MR. COX: Yes, Your Honor, but unless he personally  
23 ~~saw this particular check, it is -- as far as what was done~~

1 ~~with this check, I don't think he would know.~~

2 THE COURT: He is not testifying that he saw  
3 somebody cash the check. I understand he is testifying it is  
4 the check that was charged against her account. That is what  
5 he is saying.

6 Is that your testimony?

7 THE WITNESS: Yes.

8 THE COURT: How do you know that?

9 THE WITNESS: By matching the markings on the check  
10 with the entries on the check, the account number, the paid  
11 stamped amount, the name on the back. The proof machine -- we  
12 have a proof number on the back which would reserve, show the  
13 amount and it would find out if that was the item on film. We  
14 record everything on film that we do; that would be the only  
15 thing.

16 THE COURT: It is admitted to show it was the check  
17 that was charged against her account.

18 BY MR. GREENBACKER:

19 Q I am going to draw your attention to Commonwealth's  
20 Exhibit No. 2. That is the other check you were testifying  
21 about.

22 A Well, this would be a check for \$324.00 to the same  
23 account, dated the same day, and it has our return unpaid

1 insufficient funds seal on it, which we also have a red stamp  
2 which shows insufficient funds, and our proof machine stamp  
3 on the back; this would be the other check for \$324.00 which  
4 reflects on the ledger as being returned for that amount. The  
5 check number follows the sequence also.

6 Q You're referring to the number that appears on the  
7 top of the check -- this was 109 and this is 108. This is in  
8 the upper right-hand corner.

9 A Both checks went through our bank, directed by the  
10 endorsing on the teller's stamp.

11 Q What was the status of the account after the  
12 transaction of the 5th of November?

13 A It had a balance of \$9.43.

14 Q However, this check was for insufficient funds --  
15 I see. So, you're returning one check, but after the one that  
16 was credited, Commonwealth's Exhibit No. 1, the account was  
17 left with \$9.43 to its credit. What did it -- at what level  
18 did it stay thereafter?

19 A We only service charged \$1.00, which is for the  
20 charge for a returned check.

21 ~~MR. GREENBACKER: All right. I'd move the~~  
22 ~~introduction of Commonwealth's Exhibit No. 3.~~

23 ~~MR. COX: If I could do some voir dire on what?~~

1 THE COURT: You may voir dire.

2 VOIR DIRE EXAMINATION

3 BY MR. COX:

4 Q There appears to be some erased entries here. Can  
5 you tell us what they represent?

6 A What these represent would be a bookkeeper  
7 receiving a call and placing a hold on the account for an  
8 item.

9 Q Why were they erased?

10 A You don't leave a hold on an account. When the  
11 hold is cleared, you erase it.

12 Q Do you know when it was erased?

13 A I have no idea.

14 Q Would it have been after November 5?

15 A After November 5?

16 Q That's correct, after November 5?

17 A Yes, I'd assume so. One of them is dated -- I  
18 can't read it, 11/5, -- I'm not really sure, it is kind of  
19 blurry and it is not completely erased.

20 Q Well, now, can you tell us if you can read any of it?

21 A I can read it, barely -- it looks like it says,  
22 hold, \$325.00, DS-4, which is a teller's number. I can read  
23 some more of it; it says, hold, LM-2.

1 Q \$325.00 hold, and the date of that is what --  
2 eleventh month, fifth day?

3 A I can't read that. It looks like eleventh month,  
4 fifth day, '76, but I don't know.

5 MR. COX: I am going to have to object to this  
6 document in light of his testimony there having been some  
7 erasures here. I think it is quite crucial to understand  
8 what was on this document before he testified. He does not  
9 know, he cannot make it out. He said there was a hold and  
10 apparently on the eleventh month, fifth day, '76, for \$325.00.

11 Now, Your Honor, unless the Commonwealth can show  
12 what was on this document before, I would object.

13 THE COURT: Objection overruled. Commonwealth's  
14 Exhibit No. 3 will be admitted.

15 (The item previously referred to  
16 as Commonwealth's Exhibit No. 3  
17 was received in evidence.)

18 Any further questions of this witness?

19 MR. COX: Yes

20 BY MR. COX:

21 Q Now, I will hand you Defense Exhibit No. A and ask  
22 you if you can identify that?

23 A Yes, I can.

1 Q What is it?

2 A It is a bank statement for the account of Cynthia  
3 A. Warren.

4 Q What is the date of it?

5 A November 8, 1977.

6 Q Well, the last day is November 24, 1976. Well,  
7 the date is -- that reflects that she has a balance of \$8.43  
8 at the end of the month, is that correct?

9 A That is what it reflects, yes.

10 Q Now, when did -- did you see that after the month  
11 of November? She has continued to have a balance of \$8.43?

12 A Up to a certain date -- it was April -- I don't  
13 know, I don't have the ledger.

14 Q I ask if you can identify this, and the second  
15 page too.

16 A It looks like an envelope.

17 MR. GREENBACKER: What is he referring to?

18 MR. COX: Defense Exhibit B.

19 THE WITNESS: It is an envelope, one of our  
20 envelopes we mail statements in and the last date on it is  
21 September, 1977, with a zero balance; so it was in April that  
22 we closed the account.

23 Q She did not close it out, did she? You closed  
it out.

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~~A We applied it.~~

~~Q I hand you Commonwealth's Exhibit No. 1 and ask if you can tell from that whether or not the check that that represents was paid?~~

~~MR. GREENBACKER: I think he ought to be able to see 1-A, Mr. Cox. That is the one you are objecting to.~~

~~THE COURT: It has been marked for identification. Are you going to offer it into evidence?~~

~~MR. COX: No, I am not.~~

~~THE COURT: That is the one you object to as being incomplete.~~

~~MR. COX: I withdraw the question. No further questions.~~

~~THE COURT: Any redirect, Mr. Greenbacker?~~

~~REDIRECT EXAMINATION~~

~~BY MR. GREENBACKER:~~

~~Q Sir, I am going to show you Commonwealth's exhibit No. 1-A. I think earlier you said that this check has been paid. Were you referring to the stamp that appears on the front of that?~~

~~A Yes, the paid stamp with our bank endorsement.~~

~~Q All right.~~

~~On Commonwealth's Exhibit No. 2, which you have~~

1 also seen, does that indicate that it was paid out?

2 A The funds paid cash over the counter?

3 Q Right.

4 A Yes, the cash would be by the fact it has a  
5 teller's stamp, ML-3, indicating the teller accepted it and  
6 cashed the check.

7 Q Why wouldn't it have the same kind of stamp  
8 Commonwealth's Exhibit No. 1 has?

9 A Because the funds were insufficient according with  
10 our bookkeeping records.

11 Q I see. Even though a check may have, in fact, been  
12 paid, it may not necessarily have reflected it on front of  
13 the instrument later on if, in fact, it had been drawn on an  
14 account with insufficient funds?

15 THE COURT: What is the point? Is the paid stamp  
16 placed on it?

17 THE WITNESS: It is put in the bookkeeping  
18 department's filing after the check is cleared.

19 THE COURT: Not by the teller who cashed it?

20 THE WITNESS: No, sir.

21 BY MR. GREENBACKER:

22 Q Now, I am a little curious -- you've been asked by  
23 defense counsel to identify Defense Exhibit A and B; are both

1 parts of B -- there is no reflection on here that the account  
2 was formally closed, is there?

3 A On this one, the first one?

4 Q On Defense A?

5 A Not on A, no, sir.

6 Q How about on B?

7 A Yes, it shows a debit memo for the balance of  
8 \$8.43 on April, 1977.

9 Q All right.

10 Did the defendant make any -- judging from these  
11 documents that you have seen, did she make any deposits on  
12 that account after the 4th of November, 1976?

13 A No, sir.

14 Q I see. Based on these, but outside of the fact  
15 that on Commonwealth's Exhibit No. 3 there is an indication  
16 that a second check came in on the 5th of November. There  
17 is nothing on the record to indicate that, what might have  
18 happened to the check or whether or not it was paid?

19 A Right.

20 Q Is that an unusual procedure in the case of  
21 insufficient fund checks?

22 A Yes, we'd send it back to the originator.

23 Q Isn't there an entry?

1 A Yes. That shows a rejection of the account.

2 ~~MR. GREENBACKER: No further questions.~~

3 ~~THE COURT: Any more, Mr. Cox?~~

4 ~~MR. COX: Yes.~~

5 RECESS EXAMINATION

6 BY MR. COX:

7 Q Were you able to ascertain from the record when the  
8 last deposit was made?

9 A Yes, November 5, for \$100.00. That is what it  
10 shows right here.

11 Q Now, where was that shown as being a transaction  
12 on the 5th of November?

13 A The last deposit in the column -- it says \$100.00  
14 right there, November 5, is the posting date. It looks like  
15 November 4 and 5. That is how you post. See, you post these  
16 checks here, which fill the line. This check was returned  
17 and then you post your date and the balance of all of the  
18 items that came in that day. This closes out the 4th. Any  
19 item -- well, you put your bottom date down and post the  
20 balance as of that date. That is how our posting machine  
21 works.

22 Q You are saying it was posted on the 5th? Could it  
23 have been posted on the 4th?

A No; if it was posted on the 4th, the deposit would be right up here on the 4th date. See, the \$10.00 item was posted on the 4th.

Q I see. Are you able to tell whether that deposit was made?

A Not unless I had the deposit tickets with me. I could not tell by this.

MR. COX: Nothing further.

THE COURT: Any further questions?

MR. GREENBACKER: No.

THE COURT: Will you need the witness again?

MR. GREENBACKER: I'd like to have him remain, Your Honor.

THE COURT: You are excused subject to recall. Do not discuss your testimony with any of the other witnesses.

MR. GREENBACKER: We would like to recall Deborah Weatherford.

THE COURT: All right.

~~Whereupon,~~  
~~DEBORAH WEATHERFORD,~~  
~~was recalled as a witness and, having been previously sworn,~~  
~~she further examined and testified as follows:~~

DIRECT EXAMINATION

BY MR. GREENBACKER:

Q Miss Weatherford, you are still under oath.

I think that you will recall that I asked you earlier today to identify Commonwealth's Exhibit No. 1. I am going to show you Commonwealth's Exhibit No. 1-A and ask you to take a look at both of those items and tell me whether or not 1-A has any significance to you.

A It has my stamp on it.

Q All right.

Is it the same as Commonwealth's Exhibit No. 1, extensively, being a copy?

A Yes.

Q So, the item that you in fact received from Cynthia Warren on the 5th of November was Commonwealth's Exhibit No. 1-A, the original?

A Yes.

Q All right.

Now, on the rear of this check there is a stamp in purple?

1 A Yes.

2 Q What business day is that stamp placed on it?

3 MR. COX: Your Honor, I'd object to the question.  
4 I think as to when it was placed on there is one matter which  
5 unless she saw it affixed to the check I don't think she  
6 would be in a position to testify.

7 THE COURT: Objection sustained.

8 BY MR. GREENBACKER:

9 Q What does that purple stamp indicate?

10 A That it has been paid and then that it went  
11 through the copier that makes prints of all checks that have  
12 been paid.

13 Q Where do they put that on it?

14 A Right here. Burke and Herbert paid it and then it  
15 went through the copier.

16 Q At what location?

17 A Where the payment was made on?

18 Q Does it say where payment was made on it?

19 A No.

20 Q What business day did the payment go out on that?

21 A November the --

22 MR. COX: Your Honor, again I am going to object  
23 to this questioning or any testimony from it because she

1 ~~certainly could testify, as she already has.~~

2  
3 THE COURT: The stamp speaks for itself. The  
4 previous witness described how the stamp is affixed to the  
5 back of the check.

6 BY MR. GREENBACKER:

7 Q There were a number of questions, ma'am, that I  
8 asked you about Exhibit 1, and responses made -- would it be  
9 the same response for 1-A?

10 A Yes, both of them are the same.

11 Q I see.

12 MR. GREENBACKER: I am going to move 1-A be  
13 admitted.

14 THE COURT: Any objection, Mr. Cox?

15 MR. COX: Yes, Your Honor, I am going to object  
16 very emphatically. I think there is quite a difference  
17 between 1 and 1-A. One does not have a paid stamp; 1-A does  
18 have a paid stamp. I don't know what the status or the  
19 activity that surrounds the check was and I think there is  
20 such a variance here between the two that it is -- the two are  
21 very suspicious and, therefore, I think that their integrity  
22 being suspicious that they should be inadmissible.

