IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE
April 6, 2022 Session

STATE OF TENNESSEE v. RONALD LYONS, JAMES MICHAEL USINGER, LEE HAROLD CROMWELL, AUSTIN GARY COOPER, AND CHRISTOPHER ALAN HAUSER

Appeal by Permission from the Court of Criminal Appeals
Criminal Court for Davidson County
No. 2017-A-79 Cheryl A. Blackburn, Judge

No. M2019-01946-SC-R11-CD

The Uniform Commercial Code provides a mechanism for secured creditors to give notice to the world of their security interest in debtors' property as collateral for debt by filling out a form for a financing statement and posting it on the website for Tennessee's Secretary of State. In this case, that system was weaponized. Collectively, the defendants filed over a hundred bogus financing statements on the Secretary of State's website regarding over forty Tennessee residents, including judges, mayors, public officials, law enforcement officers, prosecutors, and ex-spouses. The online financing statements falsely claimed liens for the defendants' alleged security interest in the victims' property as collateral for millions of dollars in fictitious debt. All were done for the apparent purpose of vexing and harassing the victims. All of the defendants were convicted of multiple counts of filing a lien without a reasonable basis, a Class E felony, and forgery of at least $250,000, a Class A felony. We granted permission to appeal in this case to address the forgery convictions. We hold that the defendants' conduct fits within the statutory definition of forgery. We also hold that the evidence was sufficient to support the jury's finding that the apparent value associated with the fraudulent financing statements was over $250,000. Accordingly, we affirm the judgment of the Court of Criminal Appeals.

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

JEFFREY S. BIVINS, J., delivered the opinion of the Court, in which ROGER A. PAGE, C.J., and SHARON G. LEE, J., joined. HOLLY KIRBY, J., filed a separate opinion concurring in part and dissenting in part in which SARAH K. CAMPBELL, J., joined.

Manuel B. Russ, Nashville, Tennessee, for the appellant, Ronald James Lyons.

Matthew J. Crigger, Brentwood, Tennessee, for the appellant, James Michael Usinger.

Russell E. Edwards, Hendersonville, Tennessee, for the appellant, Lee Harold Cromwell.

Lesli O. Wright, Ashland City, Tennessee, for the appellant, Austin Gary Cooper.

Martesha L. Johnson, District Public Defender, and Emma Rae Tennent (on appeal), and Jared Mollenkof and Stella Yarbrough (at trial), Assistant District Public Defenders, for the appellant, Christopher Alan Hauser.

Herbert H. Slatery III, Attorney General and Reporter; Andrée Sophia Blumstein, Solicitor General; Ronald L. Coleman, Assistant Attorney General; Glenn R. Funk, District Attorney General; and Roger D. Moore, Deputy District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTUAL AND PROCEDURAL HISTORY

Defendants Ronald Lyons, James Michael Usinger, Lee Harold Cromwell, Austin Gary Cooper, and Christopher Alan Hauser were all named in a multi-count indictment by the Davidson County Grand Jury.[1] Collectively, the Defendants were charged with 102 counts of filing a lien without a reasonable basis, a Class E felony, and 102 counts of forgery of at least $250,000, a Class A felony.[2] See Tenn. Code Ann. §§ 39-14-105(a)(6) (2018 & Supp. 2020), 39-14-114 (2018 & Supp. 2020), 39-17-117 (2018).

The Defendants were tried together in a jury trial. The jury found each Defendant guilty as charged on all counts. The trial court sentenced Defendant Cooper to an effective sentence of fifty years; Defendant Cromwell to an effective sentence of twenty-five years; Defendant Hauser to an effective sentence of twenty years; Defendant Lyons to an effective sentence of twenty-two years; and Defendant Usinger to an effective sentence of twenty-one years.

[1] Defendant Cooper was charged with ten additional counts by the Davidson County Grand Jury in a second indictment. Three additional individuals, Michael Robert Birdsell, Victor D. Bunch, and Mark A. McConnell, were also charged in the indictments. They were not tried with the Defendants and are not at issue in this appeal.

[2] Defendant Cooper was charged with fifteen counts of each offense; Defendant Cromwell was charged with fourteen counts of each offense; Defendant Hauser was charged with twenty-one counts of each offense; Defendant Lyons was charged with thirty counts of each offense; and Defendant Usinger was charged with twenty-two counts of each offense.

Proof at Trial

The trial in this case included testimony from approximately thirty witnesses, including several of the victims. The victims included persons in prominent public service positions, as well as private citizens.

Some victims, such as Greene County Clerk and Master Kay Solomon Armstrong, testified they had never met the Defendants. Others, like former Tennessee Highway Patrol Colonel Tracy Trott and former Tennessee Department of Safety and Homeland Security Commissioner David Purkey, apparently became targets simply because their names had appeared on official state websites or letterhead.

