

GOSS *v.* STATE.

Opinion delivered January 28, 1905.

INSTRUCTION—REPETITION.—The refusal of a proper instruction was not error if the court had already given an instruction covering the same ground.

Appeal from Jefferson Circuit Court.

ANTONIO B. GRACE, Judge.

Affirmed.

Robert L. Rogers, Attorney General, for appellee.

The evidence in this case sustains the indictment for forgery and for the uttering and publishing.

WOOD, J. Appellant was convicted of forgery by raising a certain check. He testified that he "did not change the check in any way at any time," and he asked the court to instruct the jury as follows:

"2. If you believe from the evidence that the figures and characters \$7.70 were inserted in the check after the same left the defendant's hands, or in other way changed after, then said check was not the instrument of the defendant, and can not be considered as evidence against him, and you should acquit him."

This court refused, for the reason, we presume, that it had already given the following:

"If you are not satisfied by the evidence beyond a reasonable doubt that the defendant altered the check in question, or caused it to be done before he parted with the possession of it, you should find him not guilty."

This instruction covered the ground presented in appellant's request, and was in accord with *McDonnell v. State*, 58 Ark. 242. The jury was otherwise fully and correctly instructed.

Judgment affirmed.