23 THE COURT: Objection overruled. Commonwealth's  
~~Exhibit No. 1-A will be admitted.~~

1 ~~presentation of the check.~~

2 THE COURT: Well, they have to show that it was  
3 with the intent to defraud and with the knowledge that there  
4 were insufficient funds. There is no question about that.

5 MR. COX: If she said that she knew that she had  
6 insufficient funds, obviously that would show the Commonwealth,  
7 the Commonwealth would have sustained its burden as to one of  
8 the important elements that it has got to sustain, and I  
9 think by virtue of that type of statement you can certainly  
10 infer from that intent you have no recognition, no actual  
11 knowledge on the part of the defendant and any of the efforts  
12 that she has insufficient funds, no knowledge whatsoever, and  
13 I think that the Commonwealth is put to that task, that and  
14 the statutory presumption.

15 THE COURT: The motion to strike will be denied.

16 MR. COX: My first witness will be Cynthia Warren.

17 Whereupon,

18 CYNTHIA WARREN,

19 was called as a witness by and in her own behalf and, having  
20 been previously duly sworn, was examined and testified as  
21 follows:  
22  
23

## DIRECT EXAMINATION

BY MR. COX:

Q Miss Warren, would you state your name for the court, please?

A Cynthia Anthony Warren.

Q Where do you reside?

A 4521 Duke Street, Apartment D-3, Alexandria, Virginia.

Q How long have you lived there?

A Approximately three months.

Q Have you lived there before?

A Yes.

Q When?

A In 1976.

Q When in 1976?

A The first three months of 1976, January.

Q Was anybody living there with you?

A Yes.

Q Who?

A My sister, her two sons and my one son.

Q So, this would be, then, your apartment or your sister's apartment?

A My sister's apartment.

1 Q Now, back in October of 1976 and in November of  
2 1976, where were you living?

3 A I was living at 721 North Fillmore Drive in  
4 Sterling Park, Virginia.

5 Q When did you open your account at the Burke &  
6 Herbert Bank?

7 A October 4, 1976.

8 Q And what address did you give to the bank?

9 A 4321 Duke Street, Apartment D-3, Alexandria,  
10 Virginia.

11 Q That is your sister's address?

12 A Yes.

13 Q Why didn't you give the bank your other address?

14 A Because I knew I was only going to be living in  
15 Sterling Park for two months and I did not want my mail  
16 traveling all over and getting lost because I was expecting  
17 more mail, especially from the Burke & Herbert Bank concerning  
18 my checks.

19 Q Directing your attention to the 4th of November,  
20 1976, did you have occasion to make any deposit at the Burke &  
21 Herbert Bank?

22 A Yes, I did.

23 Q How much was that for and where did you make it?

1           A       I made a one hundred dollar deposit at the Burke &  
2 Herbert branch up near Herby's Ford for one hundred dollars  
3 that night between seven and --

4           Q       That would be on the evening of the 4th.

5                   Now, have you done business with that bank  
6 previously?

7           A       No.

8           Q       Had you ever cashed a check there previously.

9           A       No.

10          Q       On the 5th of November, 1976, did you have the  
11 occasion to write a check on your Burke & Herbert account?

12          A       Yes, I did.

13          Q       How much was that check for?

14          A       \$325.00.

15          Q       Where did you cash that check?

16          A       Burke & Herbert up near Landmark.

17          Q       What time of day was this?

18          A       Between nine and three; around ten o'clock that  
19 morning.

20          Q       Between three and ten o'clock that morning?

21          A       Yes.

22          Q       Now, I want to hand you what has been introduced  
23 into evidence as Commonwealth's Exhibit No. 1-A and 2 and ask

064a

1 you if you can identify those; did you write those checks?

2 A Only one.

3 Q Which check did you write?

4 A The check for 325 on November the 5th.

5 Q This is the check that had -- there has been ample  
6 testimony that was processed down at Duke Street. Did you  
7 cash this check down at Duke Street?

8 A No, I did not.

9 Q Where did you cash it?

10 A I cashed it at the Landmark branch.

11 Q Well, now, is your testimony that you know beyond  
12 a reasonable doubt this was the very same check you cashed at  
13 Landmark, or could it be another check?

14 A No, this is the check.

15 Q You're saying that the one for 325 -- let me ask  
16 you this. You wrote a check on the 5th of November?

17 A Yes.

18 Q 1976?

19 A Yes.

20 Q In the amount of 325?

21 A Yes.

22 Q Do you know what the number of the check was?

23 A 109.

1 Q Do you know that for a fact? I want you to be  
2 candid and honest with the court. I do not want you to  
3 suppose.

4 How do you know you wrote that check?

5 A I know I wrote that check, number 109 for 325,  
6 because I had torn that check out of my checkbook the morning  
7 I left from Sterling Park. I remember that.

8 Q Now, your testimony is that you went, not to the  
9 Duke Street bank but to the Landmark bank?

10 A Yes.

11 Q Did you have any dealings whatsoever on the 5th of  
12 November with the Duke Street branch?

13 A No, I did not.

14 Q Now, when you went to the Landmark bank branch,  
15 please tell the court what transpired.

16 A When I pulled up to the drive-in window at the  
17 Landmark bank, I presented my check for 325. The teller at  
18 the window asked me did I make, have I written any more  
19 checks and I told her, no. She asked me did I make another  
20 deposit and I told her, yes. She asked me when and I said I  
21 made a deposit last evening between five and seven at the  
22 Duke Street branch near Herby's Ford and she said, oh, I know  
23 which one. That is all. So, she called for verification and

1 she looked at me and said, everything checks okay, and she  
2 cashed my check and gave me my money.

3 Q And, how much money did she give you?

4 A She gave me \$325.00.

5 Q Were you working back then?

6 A Yes, I was working.

7 Q Where were you working?

8 A I was working at the Post Exchange at Cameron  
9 Station.

10 Q Now, what was your work schedule?

11 A On Thursdays and Fridays, I don't know what day  
12 this was but --

13 Q Well, were you working on the 5th of November?

14 A Yes.

15 Q What were your hours?

16 A From eleven to seven-thirty.

17 Q From eleven in the morning to seven-thirty in the  
18 evening?

19 A Yes.

20 Q And, did you, in fact, work on that date?

21 A Yes, I did work on that date.

22 Q And what time did you get off?

23 A Eight o'clock exactly.

1 Q You got off at eight o'clock?

2 A Yes.

3 Q Now, could it have been later or earlier or do you  
4 know it was eight, or what?

5 A I know it was eight.

6 Q What time did you get -- what did you do then when  
7 you got off work?

8 A Well, Miss Clowney and I --

9 Q Who is Miss Clowney?

10 A One of the cashiers that was working at the Post  
11 Exchange at the time. She and I left out exactly at eight  
12 and walked to the parking lot to my car. We got in, started  
13 up the car, came out of the front gate. She and I both were  
14 going to pick up our children at the baby sitter's house. She  
15 got out at the drive-in as I was turning in on Tanney Avenue  
16 because her children, someone had picked them up, so she got  
17 out of my car and I kept on to the baby sitter's house and got  
18 my son.

19 Q What time did you get to the baby sitter's?

20 A Oh, around five past eight.

21 Q It only took you five minutes to get there?

22 A Right.

23 Q Now, remember you're under oath.

1 A I know.

2 Q It only took you five minutes to get from Cameron  
3 Station over to the baby sitter's house?

4 A I got to the baby sitter's house at five past  
5 eight.

6 Q And what time did you leave Cameron Station?

7 A I left Cameron Station at eight o'clock.

8 Q Now, what did you do then?

9 A After I picked up my son, I proceeded to go home to  
10 Sterling Park.

11 Q What is the distance from Cameron Station and your  
12 baby sitter's house?

13 A I guess about as far as from here to King Street.

14 Q From here to King Street?

15 A Yes.

16 Q Where did you park your car?

17 A On the parking lot on the Cameron Station grounds.

18 Q Did a lot of people get off at the same time?

19 A No.

20 Q When you got off on this particular evening, do you  
21 remember what the traffic was like?

22 A It was very slow coming out from Cameron Station.  
23 In fact, there was a very few cars coming out at the time; when

1 I came out there were two cars coming out. The traffic on  
2 Duke Street was very, very slow at that time of night.

3 Q Now, what do you do for a living now? Are you  
4 employed?

5 A Yes, I am.

6 Q Where do you work?

7 A I work in Sarge's Restaurant, 1125 Queen Street. I  
8 am a waitress.

9 Q How long have you had that job?

10 A A month.

11 Q Do you get aid for dependent children?

12 A Yes, I do.

13 Q You heard testimony that during the morning hours  
14 of the 5th of November that you presented yourself and passed  
15 a check, presented a check down at the Duke Street branch for  
16 \$325.00. Did you?

17 A No, I did not.

18 Q Now, you've also heard testimony that you then went  
19 up to the Landmark branch and presented another check for  
20 \$324.00. Did you do that?

21 A No, I did not.

22 Q Now, Miss Warren, I want you to look again at the  
23 ~~check that has got DS-4 on it. If, in fact, that check was~~

1 ~~MR. GREENBACKER: Which exhibit is that, Your Honor?~~

2 THE COURT: 1-A.

3 BY MR. COX:

4 Q If, in fact, that check was cashed at the Duke  
5 Street branch, could you have cashed that check?

6 MR. GREENBACKER: Objection.

7 THE COURT: It, in fact, is speculative and it  
8 calls for a conclusion. Anything is possible isn't it, Mr.  
9 Cox? Rephrase the question.

10 MR. COX: All right.

11 BY MR. COX:

12 Q Miss Warren, that particular exhibit, 1-A, has a  
13 DS-4 on it. Now, you heard testimony that DS stands for Duke  
14 Street. Now, I ask you, did you write that check or did you  
15 write another check for \$325.00?

16 A I

17 MR. GREENBACKER: Objection. He asked her before  
18 whether or not she had written it, Your Honor. So, in  
19 essence, it is asking and answering. That is repetitive.

20 THE COURT: Objection overruled.

21 A Do you want me to answer the question?

22 Q Yes.

23 A I wrote this check for \$325.00.

1 Q Well, then, how is it possible that this was  
2 processed down at Duke Street?

3 ~~MR. GREENBACKER: Objection~~

4 ~~MR. COX: It is a little different question,~~

5 ~~Mr. Greenbacker.~~

6 A I'd never know what a stamp would be on the check  
7 for that I'd written because I never receive any check back  
8 so I would not have the slightest idea of what stamp would be  
9 on what check.

10 Q Are you telling the court you have never received  
11 any cancelled checks back from Burke & Herbert?

12 A Never.

13 Q Are you telling the court that you did not receive  
14 a five-day notice?

15 THE COURT: There is no evidence that a five-day  
16 notice was sent out, Mr. Cox.

17 BY MR. COX:

18 Q When you cashed that check for \$325.00, did you  
19 have any intention whatsoever to defraud the Burke & Herbert  
20 Bank?

21 A When I wrote this check for \$325.00 I had the money  
22 in there to account for it. I knew I had sufficient funds for  
23 it.

1 Q And you deny that you wrote the other check?

2 A That's right; I did not write this check for  
3 \$324.00. I did not write it.

4 Q Now, what's the number of that check?

5 A 109.

6 Q What is the number of the other check?

7 A The one for \$325.00 is 109.

8 Q When you had this account -- and, for that matter,  
9 when you had any other account, what would be your standard  
10 operating procedure on writing checks? Would you write the  
11 checks in the sequence in which they appeared?

12 A Yes; sometimes, unless I made a mistake in writing  
13 the check, the amount of that check, if I wrote the amount  
14 wrong, I would tear that one up and write another one.

15 Q Now, when you went to work on the morning of the  
16 5th, did you have your purse with you?

17 A Yes, I did.

18 Q And, did you have your checkbook in your purse?

19 A Yes, I did.

20 Q What do you do with it when you get to work?

21 A I put my purse in my locker.

22 Q And where is this locker anyway?

23 A It was in the lounge room; between where I worked

1 and the locker room from where I worked is not a long way.

2 Q Now, you left your purse -- or do you leave your  
3 purse in the locker room, or do you have an okay to go and  
4 pick it up later?

