

BINGANAN *v.* STATE.

Opinion delivered October 28, 1929.

FORGERY—MAKING INSTRUMENT TO DEFRAUD.—Drawing a check on a bank by a name by which the drawer is commonly known, though done for the purpose of defrauding, does not constitute forgery.

Appeal from Sebastian Circuit Court; *J. Sam Wood*, Judge; reversed.

John E. Tatum, for appellant.
Hal L. Norwood, Attorney General, and *Pat Mehaffy*,
Assistant, for appellee.

PER CURIAM. The Attorney General has properly confessed error on an appeal by the defendant from a judgment of conviction for forgery, and uttering a forged instrument. The facts bring the case squarely within the principles decided in *Harrison v. State*, 72 Ark. 117, 78 S. W. 763, and *State v. Adcox*, 171 Ark. 510, 286 S. W. 880. The instrument was not forged, but was simply a check drawn by the defendant on a bank by a name by which he was commonly known. Under the common law and under the statutes defining forgery, as at common law, the genuine making of an instrument for the purpose of defrauding does not constitute forgery.