Other victims, however, testified that they had interacted with one of the Defendants in an adverse way. For example, in 2016, Morristown police officer Richard Webb wrote Defendant Lyons a speeding ticket. Victim Melissa Hauser, Defendant Hauser's ex-wife, had taken him to court over child support.

Whatever the reason, none of the victims had business dealings or contractual relationships with any of the Defendants. None of the victims owed money to any of the Defendants. Nevertheless, all of the victims were subjected to the same treatment: one or more of the Defendants indicated in a public record that the victim had underlying indebtedness totaling in the millions of dollars, and claimed the Defendant had a security interest in the victim's property as collateral for that indebtedness. The public record utilized by all the Defendants was a Uniform Commercial Code ("UCC") financing statement called a "UCC-1," filed online with Tennessee's Secretary of State.

To give the jury background information to understand UCC-1s, the State presented testimony from the Director of Business Services for the Tennessee Secretary of State's Office, Nathan Burton. Mr. Burton explained that, when two parties enter into a loan agreement and the loan is secured by collateral, the lender can file a UCC-1 financing statement with the Secretary of State's Office. This process can be done online, Mr. Burton explained, simply by going to the Secretary of State's website and filling out a form.[3]

Mr. Burton described the form on the Secretary of State's website. He testified that it lists the name of the person who claims a security interest in the debtor's property; his or her email address, telephone number, and physical address; the name and address of the debtor; and contact information for any other persons who have an interest in the collateral. The filer also must describe the collateral, list the maximum principal indebtedness for tax purposes, and pay a modest filing fee. Once the UCC-1 is filed, he said, any member of

[3] See Financing Statement (UCC1), https://tnbear.tn.gov/UCC/Ecommerce/UCCFiling.aspx.

the public can access it on the Secretary of State's website. Thus, the purpose of the UCC-1 is to serve as notice to the world that the person who filed it claims an interest in the debtor's property, as collateral for the debt referenced in the statement.

Mr. Burton noted that persons who file a UCC-1 must state they are authorized to make the filing, and they must also acknowledge that it is a felony to file a financing statement without an underlying debt.[4] He explained that the process leaves to the filer's discretion the amount of the alleged indebtedness and the description of the property that supposedly is collateral for the debt. The Secretary of State's Office does not independently verify any purported debts.

Mr. Burton described the remedies for an alleged debtor in the event of a contested UCC-1. Individuals who believe a lien asserted against them in a UCC-1 is not valid may submit an affidavit contesting it. Once that is done, the listed secured party is given notice of the contest, and they have twenty days to respond. Mr. Burton testified that, if the Secretary of State's Office does not receive a response from the listed secured party, either through silence or a return of the notice as undeliverable, it has statutory authority to void the UCC-1 filing.[5] Some of the UCC-1s at issue in the Defendants' trial were voided for this reason.

Over the course of the trial, Mr. Burton identified 102 different UCC-1s the Defendants filed with the Secretary of State's Office.[6] Each identification was done in much the same way, with Mr. Burton testifying as to the name of the filer, the listed debtor, the listed secured party, and the description of the collateral. In each instance, one of the Defendants was listed as the filer and secured party. Generally, each UCC-1's description of the collateral included a "claim of lien" based on a concocted contract or lien, in an amount anywhere between four and twelve million dollars in "the money of account or in lieu of the money of account . . . whatever currency is prescribed as lawful currency of all debts Public or Private in the County in which this Claim was executed." The "maximum principal indebtedness for Tennessee recording tax purposes" section of each UCC-1 listed zero dollars.

[4] See Tenn. Code Ann. § 39-17-117 (2018).

[5] See Tenn. Code Ann. § 66-21-105 (2018).

[6] Some of the exhibits presented at trial also contained amendments assigning the purported debt to the United States Department of Treasury, and some contained documents indicating the liens were eventually determined to be invalid and the UCC-1s terminated. These facts do not affect our analysis in this case.

The evidence indicated that the Defendants' 102 UCC-1 filings did not happen randomly or by accident. The jury heard testimony from a member of the Tennessee Bureau of Investigation ("TBI"), Agent Mark Irwin, who was assigned to the Federal Bureau of Investigation's Joint Terrorism Task Force. Agent Irwin was the primary investigator into the Defendants' UCC-1 filing practices. He testified that, initially, individual District Attorneys reached out to him to investigate potential fraudulent liens filed by each individual Defendant. His investigation showed that the addresses where Defendants lived matched the addresses listed on the UCC-1s.

As Agent Irwin looked further into the financing statements, he realized that many of them were filed in the same place and at the same time. Based on this, he suspected the filings were done by "a group of [individuals] that were connected."