5 A I had to leave my purse and money in that locker;  
6 that was company policy.

7 Q And, later on that day did you have the occasion to  
8 go to the Burke & Herbert Bank?

9 A No.

10 Q Did you have the occasion to go to the Burke &  
11 Herbert bank after you left work?

12 A No, I did not.

13 Q So, what you are telling this court is that you  
14 were only at the Burke & Herbert Bank on the 5th of November?

15 A Yes.

16 Q And that was the Landmark branch?

17 A Yes.

18 Q Now, I want you to take a look at these two  
19 exhibits again, those two checks, and the check for \$324.00,  
20 is that your signature on that check?

21 A No, it is not.

22 Q Now, the other check, is that your signature or not?

23 A The one for \$225.00, this is my signature, yes, it  
is.

1 Q According to your calculations, when you wrote that  
2 check for \$325.00, what would your balance have been?

3 A It should have been zero according to my account,  
4 it should have been zero.

5 Q Now, I want to show you some papers and see if you  
6 can identify these.

7 THE COURT: Have them marked for identification,  
8 would you, Mr. Cox.

9 Mr. COX: Yes.

10 BY MR. COX:

11 Q Now, Miss Warren, I am going to hand you what has  
12 been marked as Defense Exhibits C through J and ask if you  
13 can identify them.

14 A Exhibit C is a deposit for \$50.00; Exhibit D,  
15 deposit for \$225.00, which was made on November 3, '76;  
16 Exhibit E, deposit for \$100.00, November 4, '76.

17 Q Now, I notice this is not like the others, D and E  
18 appear to be different from Exhibit C. What are those from?

19 A These two are from the top part of the check stub  
20 of my records and in the back after I write out one of these.

21 Exhibit No. F is November the 5th, 1976, \$325.00;  
22 Exhibit H is a deposit for \$230.00; G is for \$145.00; Exhibit  
23 I, \$100.00; this little book here, Exhibit J, this is the

1 starting book that I got from Burke & Herbert Bank when I  
2 first opened my account, which I've never received any checks  
3 that I have written out of this book.

4 Q I hand you what has been marked for identification  
5 as Defense Exhibit No. K. Can you identify that?

6 A Yes, I can. It is a deposit of \$20.00.

7 Q Now, Miss Warren, all of these exhibits that you  
8 have just testified about, together with Exhibit A and B, are  
9 those then the extent of your record with reference to your  
10 Burke & Herbert Account?

11 A This is the only thing I have received during the  
12 Christmas holidays. I received a paper in the mail stating to  
13 me the holiday hours and that was all, just the holiday hours,  
14 no paper stating how much my balance was, nothing, just the  
15 holiday hours.

16 Q When you left your purse in the locker, was it  
17 locked or not?

18 A My lock had to be broken because I locked my key up.  
19 I think it was the Monday of that same week and I had to have  
20 a notification from the office to have one of the maintenance  
21 men to break my lock, or my locker.

22 Q And so your testimony is that on the 5th day of  
23 November when you went to work, you left your purse in the

1 locker and it was not locked?

2 A True.

3 Q But when you left your purse, it was in the locker?

4 A Yes.

5 Q Did you have occasion to examine any of your checks  
6 at that time?

7 A No; in fact, I did not look in my purse until it  
8 was time for me to get off, to get my keys to start my car to  
9 leave. I did not even eat lunch that day.

10 Q Now, you mentioned that according to your  
11 calculations, \$325.00, a check for \$325.00 would have been  
12 collected out of your account?

13 A To my best knowledge it would have.

14 Q It was your intention to leave it closed or were  
15 you going to reopen it, or what?

16 A It was my intention to leave it closed.

17 Q What were you going to do with that money?

18 A The \$325.00 was a deposit for a new apartment for  
19 me at Fairchild Drive on Richmond Highway.

20 Q Now, I hand you Defense Exhibit, marked for  
21 identification, L, and ask if you can identify that?

22 A Yes, I can.

23 Q What is it?

1           A     It is a receipt for the first and second deposit  
2 for \$316.00 for an apartment.

3           Q     Is that what you were talking about a minute ago?

4           A     Yes, \$325.00 was going for that apartment.

5           MR. COX: You may cross examine.

6                               CROSS EXAMINATION

7           BY MR. GREENBACKER:

8           Q     Miss Warren, this Commonwealth's Exhibit No. 1-A  
9 is the check you said you presented and was paid on by the  
10 bank, is that correct?

11          A     Yes.

12          Q     And you said you presented it at Landmark and not  
13 at the Duke Street branch?

14          A     True.

15          Q     Now, ma'am, but you also say that you knew when you  
16 passed this, this would bring your account down to zero?

17          A     That would not have brought my account to zero. I  
18 did not say that.

19          Q     Well, what did you say?

20          A     I said on this check here for \$325.00, when I  
21 passed this check to the teller at the window, she turned  
22 around and asked me did I make another deposit and I told her,  
23 yes. She says, where, and I said, to the Duke Street bank

1 near Herby's Ford for \$100.00 the evening before that and she  
2 said, oh, yes, I know, and turned around and said, I am going  
3 to get a verification. When she did turn around, she cashed  
4 the check and gave me my money.

5 Q When you did cash that, you brought your balance --  
6 you intended to bring your balance down to zero?

7 A As far as I knew, my balance was down to zero.

8 Q As far as you knew.

9 A My balance was a zero.

10 Q So if you passed Commonwealth's Exhibit No. 2,  
11 which you say you did not pass, then you would have known that  
12 would have been drawn on insufficient funds --

13 MR. COX: I am going to object.

14 THE COURT: Objection sustained.

15 MR. GREENBACKER: Your Honor, I would like to know  
16 the grounds. I thought I could lead her.

17 THE COURT: You can, but there is no basis. She  
18 said she did not draw it. She said the other check drew it  
19 down to zero. She knew that, or, at least, she thought it  
20 would.

21 BY MR. GREENBACKER:

22 Q Did you see Mr. Taylor Burke, III, on the 5th of  
23 November, 1976?

1 A No, I did not.

2 Q Did you see Miss Adkins on the 5th of November,  
3 1976?

4 A I don't know that lady but I know the one with the  
5 long hair is the one that waited on me, the witness for the  
6 Commonwealth, the lady with the long hair that waited on me.

7 Q Not the first lady, the lady with the short hair?

8 A Not her.

9 Q It was the lady with the longer hair?

10 A Yes.

11 Q You say that you gave her this check, Commonwealth's  
12 Exhibit No. 1-A?

13 A Right, for \$325.00.

14 Q Is it also your contention, Miss Warren, that your  
15 signature does not appear on Commonwealth's Exhibit No. 1-A  
16 and Commonwealth's Exhibit No. 2.

17 A My signature appeared on check number 109 and that  
18 one on the other exhibit, that is not my signature.

19 Q That is a forgery, is that your contention?

20 A It is not my signature.

21 Q Now, drawing your attention once again to this  
22 business with the bank. Is it not a fact that you have  
23 control over your checks, you are the one who maintains those

1 checks, is that not correct?

2 A Not all of the time. I did not keep -- I did not  
3 keep my checkbook with me at all times.

4 Q Didn't you say the check from your checkbook was  
5 maintained under your supervision and control when you were  
6 at the preliminary hearing, don't you recall saying that?

7 A Yes, I recall saying that.

8 Q Okay. You say you put your handbag in the locker?

9 A In my locker, yes.

10 Q And, under the circumstances anyone could have had  
11 access to it, right?

12 A Yes.

13 Q Anyone there at Cameron Station, but you did not  
14 check your purse or your checks once you got back?

15 A True.

16 Q As far as you knew, everything was okay in there,  
17 everything was in order, is that not correct?

18 A I'm not going to say that.

19 Q Well, you mean, didn't you, --

20 A I did not check my purse.

21 Q You did not think that there was anything wrong?

22 A No, I did not.

23 Q Well, that is the answer I am looking for -- so, as

1 far as you knew, nothing -- it is quite possible that nothing  
2 was removed from it during the time it was there?

3 A That's true, but I don't know.

4 ~~MR. GBERNBACHER: I have nothing further.~~

5 ~~THE COURT: Any further questions, Mr. Cox?~~

6 ~~MR. COX: Yes.~~

7 REDIRECT EXAMINATION

8 BY MR. COX:

9 Q Miss Warren, you said that you did have control  
10 over your checkbook at all times?

11 A Most of the time; only whenever I got ready to use  
12 my checkbook, I'd carry it with me -- other than that, I would  
13 leave my checkbook at home.

14 Q Now, when you wrote check number 109, did you  
15 notice 108 was missing?

16 A No, I did not pay that attention.

17 Q Did you pay attention to number 109?

18 A I remember 109. I remember that check because that  
19 was the last check that I had ever written for Burke & Herbert  
20 Bank, the one for 109.

21 ~~MR. COX: Nothing further.~~

22 ~~THE COURT: Thank you, Miss Warren. You may step~~  
23 ~~down.~~

P R O C E E D I N G S

THE COURT: Are you gentlemen ready to proceed?

MR. GREENBACKER: Yes; ready for the Commonwealth.

MR. COX: Yes. Your Honor, may counsel approach the bench?

THE COURT: Yes.

(Whereupon, the following bench conference was held.)

MR. COX: At this time I'd like to move for a mistrial. The evidence that was forthcoming at the preliminary hearing clearly shows, according to my notes, that the \$324.00 check was passed up at the Landmark branch between the hours of five and eight and I think that my notes further indicate that it was passed sometime between seven and eight. I claim surprise with this new evidence, Your Honor, as heard yesterday, that there seems to be a mis-match as to when that check was passed.

My cross examination of Taylor Burke did -- the evidence he said could have been between seven and eight. We don't have a transcript. My notes do indicate that his testimony was between the hours of five and eight, as I would claim surprise, and for that reason I ask the court for a mistrial.

1 THE COURT: All right.

2 Mr. Greenbacker?

3 MR. GREENBACKER: Your Honor, he is delving into  
4 an area where my recollection is mighty hazy. My only  
5 response would be, even if there was some kind of discrepancy  
6 or amplification made in the course of our proceedings  
7 yesterday, it would not constitute grounds for a mistrial  
8 under any circumstances.

9 THE COURT: Those kinds of things happen with some  
10 regularity. If everyone -- if they do happen -- I don't know  
11 whether it did; even assuming it did, how was that any  
12 different from any other change or amplification of testimony  
13 that occurred, how is that, assuming that to be the case,  
14 Mr. Cox? How is that grounds for a mistrial? At most, the  
15 witnesses made a prior inconsistent statement.

16 MR. COX: Your Honor, I do think that I have been  
17 surprised. I have been preparing for this case on the theory  
18 that the evidence at the trial in the circumstances in court  
19 would be that it was between the hours of five and eight and,  
20 therefore, I have conducted my investigation, I have focused  
21 my investigation in that time frame to find out what was going  
22 on with reference to my client between five and eight and I  
23 would proffer to the court at this time the gist of my

1 evidence is going to focus in on that time frame, between the  
2 hours of five and eight. I don't have anything in the way of  
3 corroborating evidence as to the whereabouts at eleven or  
4 eleven-thirty in the morning up until she went to work. Had  
5 I known from the preliminary hearing that the evidence was  
6 going to be that she passed this check at eleven or eleven-  
7 thirty, then my evidence would have been focused on that time  
8 frame and not five and eight.

9 MR. GREENBACKER: Your Honor, as I believe it, the  
10 only difference in which the testimony was -- the evidence  
11 might have been in amplification, I think. Mr. Burke is  
12 saying that there is a possibility that one of these checks  
13 that he received could have been passed during the business  
14 day, which may have occurred the day before, but he has also  
15 offered testimony where he believes it was that very same  
16 morning and that is consistent with my recollection of the  
17 testimony that took place down at the preliminary hearing,  
18 that both of these things came in on the same morning's work.

19 I can't imagine how --

20 THE COURT: Did Cheryl Ackins testify at the  
21 preliminary hearing?

22 MR. COX: No.

23 MR. GREENBACKER: No, she did not. I don't know

1 who, but I think Mr. Burke was the only one we brought in.

2 THE COURT: Did you introduce Cheryl Adkins prior  
3 to the trial? She testified yesterday that she cashed the  
4 check between nine and two at the drive-in window, that she  
5 worked nine to two.

6 MR. COX: That is what she said then. I think in  
7 light of the facts that Mr. Burke has indicated --

8 THE COURT: There is a discrepancy or a possible  
9 discrepancy between what Mr. Burke said and what Cheryl Adkins  
10 said. If you construe what Mr. Burke said to say the check  
11 was cashed between five and nine, that would be in conflict  
12 with what Miss Adkins said, but that is a matter for the trier  
13 of facts to resolve, is it not?

14 MR. COX: Ultimately, you are correct, Your Honor,  
15 but I do feel that I have been surprised and for the record  
16 I'd like to make it known that I am asking for a mistrial.

17 MR. GREENBACKER: When people claim they're  
18 surprised, they are asking for continuances.

19 MR. COX: In the alternative, Your Honor, --

20 MR. GREENBACKER: I don't mean to put ideas into  
21 your head, but I guess I have.

22 MR. COX: I would like a little more time to focus  
23 in on that time of eleven or eleven-thirty.

1 THE COURT: How much more time are you talking  
2 about?

3 MR. COX: We could wrap this thing up, I think,  
4 between sometime next week.

5 THE COURT: Well, I am due to start a four-day red  
6 case on Monday -- well, a week from today. Is that a  
7 Commonwealth's day?

8 MR. GREENBACKER: Yes, it is; on a week from today  
9 Friday is a Commonwealth day, I mean, Thursday. The Friday  
10 is not.

11 THE COURT: Well, if Mr. Cox is misled by something  
12 that was said at the preliminary hearing, I am somewhat  
13 inclined to give him time to meet it, but it is not grounds  
14 for a mistrial. There is no question in my mind about that.

15 MR. GREENBACKER: The thing that stops me, Your  
16 Honor -- it would have been very good if counsel pointed this  
17 out yesterday so we would not have our witnesses come back  
18 today or the court changed the schedule around.

19 THE COURT: My schedule is fairly flexible, as you  
20 know.

21 MR. GREENBACKER: Yes.

22 THE COURT: But I'm not worried about that, but I  
23 do hate to inconvenience witnesses. I think the rights to the

1 ~~THE COURT: Well, I don't want to go past that.~~

2 ~~MR. COX: Did you mention that next Friday is a~~  
3 ~~Commonwealth day?~~

4 ~~MR. GREENBACKER: No, Thursday is a Commonwealth~~  
5 ~~day, the 30th.~~

6 ~~THE COURT: Well, I will continue it to next~~  
7 ~~Thursday. Let me see the docket. Let me make sure Thursday~~  
8 ~~is a Commonwealth's day. Subject to my being available that~~  
9 ~~day, Mr. Cox.~~

10 ~~MR. COX: Yes, Your Honor.~~

11 ~~THE COURT: All right, I will grant your motion for~~  
12 ~~a continuance. I will continue it until next Thursday.~~

13 ~~MR. COX: Ten o'clock?~~

14 ~~THE COURT: Subject to the state of the docket.~~  
15 ~~If I think we should finish this first, if I am able to hear~~  
16 ~~it, we will put it on at ten o'clock.~~

17 ~~MR. COX: Your Honor, I hate to stretch this thing~~  
18 ~~out. I am thinking -- can we put the witnesses on right now~~  
19 ~~as far as the alibi evidence from five until eight, or would~~  
20 ~~you prefer to wait until next Thursday?~~

21 ~~THE COURT: Well, I don't know how Mr. Greenbacker~~  
22 ~~feels. What other witnesses do you have?~~

23 ~~MR. COX: Your Honor, I have a Mr. Byers, who is~~

1 ~~going to be very quick, and Miss Clownly and one other witness.~~

2 THE COURT: Is there any reason why we shouldn't  
3 put them on now?

4 MR. GREENBACKER: I have no problems with that.  
5 Your Honor, perhaps since Mr. Burke is here,  
6 solely for rebuttal, perhaps we ought to cut him free.

7 THE COURT: All right, recognize him to be in  
8 attendance at ten on the 30th. Just tell him to come back at  
9 ten o'clock next Thursday. We will hear the other witnesses  
10 now.

11 MR. COX: Thank you, Your Honor.

12 (Whereupon, the bench conference was concluded.)

13 THE COURT: All right, Mr. Cox, are you ready to  
14 proceed?

15 MR. COX: Yes, Your Honor.

16 THE COURT: All right, call your next witness.

17 MR. COX: For my next witness I'd like to call  
18 Mrs. Clownley.

19 Whereupon,

20 BEVERLY CLOWNLEY,

21 was called as a witness by and on behalf of the defendant and,  
22 having been previously duly sworn, was examined and testified  
23 as follows:

## DIRECT EXAMINATION

BY MR. COX:

Q Mrs. Clownley, for the record would you state your name, please.

A Beverly Clownley.

Q Clownley?

A Yes. Spell it, K-l-o-w-n-e-y.

Q Where do you live?

A 477 North Armistead Street.

Q Do you know the defendant?

A Yes, I do.

Q How do you know the defendant?

A We used to work together.

Q Where did you used to work together?

A We used to work together at Cameron Station.

Q Do you recall when she worked at the Cameron Station?

A Yes, it was in the -- I believe she started in September.

Q September of what year?

A September of 1976.

Q And, was she working there at the Cameron Station during the month of November?

1 A Yes, she was.

2 Q Directing your attention to the 5th day of November,  
3 1976, did you have occasion to ride home with the defendant?

4 A Yes, sometimes.

5 Q Well, do you have any recollection about the 5th of  
6 November?

7 A No.

8 Q You don't? How many times would you normally  
9 travel with the defendant home?

10 A It is hard to say. When my husband calls and says  
11 he can't pick me up, I have to catch her, so it is hard to  
12 say.

13 Q Do you have any recollection of going with her on  
14 a day to the baby sitter's right after work?

15 A Yes, she used to take me to the baby sitter's.

16 Q Do you have your child at the same baby sitter?

17 A Yes.

18 Q The same baby sitter where she has her child?

19 A Yes.

20 Q Where was this baby sitter?

21 A She lived on Tanney Avenue.

22 Q Do you know the address?

23 A 4333, I believe, Tanney Avenue.

1 Q Now, the times that you would go with the defendant,  
2 would she drive you over to the baby sitter's house?

3 A Yes.

4 Q What time would you get off?

5 A What day?

6 Q On the 5th of November.

7 A Well, on Friday I was scheduled to work until,  
8 twelve 'til seven-thirty.

9 Q Do you have any recollection as to whether you  
10 worked on that day?

11 MR. GREENBACKER: What day?

12 BY MR. COX:

13 Q On the 5th of November?

14 A Well, is the 5th a Friday?

15 MR. COX: I'm not sure.

16 THE COURT: Let's see -- well, that is one thing  
17 the court will take judicial notice of.

18 MR. COX: All right, Your Honor.

19 THE COURT: November the 5th, 1976, was a Friday.

20 BY MR. COX:

21 Q Now, do you have any recollection as to whether you  
22 worked on November the 5th, which was a Friday?

23 A I don't know.

1 Q Were you paid for that week?

2 A Yes.

3 Q Do you recall if you were not working any of those  
4 days of that week?

5 A No, I can't recall.

6 Q And, how many times would you say that you went  
7 with the defendant to the baby sitter's house?

8 A I can't say, it is hard to say.

9 Q Would it be more than five or less than five?

10 A Probably more than five times because it was a  
11 whole, solid week straight that I caught a ride home with her.

12 Q Well, what was the name of the baby sitter?

13 A Eva Sloan.

14 Q Did -- during any of those times that you went  
15 with the defendant to the baby sitter's, did you notice  
16 anything strange about her behavior?

17 A No.

18 Q Nothing unusual?

19 A No.

20 Q And, the times that you would go with her, you'd  
21 leave at seven-thirty or later or before or what?

22 A Well, it is really hard to say; sometimes the  
23 clerk's report is wrong and we have to stay and re-write them.

1 Sometimes we normally get out about a quarter to eight or  
2 eight o'clock or something like that.

3 Q Would this be on a Friday as opposed to any other  
4 day of the week?

5 A Well, that is the only time, is when we work from  
6 twelve to seven-thirty.

7 Q So, it takes you a while to leave, doesn't it,  
8 after you get off, is that correct?

9 A Yes.

10 MR. COX: You may examine.

11 CROSS EXAMINATION

12 BY MR. GREENBACKER:

13 Q Were you working with the defendant at the Cameron  
14 Station?

15 A Yes, sir.

16 Q Do you know how long it takes you to go from  
17 Cameron Station to the address in the 4300 block of Tanney  
18 Avenue?

19 A How much time does it take -- approximately ten  
20 minutes.

21 Q How much time?

22 A Approximately ten minutes.

23 MR. GREENBACKER: Nothing further.

~~THE COURT: Any more direct, Mr. Cox?~~

~~MR. COX: No, that's all I have of this witness.~~

~~THE COURT: Thank you, you are excused and free to go.~~

~~All right, call your next witness.~~

MR. COX: For my next witness I would like to call Mr. Donald F. Byers.

Whereupon,

DONALD F. BYERS,

was called as a witness by and on behalf of the defendant and, having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. COX:

Q Would you state your name for the record, please.

A Donald F. Byers.

Q Mr. Byers, where do you live?

A I live at 4124 Gaylesberry Lane, Chantilly, Virginia.

Q Mr. Byers, what is your occupation?

A I work for the Army and Air Force Exchange Services as a retail manager.

Q I see, and where do you perform your duties?

1 A Presently at Fort Myer.

2 Q Now, what were your duties on the 5th of November,  
3 1976?

4 A I was sales manager at Cameron Station's main PX.

5 Q Do you know the defendant?

6 A Yes, I do.

7 Q How do you know the defendant?

8 A She worked for the Cameron Station PX as a cashier  
9 checker.

10 Q And do you know what her tour of duties were on  
11 the 5th of November?

12 A Based on our time record, she reported for work at  
13 twelve o'clock and got off at seven-thirty.

14 Q Got off at seven-thirty -- that would have been a  
15 Friday, I believe?

16 A Friday night.

17 Q And, when are they paid, are they paid during the  
18 week or at the end of the week, or what?

19 A I believe that their pay day at that time was on  
20 Friday.

21 Q And are they paid at the end of the day or at the  
22 beginning of the day?

23 A That is really hard for me to say. They might be

1 paid in the middle of the day if their department managers or  
2 their first line supervisors issue them a check early but it  
3 would not be before two o'clock normally.

4 Q Mr. Byer, is there anything unusual about Fridays  
5 that would detain any of the employees, such as, the  
6 defendant, from getting away immediately from the job?

7 A Every night is the same way. The cashier checkers  
8 on duty -- the store closes at seven o'clock. First of all,  
9 they have to get all of the customers out of the store, which  
10 takes an undetermined amount of time. It is right at seven,  
11 or sometimes it might be seven-fifteen. Then they have to  
12 count their money and make out the clerk's report and turn in  
13 the money to our cashier's cage. I don't really know what  
14 you are asking me. It is possible that they would not always  
15 get out at a specified time.

16 Q Well, is the PX Exchange more busy on Friday, late  
17 afternoon or early evening, than as opposed to any other  
18 night during the week?

19 A It is the only night we are open until seven  
20 o'clock and at this particular time of year, it was during  
21 Christmas, the Christmas shopping season, so, yes, it would  
22 be busy then.

23 Q Now, Mr. Byer, what was the policy at the PX at

1 the Cameron Station with reference to the carrying of  
2 belongings to the cash register?

3 A They were not -- they were assigned a locker and  
4 their purse or any other personal belongings would be kept  
5 there; nothing would be kept at the cash registers.

6 Q And, would the PX Exchange provide employees with  
7 locks to go on the lockers, or was that up to the individual?

8 A Well, there are about five to fifty that we do  
9 have some locks that we assign to people but normally the  
10 newer people coming in would bring their own locks with them.

11 Q When did the defendant start to work at the  
12 Cameron Station, do you recall?

13 A I don't know offhand.

14 Mr. COX: All right, you may examine.

15 CROSS EXAMINATION

16 BY MR. GREENBACKER:

17 Q How often were the employees of that PX paid?

18 A Every two weeks.

19 Q What was the salary then?

20 A That is another hard question. We had many  
21 different pay scales. Probably \$2.47 an hour.

22 Q What was the work week?

23 A Thirty-four hours.

1 Q Thirty-four hours?

2 A Yes. That is for part-time and offhand I remember  
3 her as being part-time, which is up to thirty-four hours; it  
4 could be a little bit less but during that period of year it  
5 was at least thirty-four hours.