To explain some of the connections and patterns, the jury heard testimony from Michael Robert Birdsell, who was charged in the indictments with similar offenses but not tried with the Defendants. As background, Mr. Birdsell testified, he was pulled over in Anderson County, Tennessee by Officer Runyon and arrested. Mr. Birdsell felt that he had been wronged, but he could not find an attorney to take his case.

At some point after that, Mr. Birdsell went with a friend to a meeting of a group called the Knoxville Patriots, where he said they "researched law." At the meeting, he met Defendants Cooper, Cromwell, and Usinger. When Mr. Birdsell explained his legal troubles to persons attending the Knoxville Patriots meeting, Defendant Cooper responded, "Well, that's four million dollars."

Mr. Birdsell described the instructions Defendant Cooper gave him at the Knoxville Patriots meeting. He said Defendant Cooper told him to go home and type up a statement of facts and answer various questions Defendant Cooper emailed to him. On one occasion, Mr. Birdsell noted, he met Defendant Cooper and Defendant Usinger at the Oak Ridge Library, where he followed Defendant Cooper's instructions in filing UCC-1s on the Secretary of State's website. Mr. Birdsell testified that, after following Defendant Cooper's instructions on the UCC-1s, he never received the sizeable compensation Defendant Cooper implied he would receive.

The jury also heard testimony from victims on the impact of the false UCC-1s filed against them. Attorney Victoria Bannach testified that, because of the UCC-1 filed by Defendant Cromwell, a potential buyer of her home wanted to pull out of the sale until she explained the purported lien asserted against her was a fraudulent filing. Morristown Police Officer Richard Webb testified he had to postpone the sale of his house for four months until he could get the false UCC-1 filed by Defendant Lyons voided. Melissa Hauser testified that after Defendant Hauser, her ex-husband, filed a false UCC-1 against her, it resulted in the denial of her application for a personal loan and an increase in the

interest payments on her car. Attorney Mark Brown testified that false UCC-1s filed against him showed up on his credit report as purported liens on his property.

After hearing all the evidence, the jury convicted each Defendant on all counts. Each Defendant filed a motion for new trial, and the trial court denied each one in separate orders. All of the Defendants appealed, and the Court of Criminal Appeals consolidated their cases.

In a consolidated opinion, the Court of Criminal Appeals affirmed the convictions. State v. Lyons, No. M2019-01946-CCA-R3-CD, 2021 WL 1083703, at *1 (Tenn. Crim. App. Mar. 22, 2021), perm. app. granted, (Tenn. Aug. 5, 2021). It concluded that the evidence at trial was sufficient to support the Defendants' forgery convictions because the statements filed with the Secretary of State's Office falsely claimed the Defendants were owed millions of dollars. Id. at *16–17. It also concluded the evidence was sufficient to support the finding that the apparent values associated with the UCC-1s were at least $250,000 because each one "claimed a possessory interest in excess of $4 million." Id. at *16.

The Defendants then sought permission to appeal to this Court. We granted permission to appeal "solely on the issue of whether the evidence was sufficient to support the convictions for forgery under Tennessee Code Annotated section 39-14-114." Order, State v. Lyons, No. M2019-01946-SC-R11-CD (Tenn. Aug. 5, 2021) (granting the application for permission to appeal).

ANALYSIS

When a creditor obtains a security interest in a debtor's property, the creditor's interest in the collateral "attaches" or becomes enforceable against the debtor. 4 James J. White, Robert S. Summers, & Robert A. Hillman, Uniform Commercial Code § 31:1 (6th ed.), Westlaw (database updated November 2022) (hereinafter "White & Summers"). However, creditors may lose their rights in collateral as against third parties if their security interests are not "perfected" under the UCC. Id. For the vast majority of these transactions, creditors' security interests in collateral are perfected by filing a financing statement such as a UCC-1. Id. § 31.27; see Regions Bank v. Bric Constructors, LLC, 380 S.W.3d 740, 771 (Tenn. Ct. App. 2011) ("In order to perfect a security interest, the secured party must file a UCC-1 financing statement.") (citing Tenn. Code Ann. § § 47-9-310; 47-9-502(a)).

The ability under the UCC to create defensible security interests by filing financing statements like a UCC-1, and particularly the ability to file them electronically, revolutionized the system for secured transactions. It allowed the creation of efficient statewide registries that permitted filers to file in one place and creditors to search in one

place. See White & Summers, *supra*, § 31:27; Tenn. Code Ann. § 47-9-501(a)(2) (requiring financing statements to be filed with the Secretary of State).

Unfortunately, the ease of the system, meant to facilitate painless secured transactions, left it vulnerable to persons with ill motives:

> Persons disgruntled with the acts of prosecutors, judges, and other public officials have taken advantage of the easy Article 9 filing rules to vent their anger. Despite its lack of bona fides, such financing statements will be picked up by the credit agencies and may cause the person identified as the debtor to have difficulty getting a loan and to suffer the aggravation and expense of getting the statement removed from the state records. UCC filings are commonly received by filing officers in a Secretary of State's office. However, current Article 9 does not give filing officers discretion to refuse even an obviously inappropriate filing if the requirements in Article 9 are otherwise met.