6 Q For every week?

7 A Well, not necessarily. It is a business -- if she,  
8 if the business requires her to work more than thirty-four  
9 hours, we would work her. But based on a normal schedule for  
10 part-time, it would be thirty-four hours.

11 C Well, then, her pay for a two-week period should  
12 encompass sixty-eight hours?

13 A Normally.

14 Q Okay. Thank you.

15 THE COURT: Any further questions, Mr. Cox?

16 MR. COX: No.

17 Thank you, Mr. Eyers.

18 THE COURT: All right. Thank you. You are  
19 excused and free to go.

20 Does that conclude your evidence with the  
21 exception of what you may wish to offer next week?

22 MR. COX: That's right.

23 THE COURT: Do you have any evidence you want to

1                   Whereupon,

2                                   EVA SLOAN,

3                   was called as a witness by and on behalf of the defendant and,  
4                   having been previously duly sworn, was examined and testified  
5                   as follows:

6                                   DIRECT EXAMINATION

7                   BY MR. COX:

8                   Q     Miss Sloan, would you state your name for the  
9                   record, please.

10                   THE COURT:   Just a minute, Mr. Cox. We will have  
11                   a short recess in this case for a moment, please.

12                                   (Whereupon, a short recess was taken.)

13                   THE COURT:   All right.

14                                   Now, this is the case of Commonwealth versus  
15                   Cynthia Warren.

16                                   Call your next witness again, please.

17                   MR. COX:   I'd call Miss Sloan back up to the  
18                   stand.

19                   BY MR. COX:

20                   Q     Would you state your name for the court, please.

21                   A     Eva Sloan.

22                   Q     Miss Sloan, where do you live?

23                   A     304 North Howard Street.

1 Q Do you know the defendant?

2 A Yes, I do.

3 Q How long have you known her?

4 A I've known her for a couple of months.

5 Q You've only known her for a couple of months.

6 THE COURT: Miss Sloan, you have to answer rather  
7 than shake your head.

8 BY MR. COX:

9 Q Now, did you know her last year --

10 MR. GREENBACKER: Objection. Asked and answered.  
11 He asked her how long she'd known her and she said two months.

12 BY MR. COX:

13 Q Well, let me ask you this, have you ever worked  
14 for the defendant?

15 A Yes.

16 Q In what capacity?

17 A Baby sitting.

18 Q When have you worked for the defendant as a baby  
19 sitter?

20 A I started baby sitting for her -- I really don't  
21 know when I started but I had been keeping the baby when she  
22 first asked me, but I don't remember when I started keeping  
23 her.

1 Q You don't remember when you started?

2 A No.

3 ~~Q Was it more than a couple of months~~

4 ~~MR. GREENBACKER: Objection.~~

5 ~~BY MR. COX:~~

6 ~~Q Or less than a couple of months?~~

7 ~~MR. GREENBACKER: Objection.~~

8 ~~THE COURT: Overruled. You can answer the~~  
9 ~~question.~~

10 ~~A Could you repeat the question?~~

11 ~~Q All right.~~

12 ~~Was it more than a couple of months ago or less~~  
13 ~~than a couple of months ago?~~

14 A More.

15 ~~Q So, all the time, you've known her longer than two~~  
16 ~~months then?~~

17 ~~MR. GREENBACKER: Objection.~~

18 ~~THE COURT: Objection sustained. You are leading~~  
19 ~~the witness.~~

20 ~~BY MR. COX:~~

21 ~~Q Were you working for the defendant back in~~  
22 ~~November of 1976 as a baby sitter?~~

23 A Yes.

1 Q Directing your attention to the 5th of November,  
2 did you have the occasion to see Cynthia Warren that day?

3 A Yes, I did.

4 Q What time did you see the defendant?

5 A She brought her son over at four o'clock so I could  
6 baby sit.

7 Q She brought the son over at four o'clock?

8 A Yes.

9 Q Did she pick her son up?

10 A Yes, she did.

11 Q What time did she pick her son up?

12 A Approximately five after eight when she came and  
13 got the baby.

14 Q Was anybody with her?

15 A Not at that time.

16 Q Well, did you see somebody with her shortly after  
17 this, or what?

18 MR. GREENBACKER: Objection.

19 A Yes, because Mrs. Clownley came in right after she  
20 did to get her little girl. Her little girl left her glove up  
21 there at the time Miss Warren came in. Mrs. Clownley knocked  
22 on the door right behind Miss Warren.

23 Q That was on the 5th of November?

1 A Yes, sir.

2 Q Approximately five after eight?

3 A Yes, sir.

4 Q When she appeared at your place, was there -- did  
5 you notice anything unusual about her behavior?

6 A No.

7 Q Thank you.

8 MR. COX: You may cross examine.

9 CROSS EXAMINATION

10 BY MR. GREENLACKER:

11 Q You say you've only known the defendant for two  
12 months?

13 A I did not say two months.

14 Q Oh, you did not? How long have you known her then?

15 A I've been knowing her -- I've been seeing her where  
16 we used to stay, but I've been knowing her ever since last  
17 year.

18 Q How often did you see her with the lady?

19 A Mostly every day.

20 Q Seven days a week?

21 A Yes, sir.

22 Q So when you say you have a recollection of  
23 November the 5th, couldn't it just as easily have been the  
4th of November?

1 A No.

2 Q How about the 6th?

3 A No, sir.

4 Q Well, now is it that you remember the 5th?

5 A Because the 5th of November, I remember that  
6 because I was baby sitting for a couple of more young ladies  
7 when this other lady came in and she said that they would be  
8 there but she did not know what time and, um, I was keeping  
9 all of the kids at that time.

10 Q You keep a lot of kids, don't you?

11 A Yes.

12 Q So it is not unusual for that kind of thing to  
13 happen, is it?

14 A No, sir.

15 Q Couldn't the time have been different, couldn't it  
16 have been three-thirty that you saw her?

17 A No, sir.

18 Q How about five or six?

19 A No, I did not see her at that time.

20 ~~MR. GREENBACKER: I have nothing further.~~

21 ~~THE COURT: Any further questions of the witness?~~

22 ~~MR. COX: No, Your Honor, that will be all I have~~

23 ~~of the witness.~~

1 ~~THE COURT: All right. Thank you, Miss Sloan, you~~  
2 ~~are excused and free to go.~~

3 ~~(Witness excused.)~~

4 ~~THE COURT: All right, call your next witness.~~

5 MR. COX: For my next witness I'd like to call  
6 Mr. King.

7 Whereupon,

8 RANDOLPH EDWARD KING,

9 was called as a witness by and on behalf of the defendant and,  
10 having been previously duly sworn, was examined and testified  
11 as follows:

12 DIRECT EXAMINATION

13 BY MR. COX:

14 Q Would you state your name for the court, please?

15 A Randolph Edward King.

16 Q Mr. King, where do you live?

17 A 1407 King Street.

18 Q What do you do for a living?

19 A I own King's Bike and Variety; I fix bicycles.

20 Q Do you know the defendant?

21 A Yes, I do.

22 Q How long have you known her?

23 A Uh, two or three years, three years.

1 Q As a matter of fact, you are her fiancé?

2 A I was.

3 Q You are no longer?

4 A No, sir.

5 Q When were you her fiancé?

6 A Up until about a month or so ago.

7 Q And, then, taking it back for a month or so, when  
8 did you stop being her fiancé?

9 A A year or a year and a half ago I'd say.

10 Q All right, Mr. King, directing your attention to  
11 November the 5th, did you have occasion to be in the company  
12 of your fiancée?

13 A Yes.

14 Q What hour of the day were you in her company?

15 A Well, I had been there all night, you know. I was  
16 living with her.

17 Q Where was that?

18 A Sterling Park.

19 Q And what did you do when you got up?

20 A Well, we came to town like we always do.

21 Q Came to town?

22 A What I mean is that we came in town from Sterling  
23 Park, downtown Alexandria.

Q What did you do, what time did you get into

1 Alexandria?

2 A Normally I'd get down here about a quarter of ten,  
3 or something like that, you know. It would take us about an  
4 hour to come in.

5 Q Do you recall what you did when you got into the  
6 city on the 5th of November?

7 A Yes, sir.

8 Q What?

9 A We stopped at the bank in Landmark.

10 Q What time was that?

11 A I'm going to say about twenty minutes to ten, I  
12 guess -- something like that.

13 Q And do you recall the transaction at the bank?

14 A Part of it.

15 Q Well, tell the court what happened.

16 A She cashed a check.

17 Q Do you recall how much she got for the check?

18 A Three and some dollars -- I don't know exactly how  
19 much it was, you know. I know it was three hundred because I  
20 saw three written out on the check, you know. What I mean is  
21 I know she did not get three cents or three dollars or thirty  
22 dollars. She was going to rent an apartment, you know.

23 Q Do you recall what the number of the check was?

1 A No.

2 Q And what did you do after you got finished at the  
3 bank? -- Strike that. Do you recall anything unusual about  
4 the transaction? Did she have a hard time getting money?

5 A I don't think so.

6 Q Do you recall any conversations there may have been?

7 A I was watching the kids.

8 Q Well, whose baby was with you?

9 A Her baby.

10 Q What did you do when you finished at the bank?

11 A Went to the post office.

12 Q What did you do at the post office?

13 A When we got there she went in and got a money order.

14 Q How long was she in there?

15 A Maybe ten minutes, I guess, I don't know.

16 Q What happened next?

17 A We went down to Richmond Highway, Southern Manor  
18 Apartments because she had talked to some people about getting  
19 an apartment. That is what the money order was for.

20 Q I see.

21 What time did you get down there?

22 A Well, I am going to say now it is an hour or so  
23 later. I'd say about quarter of eleven or something like that,  
I would guess.

1 Q How long were you at the Southern Manor Apartments?

2 A Maybe thirty-five or forty minutes.

3 Q What did you do then?

4 A She brought me to work.

5 Q Drove you up to your place of business?

6 A Right.

7 Q That is located where?

8 A 1407 King Street.

9 Q So you live at your business place?

10 A Right.

11 Q What time did she drop you?

12 A Well, it was close to twelve. I'll say quarter of  
13 twelve. I had missed some morning sales and I wanted to get  
14 to work, so it was a quarter of twelve or ten of twelve.

15 Q When she dropped you, where was the baby?

16 A The baby was in the car.

17 Q And when was the next time that you saw the  
18 defendant?

19 A When she came to pick me up that night when I  
20 closed my place of business.

21 Q What time was that?

22 A Anytime after six o'clock; by it being in the  
23 winter time, I close up any time after six o'clock. She would

1 Q Where was this?

2 A Cameron Station.

3 Q When was she going to be there?

4 A Well, I think she was working four hours sometimes  
5 and then five hours sometimes, so she would go in late, you  
6 know, but I think she had to be there at twelve o'clock or  
7 something like that this particular day.

8 Q Any reasons why -- you saw a lot of her during  
9 that time, did you not?

10 A I was living with her.

11 Q Where were you living?

12 A In Sterling Park.

13 Q What was the street address?

14 A Heel Street. I don't remember the number. She  
15 probably can tell you.

16 Q How long had you been living there?

17 A We'd been there in Sterling Park a month.

18 Q How long did you stay there?

19 A On Heel Street?

20 Q Yes.

21 A We moved out of there into Southern Manor.

22 Q Do you know where she was living before she lived  
23 on Heel Street?

1 come down and leave around eight-thirty or nine, something  
2 like that.

3 Q But you don't recall the specific time?

4 A No.

5 Q Do you recall if she had her baby with her when  
6 she picked you up?

7 A Yes, I think she had him.

8 Q Did you notice anything unusual about her behavior  
9 at that time?

10 A Like what? I didn't notice anything unusual.

11 Q Now, before she dropped you off at your shop in the  
12 morning, did she stop at the Duke Street bank of the Burke &  
13 Herbert Trust Company?

14 A We made two stops, one in Landmark and one at the  
15 post office and then down there. We did not stop at Duke  
16 Street.