White & Summers § 31.41. Some courts and scholars have used terms for this conduct such as "paper terrorism."[7] See, e.g., El Ameen Bey v. Stumpf, 825 F. Supp. 2d 537, 541 (D.N.J. 2011); Parkway Bank & Tr. Co. v. Korzen, 2 N.E.3d 1052, 1055 (Ill. App. Ct. 2013); see also Monroe v. Beard, 536 F.3d 198, 203 n.4 (3d Cir. 2008); HSBC Bank USA, Nat'l Ass'n v. Weber, 400 S.W.3d 32, 35 n.4 (Mo. Ct. App. 2013).

To stem the tide of bogus UCC-1 filings, states have used differing approaches: "pre-filing administrative remedies, post-filing administrative remedies, post-filing expedited judicial remedies, and enhanced criminal or civil penalties." See White & Summers, *supra*, § 31:41. Pre-filing administrative remedies give the Secretary of State's office discretion to reject a questionable filing, while post-filing administrative remedies give them discretion to correct or remove existing UCC financing statements. Id. Post-filing judicial remedies create a judicial review process for corrective action. Id. Post-filing criminal or civil penalties seek to deter fraudulent filings. Id.

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[7] One commentator observed:

> Although the perpetrators of this form of harassment do not often try to collect on the liens, their very existence is trouble enough. The liens can create serious financial hardships for victims. Credit ratings are often severely damaged, and the time and expense needed to clear up the liens can be tremendous. Clearing a victim's name and credit can take months or even years, and sometimes thousands of dollars in legal expenses.

Joshua P. Weir, Sovereign Citizens: A Reasoned Response to the Madness, 19 Lewis & Clark L. Rev. 829, 857 (2015) (footnotes omitted).

Tennessee has adopted post-filing civil remedies as well as criminal penalties.[8] Pertinent to this appeal, for criminal penalties, in 2012, the legislature passed a statute aimed at conduct such as filing sham UCC-1s:

> It is an offense for any person to knowingly prepare, sign, or file any lien or other document with the intent to encumber any real or personal property when such person has no reasonable basis or any legal cause to place such lien or encumbrance on such real or personal property.

Tenn. Code Ann. § 39-17-117(a)(1). All of the Defendants were convicted under this "false lien" statute, and those convictions are not at issue in this appeal.

All of the Defendants also were convicted under a second statute that makes forgery a criminal offense. The forgery statute has long been in effect and predates the recent increase in the filing of spurious UCC-1s. Those forgery convictions are the basis of the Defendants' appeal in this case.

The Defendants argue that the evidence at trial is insufficient to support their forgery convictions. This Court has explained the appropriate standard of appellate review:

> Our standard for reviewing the sufficiency of the evidence underlying a criminal conviction is well-established. First, we examine the relevant statute(s) in order to determine the elements that the State must prove to establish the offense. See, e.g., State v. Smith, 436 S.W.3d 751, 761–65 (Tenn. 2014) (conducting statutory interpretation of offense's elements before conducting sufficiency review). Next, we analyze all of the evidence admitted at trial in order to determine whether each of the elements is supported by adequate proof. See, e.g., id. at 764–65. In conducting this analysis, our inquiry is "whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." Jackson v. Virginia, 443 U.S. 307, 319, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979); see also Tenn. R. App. P. 13(e) ("Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the findings of guilt . . . beyond a reasonable doubt.").

[8] As to post-filing civil remedies, Tennessee Code Annotated section 47-9-518 contains the uniform information statement remedy, which allows an individual to file an information statement if the person believes a record was wrongfully filed. Additionally, in Tennessee Code Annotated section 47-9-625, Tennessee adopted the uniform Article 9 remedies for noncompliance, which allow for judicial remedies and damages for a secured party's noncompliance. Finally, Tennessee Code Annotated section 47-9-513(e) addresses fraudulent filings against public officials.

> After a jury finds a defendant guilty, the presumption of innocence is removed and replaced with a presumption of guilt. State v. Evans, 838 S.W.2d 185, 191 (Tenn. 1992) (citing State v. Grace, 493 S.W.2d 474, 476 (Tenn. 1973)). Consequently, the defendant has the burden on appeal of demonstrating why the evidence is insufficient to support the jury's verdict. State v. Tuggle, 639 S.W.2d 913, 914 (Tenn. 1982).
>
> We, as an appellate court, do not weigh the evidence anew. Evans, 838 S.W.2d at 191. Rather, "a jury verdict, approved by the trial judge, accredits the testimony of the witnesses for the State and resolves all conflicts" in the testimony in favor of the State. State v. Harris, 839 S.W.2d 54, 75 (Tenn. 1992). Thus, "the State is entitled to the strongest legitimate view of the evidence and all reasonable or legitimate inferences which may be drawn therefrom." Id. This "standard of review 'is the same whether the conviction is based upon direct or circumstantial evidence.'" State v. Dorantes, 331 S.W.3d 370, 379 (Tenn. 2011) (quoting State v. Hanson, 279 S.W.3d 265, 275 (Tenn. 2009)).

State v. Stephens, 521 S.W.3d 718, 723–24 (Tenn. 2017); see also Tenn. R. App. P. 13(e).

On appeal, the Defendants first attack the sufficiency of the evidence supporting their forgery convictions by contending that their actions do not fit the definition of forgery contained in Tennessee Code Annotated section 39-14-114. Second, they argue that the evidence was insufficient to support a finding that the value associated with the UCC-1s was at least $250,000.

To analyze these issues, we begin by interpreting the applicable statutes. This Court has explained:

> The cardinal rule of statutory construction is to effectuate legislative intent, with all rules of construction being aides [sic] to that end. We examine the language of the statute, its subject matter, the object and reach of the statute, the wrong or evil which it seeks to remedy or prevent, and the purpose sought to be accomplished in its enactment. We must seek a reasonable construction in light of the purposes, objectives, and spirit of the statute based on good sound reasoning.

Coffee Cnty. Bd. of Educ. v. City of Tullahoma, 574 S.W.3d 832, 839 (Tenn. 2019) (quoting Spires v. Simpson, 539 S.W.3d 134, 143 (Tenn. 2017)) (alteration in original, internal citations, quotation marks, and footnotes omitted). "The text of the statute is of primary importance, and the words must be given their natural and ordinary meaning in

the context in which they appear and in light of the statute's general purpose." Mills v. Fulmarque, Inc., 360 S.W.3d 362, 368 (Tenn. 2012).

We address the Defendants' arguments below.

A. Forgery

Tennessee's forgery statute states: "A person commits an offense who forges a writing with intent to defraud or harm another." Tenn. Code Ann. § 39-14-114(a). The statute defines the key terms as follows:

> (b) As used in this part, unless the context otherwise requires:
>
> (1) "Forge" means to:
>
> > (A) Alter, make, complete, execute or authenticate any writing so that it purports to:
> >
> > > (i) Be the act of another who did not authorize that act;
> > >
> > > (ii) Have been executed at a time or place or in a numbered sequence other than was in fact the case; or
> > >
> > > (iii) Be a copy of an original when no such original existed;
> >
> > (B) Make false entries in books or records;
> >
> > (C) Issue, transfer, register the transfer of, pass, publish, or otherwise utter a writing that is forged within the meaning of subdivision (b)(1)(A); or
> >
> > (D) Possess a writing that is forged within the meaning of subdivision (b)(1)(A) with intent to utter it in a manner specified in subdivision (b)(1)(C); and
>
> (2) "Writing" includes printing or any other method of recording information, money, coins, tokens, stamps, seals, credit cards, badges, trademarks, and symbols of value, right, privilege or identification.

Id. § 39-14-114(b).

1. False Entries

The parties agree that the relevant statutory definition of "forge" is to "[m]ake false entries in books or records." Id. § 39-14-114(b)(1)(B). All of the Defendants contend that their conduct does not meet the statutory definition of forgery because the liens they filed were not "false entries."

The main thrust of the Defendants' argument is that the statute is intended to criminalize what they call "false making," that is, creating a document that is something other than what it purports to be. They argue that the definition does not encompass a genuine document that merely *contains* false information. According to the Defendants, the UCC-1s at issue were not forgeries because they were in fact UCC-1s and did not purport to be anything else. Citing previous iterations of the statute, legislative history, and the broader context of the criminal code, they argue that the legislature intended the current forgery statute to apply narrowly to only "false making" types of conduct.

The Defendants concede, as they must, that another part of the definition of "forge" explicitly covers the "false making" they describe. See Tenn. Code Ann. § 39-14-114(b)(1)(A). This Court has observed that "where the legislature includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that the legislature acted purposefully in the subject included or excluded." State v. Welch, 595 S.W.3d 615, 623 (Tenn. 2020) (quoting State v. Loden, 920 S.W.2d 261, 265 (Tenn. Crim. App. 1995)). We consider the overall statutory framework and read both subsections of the definition of "forge" *in pari materia* "so as to give the intended effect to both." In re Kaliyah S., 455 S.W.3d 533, 552 (Tenn. 2015). Reading the "false entries" provision of the statute in the manner the Defendants propose would make that definition redundant.