17 Q All right.

18 MR. COX: You may examine.

19 CROSS EXAMINATION

20 BY MR. GREENBACKER:

21 Q Miss Warren was not working on the day in question,  
22 was she?

23 A She was going to work.

1 A Yes.

2 Q Where was that?

3 A On Tanney Avenue.

4 Q That was the address she had preceding that one?

5 A It would be something like 433, or something like  
6 that.

7 Q Tanney Avenue?

8 A Yes.

9 Q Did you maintain a separate address at all?

10 A Did we maintain a separate address?

11 Q Did you have a separate address other than where  
12 she was?

13 A We knew we were not going to stay there that long  
14 because it was too far for me coming back and forth to work.

15 Q And those events occurred that you have testified  
16 to, when?

17 A November the 5th.

18 Q It couldn't have been November the 3rd, could it?

19 A Well, no, sir, I don't think so. It was not  
20 November the 3rd.

21 Q How about the 9th?

22 A I think it was November the 5th.

23 Q After she took you over to your place of business,

1 you did not see her until that evening, is that right?

2 A I talked with her but I did not see her.

3 Q When was it that she left you, dropped you off?

4 A About a quarter of or ten after twelve. I don't  
5 remember. It was somewhere close to that. I saw some of the  
6 school kids that got out at twelve and they catch the bus in  
7 front of my place.

8 Q Could it have been a quarter of one?

9 A No, sir. I called her somewhere between one and  
10 she was at work then.

11 Q It couldn't have been a quarter of eleven?

12 A No, sir.

13 Q I am going to show you Commonwealth's Exhibit No. 1  
14 does that look familiar to you?

15 A This is one of her checks.

16 Q Yes. Is that her signature on it?

17 MR. COX: Objection. He has not laid a proper  
18 foundation.

19 THE COURT: Objection sustained.

20 MR. GREENBACKER: A proper foundation?

21 A Yes, it looks like it but I don't know.

22 Q Are you familiar with her signature?

23 A Not like mine but I'd probably be able to tell the

1 ~~difference.~~

2 Q You lived with her for how many years?

3 A I did not say I lived with her a whole lot of years.  
4 I met her two or three -- let's see.

5 Q Just how long did you live with her?

6 A About a year maybe.

7 Q Okay. You saw her sign her name on a number of  
8 occasions, didn't you?

9 A A few.

10 Q And you say this looks like her signature?

11 MR. COX: Your Honor, I object.

12 A It could be. I could not swear to it. I can only  
13 swear to mine.

14 THE COURT: Objection sustained.

15 MR. GREENBACKER: Nothing further.

16 THE COURT: Any further questions of this witness,  
17 Mr. Cox?

18 MR. COX: No, Your Honor.

19 THE COURT: Thank you, Mr. King. You are excused  
20 and free to go.

21 (Witness excused.)

22 THE COURT: All right, call your next witness.

23 MR. COX: For my next witness I would like to call

1 Ethel Turner.

2 Whereupon,

3  
4 ETHEL TURNER,

5 was called as a witness by and on behalf of the defendant and,  
6 having been previously duly sworn, was examined and testified  
7 as follows:

8 DIRECT EXAMINATION

9 BY MR. COX:

10 Q Miss Turner, for the record, would you state your  
11 name, please.

12 A Ethel G. Turner.

13 Q Miss Turner, where do you live?

14 A I live at 433 Duke Street, Apartment 3-D.

15 Q Now, do you know the defendant?

16 A Yes, I do.

17 Q How do you know her?

18 A That is my sister.

19 Q And back in November and October of last year, was  
20 she living with you?

21 A No, she was not.

22 ~~Q Well, do you know during that same period of~~  
23 ~~time, did she use your address for mailing purposes?~~

~~MR. CROSSBACK: Objection, Your Honor. It is~~

1 ~~leading and I also think that she said she was not living~~  
2 ~~with her.~~

3 THE COURT: Objection overruled

4 BY MR. COX:

5 Q Did she have arrangements with you as far as mail  
6 was concerned?

7 A Yes, she did, when she were living with me. When  
8 she were living with me and one time before she moved she  
9 asked could her mail come to my address.

10 Q Well, when did she live with you?

11 A I think September, I'm not sure. Then she was  
12 going to get an apartment out in Sterling Park.

13 Q When did she move out to Sterling Park, do you  
14 recall?

15 A Sometime in November, the last of November, or  
16 something, I really cannot say.

17 Q When did she move from Alexandria to Sterling Park?

18 A When did she move from Alexandria to Sterling Park?

19 Q Yes.

20 A Last of September or October, along there.

21 Q During that period of time she was out at Sterling  
22 Park, she had arrangements with you, is that your testimony?

23 A Yes, for her mail to come to my address 'til she  
got settled.

1 Q When did she move back from Sterling Park?

2 THE COURT: Back to where?

3 BY MR. COX:

4 Q Do you know if she moved from Sterling Park?

5 A Yes, she moved from Sterling Park, yes.

6 Q When and where?

7 A She moved from Sterling Park sometime during  
8 November. I don't know the date or anything.

9 Q Where did she move to?

10 A Out in Fairfax County.

11 Q Do you recall whether it was Fairchild Drive or  
12 something?

13 A I don't know the address.

14 Q Was this a house or an apartment?

15 A It was an apartment.

16 Q And you say that was sometime in November when she  
17 moved from Sterling Park to Fairchild Street or Drive,  
18 whatever?

19 A Yes, Drive.

20 Q Now, up until the time of this month, did you  
21 receive any letters at your apartment --

22 ~~MR. GREENBACKER: I am going to object to the~~

23 ~~asked line of questioning. He said he needed a court order~~

1 ~~to present evidence of an alibi nature, corroborative~~  
2 ~~evidence.~~

3 THE COURT: We did not foreclose other evidence,  
4 Mr. Greenbacker. We continued these witnesses over because  
5 we reached the late hour of the day.

6 MR. GREENBACKER: It was understood that he  
7 couldn't call other witnesses. Was she here the other day?  
8 Your Honor, counsel came up to the bench on the morning of  
9 day the trial was supposed to resume and advised the court  
10 he could not proceed any further because of something -- one  
11 of the other witnesses had said the day before -- it had  
12 taken him by surprise, so therefore he needed to respond to  
13 the statements that were made by that witness.

14 THE COURT: Well, I am not entirely clear but I am  
15 not going to foreclose his defense.

16 MR. GREENBACKER: All right, sir.

17 BY MR. COX:

18 Q During this period of time that she was living out  
19 at Sterling Park up until the time she moved to Fairchild  
20 Drive, did you receive any mail at your address to your  
21 sister, the defendant?

22 A Yes, I did.

23 Q Who was that mail from?

1           A     I got a letter from Speigle and then I got another  
2 letter from Speigle's for Cynthia.

3           Q     Did you ever receive anything from the Burke &  
4 Herbert Bank and Trust, mail addressed to Cynthia Warren?

5           A     Not in November that I can recall, other than  
6 stating when the holidays -- that the bank would be closed  
7 until the 26th or something like that.

8           Q     Did you receive any other mail from the Burke &  
9 Herbert Bank addressed to Cynthia Warren --

10           MR. GREENBACKER: Objection. He is asking whether  
11 she received any mail from Burke & Herbert -- that was his  
12 first question. She gave him a response. Now he is asking  
13 the same question again.

14           THE COURT: Objection overruled.

15           BY MR. COX:

16           Q     Were there any other letters from Burke & Herbert?

17           A     Not that I can recall, no.

18           MR. COX: You may examine.

19           CROSS EXAMINATION

20           BY MR. GREENBACKER:

21           Q     Have you known your sister all of your life?

22           A     Yes.

23           Q     Let me ask you -- are you familiar with your

1 sister's signature? You have seen her sign her name a lot?

2 A I have not seen her sign her name a lot.

3 Q I see.

4 A I have seen her write.

5 Q Would you recognize her writing if you saw it?

6 A Well, I'm not a good expert on that.

7 Q Well, I understand that. I'm not asking if you are  
8 an expert in handwriting but you've seen your sister's  
9 writing a lot, haven't you?

10 A Yes.

11 ~~MR. COX: Your Honor, I'm going to object to this~~  
12 ~~line of inquiry. I think that unless he qualifies her as an~~  
13 ~~expert, I don't see where she's qualified to testify as to~~  
14 ~~whether a particular signature was authorized or written by~~  
15 ~~such a person.~~

16 MR. GREENBACKER: Your Honor, any person that is  
17 familiar with a person's writing can testify.

18 THE COURT: Isn't that the law, Mr. Cox. The  
19 layman who is familiar with the signature of the person in  
20 question may testify as to whether or not it appears to be  
21 the same.

22 MR. COX: Your Honor, --

23 THE COURT: And if sufficient foundation is laid,

~~In terms of familiarity.~~

MR. COX: I think so, Your Honor, but the Commonwealth had ample opportunity when it was putting on its case in chief to develop any testimony or evidence of that nature.

THE COURT: Are you saying these questions are exceeding the scope of direct examination? I did not hear you say that. Do you want to make her your witness?

MR. GREENBACKER: Yes.

THE COURT: All right, she's your witness.

BY MR. GREENBACKER:

Q I show you Commonwealth's Exhibit No. 2 and I'd like to draw your attention to the writing on there. Do you know whose writing that is, can you tell?

A Not really.

Q What about the signature line?

A No, if I recall, she does not write like that.

THE COURT: What did you say?

THE WITNESS: If I recall, I cannot really say.

No, I cannot say.

BY MR. GREENBACKER:

Q You cannot say on that?

A No.

~~MR. GREENBACKER: Nothing further.~~

1 ~~THE COURT: Any questions, Mr. Cox?~~

2 ~~MR. COX: No.~~

3 ~~THE COURT: Thank you, ma'am. You are excused and~~  
4 ~~free to go.~~

5 ~~(Witness excused.)~~

6 MR. COX: I'd just like to recall the defendant.

7 Whereupon,

8 CYNTHIA WARREN,

9 was recalled as a witness and, having been previously sworn,  
10 was further examined and testified as follows:

11 ~~DIRECT EXAMINATION~~

12 ~~BY MR. COX:~~

13 ~~Q Miss Warren, I just have a few questions.~~

14 ~~Can you identify these pieces of paper I am going~~  
15 ~~to hand you?~~

16 ~~THE COURT: Can we have them marked?~~

17 ~~BY MR. COX:~~

18 ~~Q I am going to hand you what has been marked for~~  
19 ~~identification as Defense Exhibits M and N, and ask if you~~  
20 ~~can identify them.~~

21 ~~A Yes, I can.~~

22 ~~Q Would you please tell the court what they are.~~

23 ~~A They are two sets of customer receipts for money.~~

1 One is for \$300 and one is for \$16.

2 Q Well, do you recall when you received those pieces  
3 of paper?

4 A November the 5th, 1976.

5 Q Do you remember where you got those pieces of  
6 paper from?

7 A Yes, the post office on Washington Street.

8 Q Do you recall what time of day it was?

9 A It had to be around between ten thirty and quarter  
10 to eleven.

11 Q What did you do after you got those receipts?

12 A I went straight to the Seven Manor Apartments to  
13 present these to the rental office for a deposit on my  
14 apartment.

15 Q I've got one more question. Do you have any  
16 recollection of the testimony of Mr. Taylor Burke, III, at  
17 the preliminary hearing down at the General District Court,  
18 do you have any recollection of that?

19 A Yes, I do.

20 Q Do you recall what his testimony was as far as  
21 when the check for \$324.00 was presented at the Burke &  
22 Herbert Bank at Landmark?

23 A Yes, I do.

1 Q What is your recollection?

2 A He stated at the preliminary hearing I was at the  
3 bank between five and eight on November the 5th.

4 MR. COX: You may examine.

5 CROSS EXAMINATION

6 BY MR. GREENBACKER:

7 Q Do you have a lot of piles of postal money orders,  
8 ma'am?

9 A At the time when I send off my bills.

10 Q How do they go about issuing those, how does the  
11 man behind the counter proceed?

12 A He fixes up a money order.

13 Q He fills in the amount?

14 A Yes.

15 Q He does it with a machine, right?

16 A Yes.

17 Q And on this particular day, the 5th of November,  
18 1976, he pulled out two money orders and made them out for  
19 you, right?

20 A Yes.

21 Q One right after the other?

22 A Right.

23 Q All this occurred at the same time?

1 A Yes, it did.

2 Q These things were absolutely the same except after  
3 he filled it out, correct?

4 A Yes.

5 Q The only thing he filled out was the amount and  
6 the date?

7 A Yes.

8 Q Okay, but outside of those two things, these  
9 receipts are exactly the same?

10 A No.

11 Q Where do they differ?

12 A The difference was, one was \$300 and one was \$16.

13 Q But you got them in one transaction, didn't you?

14 A Yes, that's right.

15 Q Why did you get two different money orders rather  
16 than one?

17 A Because the postmaster told me that there was -- I  
18 was not allowed to get a money order for \$316. I'd have to  
19 get two different money orders because it was against federal  
20 law.