Most important, the language in subsection (b)(1)(B) does not support the constraint the Defendants seek to place on it. Clearly, the claim made in the UCC-1s, that they had a valid basis—in the form of a colossal underlying debt—for asserting a lien and security interest in the victims' property, was false in any sense of the word.[9] The term "entry" generally means "[a]n item written in a record," suggesting it can mean a part of an overall record and not the entire record. Entry, Black's Law Dictionary (11th ed. 2019). There is no indication that the legislature intended this section of the statute to be limited to documents that are "inauthentic" in their entirety.

[9] See False, Black's Law Dictionary (11th ed. 2019) ("Untrue," "Deceitful; lying," "Not genuine; inauthentic," "Wrong; erroneous"); cf. Cotham v. Yeager, 607 S.W.3d 820, 830 (Tenn. Ct. App. 2020) (defining "false" in the Tennessee False Claims Act according to "its natural and ordinary meaning").

2. In Books or Records

Defendant Lyons further asserts that his fraudulent UCC-1s were not entered "in books or records" as required by the statute. To support this contention, he cites two cases, State v. Pauli, No. M2002-01607-CCA-R3-CD, 2003 WL 21302991 (Tenn. Crim. App. June 5, 2003), perm. app. denied, (Tenn. Oct. 27, 2003), and State v. Parrott, No. M2004-00723-CCA-R3-CD, 2005 WL 1848481 (Tenn. Crim. App. Aug. 5, 2005). In both of those cases, the defendants were convicted of forgery via making false entries in private company records. See Pauli, 2003 WL 21302991, at *10 (forgery of an accounts receivables report); Parrott, 2005 WL 1848481, at *8 (forgery of a company's business records). In essence, Defendant Lyons argues the best interpretation of the statute is that the phrase "books or records" means only "private records of a business and/or of a financial nature."

This construction is without basis in the language of the statute. There is no limiting language indicating that the "records" must be those of a private business or of a financial nature. See, e.g., Reid v. Commonwealth, 431 S.E.2d 63, 64 (Va. Ct. App. 1993) ("Appellant argues that we should limit the application of [the forgery statute] . . . to alteration of an existing document originally prepared by a public official. . . . Although the only cases interpreting [the forgery statute] have involved already-existing public documents, the statute itself contains no such limiting language.").

The Defendant's argument is at odds with the meaning of "record." See, e.g., Record, Shorter Oxford English Dictionary (Oxford Univ. Press 6th ed.) ("The fact or condition of being or having been written down as evidence of a legal matter"). Indeed, the definition of "record" in Black's Law Dictionary specifically cites the UCC. See Record, Black's Law Dictionary (11th ed. 2019) ("Information that is inscribed on a tangible medium or that, having been stored in an electronic or other medium, is retrievable in perceivable form," citing UCC § 1-201(b)(31)).

Here, under the comprehensive system created by the legislature's adoption of the Uniform Commercial Code, UCC-1s are stored in an electronic medium on the Secretary of State's website and are retrievable by the general public. The filing of a UCC-1 on the Secretary of State's website has a specific legal purpose and effect. Rightly used, a UCC-1 perfects a secured creditor's security interest in collateral and protects it against third parties who might assert a claim against the debtor's collateral. See White & Summers, *supra*, § 31:1. At trial, Mr. Burton testified that once a UCC-1 is filed, it is stored on a server and added to the database that is made a public record on the Secretary of State's website. As Mr. Burton noted, this filing "puts the world on notice" that the person who filed the UCC-1 may have a legal interest in the alleged debtor's property.

The effect on the victims of the phony UCC-1s in this case reflects the fact that the statewide registry on the Secretary of State's website is intended to be a "record" available for consultation by persons who seek to engage in business transactions. Several of the victims were impacted when members of the public who intended to do business with them apparently encountered the UCC-1s on the website. One victim, a prosecutor who said she only knew Defendant Cromwell "through prosecution," testified that the UCC-1 he filed affected her ability to sell her house and buy another one, once the individuals she was negotiating with learned of the UCC-1. A police officer victim said he could not sell his house until the lien was terminated. Another victim, Defendant Hauser's ex-wife, testified that the UCC-1 he filed resulted in her bank denying her a personal loan, and also resulted in an increase in the interest rate on her car loan.

Under all of these circumstances, we hold that the evidence is sufficient to support the conclusion that the Defendants' conduct in this case falls within the definition of "forge" contained in Tennessee Code Annotated section 39-14-114(b)(1)(B), namely, "[m]ake false entries in books or records."

3. Intent

The offense of forgery requires the act be done "with intent to defraud or harm another." Tenn. Code Ann. § 39-14-114(a). Defendants Cooper and Cromwell argue that the evidence was insufficient to show the requisite intent. Defendant Cromwell argues that his name appearing on the UCC-1s cannot be equated to intent and professes he believed he was following the law. Defendant Cooper argues that filing the UCC-1s amounted to a legal way to address grievances.

Intent rarely can be proven by direct evidence. State v. Finch, 465 S.W.3d 584, 599 (Tenn. Crim. App. 2013), overruled on other grounds by State v. Menke, 590 S.W.3d 455 (Tenn. 2019). It can "be inferred from the character and 'nature of the act [or] from all the circumstances of the case in evidence.'" Finch, 465 S.W.3d at 599 (quoting State v. Inlow, 52 S.W.3d 101, 105 (Tenn. Crim. App. 2000)).

Here, the evidence shows the Defendants filed the UCC-1s without any legal basis for doing so. The victims had no business dealings with the Defendants, nor did the victims owe money to the Defendants.

Moreover, the evidence shows the false UCC-1s were not filed mistakenly or by accident. The Defendants were connected through the Knoxville Patriots group, and in fact many of the false UCC-1s were filed at the same place and time. Mr. Birdsell testified that, at a Knoxville Patriots meeting, after Defendant Cooper heard Mr. Birdsell's grievance against a law enforcement officer who pulled him over, Defendant Cooper

responded, "Well, that's four million dollars." Mr. Birdsell, along with Defendants Cooper and Usinger, later filed false UCC-1s at the Oak Ridge Library.

In addition, some of the victims testified about adverse interactions with one of the Defendants, from which rational jurors could infer grievances that motivated the filing of the UCC-1s. The fact that the Defendants felt disgruntled by something a victim said or did in no way entitled them to seek redress by misusing a legal system for secured business transactions. To Defendant Cooper's point, filing spurious UCC-1s is most assuredly *not* a legal way to address grievances.

The evidence was clearly sufficient for a rational juror to find intent to defraud or harm.

4. Conviction Under Both Statutes

Defendant Lyons argues that the false lien statute and the forgery statute are meant to punish different conduct; otherwise, the false lien statute "would have been duplicative and unnecessary at the moment it was enacted." He contends that the very existence of the false lien statute, tailored to cover the misconduct at issue in this case, indicates that the forgery statute was intended to cover different misconduct.

This Court considered a similar situation in Welch. 595 S.W.3d at 615. In that case, the defendant was involved in a scheme to enter Walmart retail stores, steal merchandise, and have another person return the merchandise for a gift card. All of this conduct took place after she was banned from the area Walmart stores. Id. at 619. The defendant was charged and convicted of misdemeanor theft under a so-called "serial shoplifter" statute, and also burglary, a Class D felony. Id. She appealed the propriety of the burglary conviction. Id.

The Court in Welch rejected the defendant's arguments that it was unconstitutional and violated the intent of the legislature to convict the defendant of both theft of property and burglary. Id. at 629–30. The Court explained:

> The burglary statute and the "serial shoplifter" statute prohibit different criminal activities. The two offenses have different elements and punish different wrongs. The burglary statute is applicable to offenders, including repeat shoplifters, who enter a building without the effective consent of the owner and commit a felony theft or assault therein, whereas the repeat shoplifting statute is limited in its applicability. There is no indication that the legislature's intent in enacting the serial shoplifting statute was to repeal subsection 39-14-402(a)(3) by implication.

Id. at 626 (citation omitted).

The same is true here. The fairly recent enactment of the false lien statute tells us nothing about the correct interpretation of the forgery statute, enacted by the legislature many years earlier. Moreover, the statutes contain different elements and punish different wrongs. The false lien statute requires only proof of "intent to encumber any real or personal property when such person has no reasonable basis or any legal cause to place such lien or encumbrance." Tenn. Code Ann. § 39-17-117(a)(1). In contrast, the forgery statute requires proof of "intent to defraud or harm another." Tenn. Code Ann. § 39-14-114(a). The false lien statute makes it an offense to "knowingly prepare, sign, or file" a false lien. Tenn. Code Ann. § 39-17-117(a)(1). The forgery statute, on the other hand, makes it an offense to "[m]ake false entries in books or records." Tenn. Code Ann. § 39-14-114(b)(1)(B).

Other state courts have upheld convictions of both forgery and filing false documents under separate statutes. See State v. Thomason, 872 N.W.2d 70 (S.D. 2015) (forged signature on a power of attorney); State v. Bourgeois, 148 So. 3d 561 (La. 2013) (per curiam) (altered land transfer agreement); People v. Corley, 698 P.2d 1336 (Colo. 1985) (promissory note with forged signatures); People v. Pettus, 799 N.Y.S.2d 53 (N.Y. App. Div. 2005) (false food stamp applications); Commonwealth v. Leber, 802 A.2d 648 (Pa. Super. Ct. 2002) (altered environmental reports); State v. Daigle, 681 So. 2d 66 (La. Ct. App. 1996) (forged signature on consent form for court-ordered blood test); People v. Todd, 261 P.2d 766, 768 (Cal. Dist. Ct. App. 1953) (forged will submitted into probate).