21 Q Do you know any reason why it is, ma'am, that the  
22 serial numbers are different on those two, not by one digit  
23 but by two digits. Why after that long stream of numbers

1 this says 71 and one says 92?

2 A No, I do not.

3 Q But this was all one transaction on the 5th?

4 A Yes, it was.

5 Q You did not get two money orders at two different  
6 times that day, did you?

7 A I got both of them at the same time.

8 MR. GREENBACKER: Okay, nothing further.

9 MR. COX: You may step down.

10 Your Honor, that will conclude the case for the  
11 defendant.

12 At this time I'd like to introduce any and all  
13 exhibits that I have previously moved into evidence.

14 THE COURT: All right, let's take them one at a  
15 time. What is A? Is that a copy of the envelope.

16 MR. COX: I think B is a copy of the envelope.

17 THE COURT: You mean, B and A. This is it -- no.  
18 The bank statement should be A; make the copy of the  
19 envelope B; they have both been admitted.

20 All right, C. C has not been offered.

21 Any objection to C?

22 MR. GREENBACKER: Which one is that, Your Honor?

23 THE COURT: It is the deposit ticket for October,

1 ~~THE COURT: The security deposit receipt from~~  
2 ~~Southern Manor Apartments given to the defendant in the~~  
3 ~~amount of \$316.00, dated November 5, 1976.~~

4 ~~MR. GREENBACKER: No problem with that.~~

5 ~~THE COURT: It will be admitted.~~

6 ~~(The document previously referred~~  
7 ~~to as Defendant's Exhibit L was~~  
8 ~~received in evidence.)~~

9 ~~THE COURT: M and N are two receipts for money~~  
10 ~~orders which I have just described. They will be admitted.~~

11 ~~(The documents previously referred~~  
12 ~~to as Defendant's Exhibits M and~~  
13 ~~N were received in evidence.)~~

14 ~~THE COURT: The defense rests?~~

15 ~~MR. COX: Yes, Your Honor, I have a motion.~~

16 ~~THE COURT: Do you wish to renew your motion?~~

17 ~~MR. COX: Yes, Your Honor.~~

18 ~~THE COURT: Your motion will be denied.~~

19 ~~MR. GREENBACKER: The Commonwealth would like to~~  
20 ~~call Mr. Burke to the stand again for the limited purpose of~~  
21 ~~taking a look at the exhibits and comparing writing.~~

22 ~~MR. COX: He had a chance to do that in his case~~  
23 ~~in chief.~~

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF ALEXANDRIA

COMMONWEALTH OF VIRGINIA

V

CYNTHIA A. WARREN 31 ✓

DEFENDANT

ORDER F-3189

This day again came the Attorney for the Commonwealth and the defendant, Cynthia A. Warren, who stands indicted for a felony, to-wit: unlawfully and feloniously and with intent to defraud, did make, draw, utter and deliver a certain check knowing at the time she had not sufficient funds or credit with the bank, appeared in Court according to the conditions of her recognizance, and came also Charles Cox, her attorney.

This matter came on to be heard this day having been continued from June 24, 1977.

Whereupon, the Court continued to hear evidence presented by the defendant. At the conclusion of all the evidence and argument of counsel, the Court doth find the accused GUILTY of Uttering with intent to defraud, as charged in the indictment.

The Court, on motion of the defendant by counsel, before fixing punishment or imposing sentence, doth direct the Probation Officer of this Court to thoroughly investigate and report to the Court as provided by law, on the 9th day of August, 1977, at 10:00 o'clock a.m., to which date this case is continued.

And the defendant is allowed to depart according to the conditions of her recognizance.

*Wiley R. Wright, Jr.*

Wiley R. Wright, Jr., Judge

Entered June 30, 1977

Common Law Order Book

ORDER F-3189

This day came the Attorney for the Commonwealth and the defendant, Cynthia A. Warren, (dob 12-26-47), who stands convicted of Uttering with intent to defraud, appeared in Court according to the conditions of her recognizance, and came also Charles Cox, her attorney heretofore appointed.

And the Probation Officer of this Court, to whom this case has been previously referred for investigation, appeared in open court with a written report, which report she presented to the Court in open court in the presence of the defendant who was fully advised of the contents of the report and a copy of said report was also delivered to counsel for accused.

Thereupon, the defendant and her counsel were given the right to cross-examine the Probation Officer as to any matter contained in the said report and to present any additional facts bearing upon the matter as they desired to present. The report of the Probation Officer is hereby filed as a part of the record in this case.

Whereupon, the Court taking into consideration all of the evidence in the case, the report of the Probation Officer, and it being demanded of the defendant if anything for herself she had or knew to say why judgment should not be pronounced against her according to law, and nothing being offered or alleged in delay of judgment, it is accordingly the judgment of this Court that the defendant is hereby sentenced to confinement in the penitentiary of this Commonwealth for the term of three (3) years, the execution of all of which sentence is hereby suspended conditioned upon her uniform good behavior.

It is further ordered that as a special condition of the suspended sentence the defendant serve sixty (60) days in the Alexandria City Jail, said sentence to begin on Monday, October 17, 1977 at 4:00 o'clock a.m. It is further ordered that during the period of incarceration the defendant may participate in a "Work Release Program" and that she shall abide by the rules and regulations of said program.

It is further ordered that upon the defendant's release from incarceration she shall be placed on probation under the supervision and control of a Probation Officer of this Court and further ordered that the defendant make restitution in the amount of \$ 324.00

It is further ordered that the defendant pay the costs of prosecution in the amount of \$ 105.00.

After pronouncing sentence, the Court advised the defendant of her right to appeal her conviction and sentence to the Supreme Court of Virginia and of her right to court appointed counsel to represent her upon her appeal, and the Court also informed the defendant that her notice of appeal must be filed with the Clerk of this Court within thirty (30) days from the date hereof.

The Court orders that the defendant be allowed 0 days credit for the time spent in jail awaiting trial.

The Court certifies that at all times during the trial of this case the defendant was personally present and her attorney was likewise personally present and capably represented the defendant, for which services he is allowed an attorney's fee of \$200.00.

And the defendant is allowed to depart according to the aforementioned conditions.

*Wiley R. Wright, Jr.*

Wiley R. Wright, Jr., Judge  
Entered: October 11, 1977  
Common Law Order Book

Page

### ASSIGNMENT OF ERRORS

1. The trial judge erred in denying the Motion to Quash Indictment.
2. The trial judge erred in denying defense counsel's Motion to Strike the Commonwealth's Evidence at the conclusion of the Commonwealth's case-in-chief, and, again, at the conclusion of the defendant's evidence.
3. The evidence adduced was insufficient as a matter of law to warrant a judgment of conviction.

Mrs Cynthia A. Warren  
 4331 Duke Street  
 Apartment D-3  
 Alexandria, Virginia 22304

Burke & Herbert Bank  
 & Trust Company  
 Alexandria, Virginia

CHECKS IN DETAIL	DEPOSITS	DATE	BALANCE
BALANCE FORWARD		NOV 8'76	9.43 +
1.00 - SC		NOV 24'76	8.43 *

DEFENDANT'S  
 EXHIBIT NO. A  
~~IDENT.~~ WRW  
 6-23-77

THE LAST AMOUNT IN THIS  
 COLUMN IS YOUR BALANCE

- KEY
- CM - CREDIT MEMO.
  - ND - NOTE DISCOUNTED
  - CL - COLLECTION
  - EC - ERROR CORRECTED
  - OD - OVERDRAWN
  - RT - RETURNED ITEM
  - CC - CERTIFIED CHECK
  - DM - DEBIT MEMO.
  - SC - SERVICE CHARGE

This statement is furnished to our customers instead of balancing pass books. It saves you the trouble of bringing the pass book to the bank to be balanced. These statements will be found very convenient to check up and file. If no error is reported within ten days, account will be considered correct. Kindly notify the bank of any change of address.  
 USE YOUR PASS BOOK ONLY AS A RECEIPT FOR DEPOSITS.

BURKE & HERBERT BANK & TRUST COMPANY

P.O. BOX 804

ALEXANDRIA, VIRGINIA 22313

PLEASE RETURN IF NOT DELIVERED IN 5 DAYS



7 6 0 0 5

68-106 PAY ANY BANK, P.E.R.  
Burke & Herbert  
Bank & Trust Co.  
ALEXANDRIA  
VIRGINIA 68-106

177  
68-106

DEFENDANT'S  
EXHIBIT NO. *BWRW*  
IDENT.

*6-23-77*

DEPOSITED WITH

SEE THAT ALL CHECKS AND DRAFTS ARE ENDORSED

**Burke & Herbert Bank & Trust Co.**

ESTABLISHED 1882

CHARTERED 1888

**DUPLICATE**

	DOLLARS	CENTS
<b>CURRENCY</b>		
<b>CHECKS</b> <small>(CHECK SEPARATELY OR ATTACH LIST)</small>	50	-
1		
2 OCT 2 2 1976 2		
3		
4		
5		
6		
7		
8		
9		
<b>TOTAL \$</b>	50	-

FOR CREDIT TO

NAME C.A. Warren

ADDRESS \_\_\_\_\_

CITY/STATE \_\_\_\_\_

DATE \_\_\_\_\_ 19 \_\_\_\_\_

**BURKE & HERBERT  
BANK AND TRUST COMPANY  
ALEXANDRIA, VA.**

LM LM

SUBJECT TO CONDITIONS AS PRINTED ON THE REVERSE SIDE OF THIS TICKET

**DEFENDANT'S  
EXHIBIT NO. C WRW  
REF: 6-23-77**

All Items Credited Subject to Payment

DATE 11-3- 1976  
DEPOSIT \$ 225.00

DEFENDANT'S  
EXHIBIT NO. D  
IDENT. W.R.W.  
6-23-77



*Def.'s Exh. D*

DATE 11-4- 1976  
DEPOSIT \$ 100-00

DEFENDANT'S  
EXHIBIT NO. E  
DEPT. WRW  
6-23-77



*Def.'s Exh. E*

BAL. FOR'D	335.00
DEPOSIT	100.00
TOTAL	335.00
THIS CHECK	
OTHER DED.	5.00
BAL. FOR'D	

DATE 11-5-76 \$3,250.00 109  
 TO Cash DEFENDANT'S  
 SELF *www* EXHIBIT NO. F  
 FOR ~~IDENT.~~ 6-23-77

DEPOSITED WITH

**Burke & Herbert Bank & Trust Co.**

ESTABLISHED 1852

CHARTERED 1933

FOR CREDIT TO

NAME C. Warren

ADDRESS \_\_\_\_\_

CITY/STATE \_\_\_\_\_

DATE \_\_\_\_\_ 19 \_\_\_\_\_

SUBJECT TO CONDITIONS AS PRINTED ON THE REVERSE SIDE OF THIS TICKET

SEE THAT ALL CHECKS AND DRAFTS ARE ENDORSED

	DOLLARS	CENTS
CURRENCY		
COIN		
CHECKS <small>LIST EACH SEPARATELY OR ATTACH LIST</small>		
1		
2		
3		
4		
5		
6		
7		
8		
9		
TOTAL	\$	145

DEFENDANT'S EXHIBIT NO.

~~EXHIBIT~~ *GURW*

6-23-77

All Items Credited Subject to Payment



DEPOSITED WITH

Burke & Herbert Bank & Trust Co.

ESTABLISHED 1852

CHARTERED 1933

SEE THAT ALL CHECKS AND DRAFTS ARE ENDORSED

FOR CREDIT TO

NAME Cynthia A. Warron

ADDRESS \_\_\_\_\_

CITY/STATE \_\_\_\_\_

DATE Oct 6 1977

SUBJECT TO CONDITIONS AS PRINTED ON THE REVERSE SIDE OF THIS TICKET

**RECEIVED**  
**DEPT. OF CORRECTIONS**  
**NOV 5 1977**  
**NY**  
**M**  
**Lin**

	DOLLARS	CENTS
CURRENCY	100	—
COIN		
<small>LIST EACH SEPARATELY OR ATTACH LIST</small>		
1		
2		
3	3	
4		
5		
6		
7		
8		
9		
TOTAL \$	100	—

All Items Credited Subject to Payment

DEFENDANT'S  
EXHIBIT NO. "I" WRON  
IDENT. - 6-23-77

*Def.'s Exh. I*

**ORDER FOR PERSONALIZED CHECKS - REGULAR FULL QUANTITY OR TRIAL OFFER**  
 PLEASE PRINT OR TYPE - ASK CUSTOMER TO REVIEW FOR CORRECTNESS

ACCOUNT NAME	CHOICE OF CHECK (COLOR OR DESIGN)	PT ILLUSTRATION NUMBER	STARTING NO. USE 101 OR HIGHER
DEFENDANT'S			No. UP
ADDRESS	CHOICE OF COVER (USE NAME OR CODE LETTERS)		
CITY & STATE			68-106
SPECIAL INSTRUCTIONS: IDENT. WRW 6-23-77			560

REGULAR ORDER  LH 200 REGISTER POCKET  NT 200 TOP-STUB POCKET  RJ 200 END-STUB POCKET  SD 300 SECRETARY DESK  SC 300 SECRETARY COMPACT  RJ-3 300 END-STUB DESK  FLW 150 NEWPORT DESK  OTHER STYLE

**Burke & Herbert Bank & Trust Co.**  
Alexandria, Va.

**D**

COMPLIMENTARY TRIAL OFFER  LH 50  RJ 50  SD 150  
 IF YOUR CUSTOMER HAS NOT USED PERSONALIZED CHECKS, HE MAY TRY ONE OF THESE WITH THE BANK'S COMPLIMENTS.

⑆0560⑆⑆0⑆06⑆⑆



**FOR DEPOSIT TO THE ACCOUNT OF**

NAME \_\_\_\_\_

\_\_\_\_\_ DATE \_\_\_\_\_

\_\_\_\_\_ 68-106  
560

CHECKS AND OTHER ITEMS ARE RECEIVED FOR DEPOSIT SUBJECT TO THE TERMS AND CONDITIONS OF THIS BANK'S COLLECTION AGREEMENT.

DEPOSITED IN **ITEMIZE DEPOSIT ON REVERSE SIDE. SHOW TOTAL DEPOSIT HERE** → \$ \_\_\_\_\_ TOTAL AMOUNT OF DEPOSIT

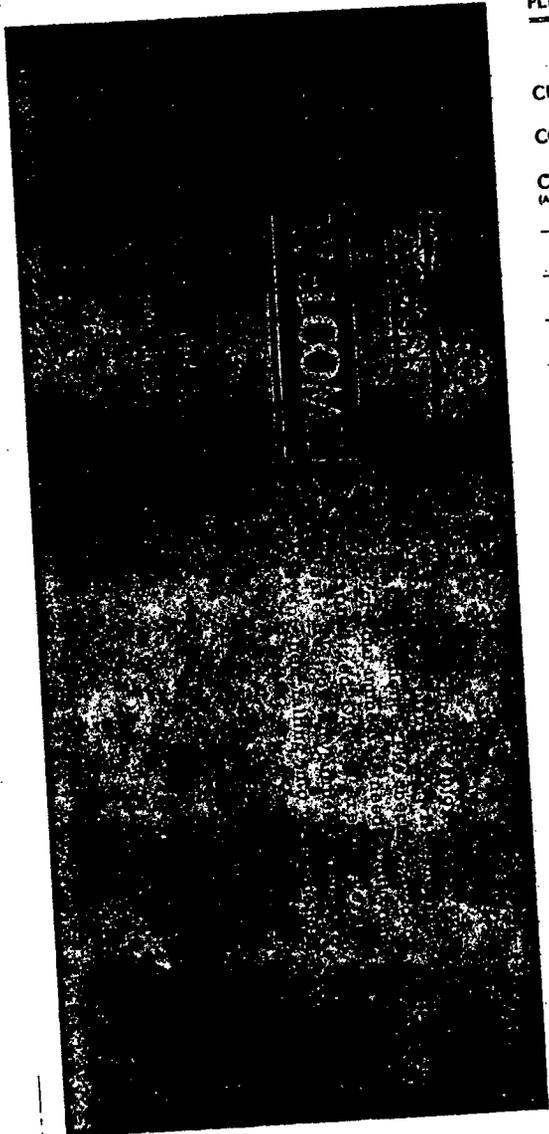
**Burke & Herbert Bank & Trust Co.**  
Alexandria, Va.

**NEW ACCOUNT DEPOSIT**

⑆0560⑆⑆0⑆06⑆⑆

DELUXE CHECK PRINTER NO. 7 HAD

*Ref.'s Exh. J*



PLEASE LIST EACH CHECK SEPARATELY BY BANK NUMBER

	DOLLARS				CENTS	
CURRENCY						
COIN						
CHECKS (Property Entered) (A.R.A. No.)						
<i>Rt.</i> 1				2	9	00
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
PLEASE FORWARD TOTAL TO REVERSE SIDE						

PLEASE BE SURE TO DEDUCT ANY PER CHECK CHARGES OR SERVICE CHARGES THAT MAY APPLY TO YOUR ACCOUNT

CHECK NO.	DATE	CHECKS ISSUED TO OR DESCRIPTION OF DEPOSIT	(-)		✓ T	(-) CHECK FEE (IF ANY)	(+)		BALANCE	
			AMOUNT OF CHECK				AMOUNT OF DEPOSIT			
5	10/7/76	CASH	20.00		✓				85	89
6	10/7/76	CASH	40.00		✓				45	89
7	10/7/76	Alex. Med. Hts Phar.			✓					

J cont.

PLEASE BE SURE TO DEDUCT ANY PER CHECK CHARGES OR SERVICE CHARGES THAT MAY APPLY TO YOUR ACCOUNT							NEW ACCOUNT DEPOSIT	
CHECK NO.	DATE	CHECKS ISSUED TO OR DESCRIPTION OF DEPOSIT	(-)		✓ CHECK FEE (IF ANY)	(+)		BALANCE
			AMOUNT OF CHECK	T		AMOUNT OF DEPOSIT		
	10/16	DEPOSIT	<del>230.00</del>			230.00		230.00
	10/16	"	<del>145.00</del>			145.00		375.00
1	10/16	R.F.S.	290.00	✓				85.00
	10/16	DEPT.				100.00		185.00
	<del>10/16</del>	<del>CASH</del>	<del>25.00</del>	✓				<del>160.00</del>
2	10/16	VERCO	29.11	✓				
3	10/16	CASH	30.00	✓				
4	10/16	CASH	20.00	✓				105.89

JAMES C. MORRISON 101  
 1745 SHERIDAN DRIVE  
 YOUR CITY, U. S. A. 12345

PAY TO THE ORDER OF *Northern Realty Co.* *January 3, 1974* *85.00*  
*Eighty-five and 00/100* DOLLARS

DELUXE National State Bank  
 Your City, U.S.A. 12345

*January Mortgage* *James C. Morrison*  
 ⑆2345⑆6789⑆ ⑆2345678⑆

**CHECK WRITING POINTERS...**

All checks must show the date, the party to be paid (payee), the amount, and the signature. The amount should be written in both figures and words, beginning at the far left as shown here. The signature must be written exactly the same as in the bank's records.

**GUARD AGAINST FORGERIES...**

Guard your checks carefully. Notify the bank if they are lost or stolen.

RECORD TEMPORARY USE CHECKS ON REVERSE SIDE

*Text.*

DEPOSITED WITH

Burke & Herbert Bank & Trust Co.

ESTABLISHED 1852

CHARTERED 1933

FOR CREDIT TO

NAME

*Cynthia Warren*

ADDRESS

CITY/STATE

DATE

19

SUBJECT TO CONDITIONS AS PRINTED ON THE REVERSE SIDE OF THIS TICKET

SEE THAT ALL CHECKS AND DRAFTS ARE ENDORSED

	DOLLARS	CENTS
CURRENCY		
COIN		
CHECKS <small>LIST EACH SEPARATELY</small>		
1		
2		
3		
4		
5		
6		
7		
8		
9		
TOTAL \$	20	—

All Items Credited Subject to Payment

DEFENDANT'S  
EXHIBIT NO. *K wpu*  
~~IDENT.~~ 6-23-77

move in 11-8-76

SOUTHERN MANOR  
RENTAL CENTER  
7242 Fordson Road  
Alexandria, Virginia 22306  
768-7600

SECURITY DEPOSIT RECEIPT

SOUTHERN MANOR APARTMENTS  
7114 FAIRCHILD DRIVE  
ALEXANDRIA, VIRGINIA 22306  
768-4600

No 2947

NAME	RENTAL ADDRESS	AMOUNT
Warren, Cynthia	7216 Fairchild Dr #1 Alex., Va. 22306	\$ 316.00

- Cash .....
- Check .....
- Money Order .....

1st and 2nd Deposit

All checks are accepted on condition that they be honored by makers bank upon presentation for payment. Interest on this deposit will accrue at the rate of 11/2% simple interest every six (6) months commencing from the date of this receipt. Interest shall not compound. No interest will be accrued on intervals of less than six (6) months.

Within 45 days after the end of the tenancy this deposit will be returned to the tenant together with accrued interest as aforesaid, less any damages rightfully withheld.

NOTE: Landlord shall upon written request promptly provide tenant with a written list of all existing damages. This request must be made within fifteen (15) days of the tenant's occupancy.

Cynthia Warren  
Tenant's Acknowledgment

B. Jones  
Payment received By:

11-5-76  
Date

DEFENDANT'S  
EXHIBIT NO. L  
WRW  
6-23-77

def.'s Exh. L

NOT  
NEGOTIABLE

CUSTOMER'S RECEIPT

NOT  
NEGOTIABLE

21696584681

761105

300\*00

SERIAL NUMBER

YEAR MONTH DAY

POST OFFICE

DOLLARS AND CENTS

AMOUNT OF ORIGINAL  
MONEY ORDER



PAY TO  
*Southern MANOR Apt.*

PURCHASED BY  
*Cynthia WARREN*

FOR *Dep. + Rt.*

**DEFENDANT'S  
EXHIBIT NO. 1**  
*6/30/77*

*M Warren*  
**Not  
Negotiable**

This receipt is your guarantee of a 100% refund if your money order is lost or stolen, provided you fill in the *Pay To* and *Purchased By* information on the money order in the space provided.

If your money order is lost or stolen, present this receipt and file a claim for a refund at your Post Office. Please allow 60 days before making a claim or inquiry.

*Def.'s Exh. M*

NOT  
NEGOTIABLE

**CUSTOMER'S RECEIPT**

NOT  
NEGOTIABLE

21696584692 761105 22777 \*36.00

SERIAL NUMBER

YEAR MONTH DAY

POST OFFICE

DOLLARS AND CENTS  
AMOUNT OF ORIGINAL  
MONEY ORDER



PAY TO  
*Southern Manor Apt.*  
**DEFENDANT'S  
EXHIBIT NO.**

PURCHASED BY  
*Cynthia WARREN*  
**IDENT.**  
FOR *Dep. + Rt.*

*WRW*  
**Not  
Negotiable**

This receipt is your guarantee of a 100% refund if your money order is lost or stolen, provided you fill in the *Pay To* and *Purchased By* information on the money order in the space provided.

If your money order is lost or stolen, present this receipt and file a claim for a refund at your Post Office. Please allow 60 days before making a claim or inquiry.

*Def.'s Exh. N*

CYNTHIA A. WARREN

109

DS-4

PAID  
CASH

11-5-1976 <sup>68-106</sup>/<sub>560</sub>

PAY TO THE ORDER OF

\$ 325.00

Three Hundred and Twenty Five - DOLLARS

Burke & Herbert Bank & Trust Co.

Alexandria Bank & Trust Co.

MEMO

Alexandria, Virginia

Cynthia A. Warren

⑆0560⑆⑆0106⑆⑆500⑆204⑆8⑆

⑆0000032500⑆

Conn.'s Exp. 1-A

108

CYNTHIA A. WARREN

63-106

INSUFFICIENT FUNDS

Unless Otherwise Noted

11-5-76 68-106  
560

324.00

PAY TO THE ORDER OF ACC: First

THREE One Hundred and Twenty Four DOLLARS

Refer To Maker

Endorsement

Cynthia A. Warren

Bank & Trust Co.

MEMO

05600106 2048 0000032400