It is the role of the legislature to declare and define conduct constituting a crime and to determine the nature and extent of the punishment for it. If the Defendants' misconduct violates both statutes, they may fairly be punished under both.

5. Identity and Filing

Defendants Cooper and Cromwell also argue that the evidence was insufficient to show that they themselves filed the UCC-1s at issue. This argument is without merit. Mr. Birdsell testified that he met both Defendant Cooper and Defendant Cromwell at Knoxville Patriot meetings, Defendant Cooper met with Mr. Birdsell personally to file the UCC-1s, and the UCC-1s actually listed the Defendants' home addresses. The evidence was sufficient for a rational juror to conclude that the Defendants filed the UCC-1s.

Defendant Lyons also argues that some of the UCC-1s that were the subject of his convictions were not "filed" because the Secretary of State's Office eventually rejected them for lack of a valid mailing address. This argument is likewise without merit. Mr. Burton testified that the UCC-1s in question were voided only after they were contested

and returned as undeliverable. We agree with the Court of Criminal Appeals' observation: "This is not the same as the lien never being filed." Lyons, 2021 WL 1083703, at *16.

Therefore, we reject both arguments.

B. Valuation

In the alternative, Defendants Hauser and Usinger challenge the classifications of their forgery convictions as Class A felonies for forgery of at least $250,000. They argue that the UCC-1s, in and of themselves, have little to no value. The State, on the other hand, argues that the forged UCC-1s "alleged a debt and have some value."

The forgery statute, Tennessee Code Annotated section 39-14-114, provides: "An offense under this section is punishable as theft pursuant to [section] 39-14-105, but in no event shall forgery be less than a Class E felony." Tenn. Code Ann. § 39-14-114(c). In turn, section 39-14-105 provides:

> (a) Theft of property or services is:
>
> (1) A Class A misdemeanor if the value of the property or services obtained is one thousand dollars ($1,000) or less . . . ;
>
> (2) A Class E felony . . . if the value of the property or services obtained is more than one thousand dollars ($1,000) but less than two thousand five hundred dollars ($2,500);
>
> (3) A Class D felony if the value of the property or services obtained is two thousand five hundred dollars ($2,500) or more but less than ten thousand dollars ($10,000);
>
> (4) A Class C felony if the value of the property or services obtained is ten thousand dollars ($10,000) or more but less than sixty thousand dollars ($60,000);
>
> (5) A Class B felony if the value of the property or services obtained is sixty thousand dollars ($60,000) or more but less than two hundred fifty thousand dollars ($250,000); and
>
> (6) A Class A felony if the value of the property or services obtained is two hundred fifty thousand dollars ($250,000) or more.

Tenn. Code Ann. § 39-14-105(a). The theft statute describes how the offense of forgery is classified for purposes of punishment. Thus, although the statute references property or services obtained, it does not require the defendant to actually obtain property or services in the context of forgery. State v. Odom, 64 S.W.3d 370, 374 (Tenn. Crim. App. 2001). Rather, forgery is punished "according to the apparent value of the writing forged . . . using the values set forth in the theft grading statute." Id.

When a determination of value is required to assess the class of an offense, that determination is made by the trier of fact beyond a reasonable doubt. Tenn. Code Ann. § 39-11-115 (2018). The general criminal law definition of "value" is found in Tennessee Code Annotated section 39-11-106(a)(39):

> (39) "Value":
>
> (A) Subject to the additional criteria of subdivisions (a)(39)(B)-(D), "value" under this title means:
>
> > (i) The fair market value of the property or service at the time and place of the offense; or
> >
> > (ii) If the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense;
>
> (B) The value of documents, other than those having a readily ascertainably fair market value, means:
>
> > (i) The amount due and collectible at maturity, less any part that has been satisfied, if the document constitutes evidence of a debt; or
> >
> > (ii) The greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt;
>
> (C) If property or service has value that cannot be ascertained by the criteria set forth in subdivisions (a)(39)(A) and (B), the property or service is deemed to have a value of less than fifty dollars ($50.00)[.]

Tenn. Code Ann. § 39-11-106(a)(39)(A)-(C).

The parties in this case have argued the issue of whether the UCC-1s constitute "evidence of a debt" under Tennessee Code Annotated section 39-11-106(a)(39)(B). In the present case, however, the trial court instructed the jury on valuation per the Tennessee Pattern Jury Instructions. Specifically, the trial court gave the following instructions without objection by the parties: "For you to find a defendant guilty of forgery beyond a reasonable doubt, you must go further and fix the range of apparent value of the property. 'Apparent Value' is the apparent fair market value of the property at the time and place of the offense." See Fixing apparent value, 7 Tenn. Prac. Pattern Jury Instrs., T.P.I.-Crim. 11.03(b). "Apparent" was defined as "visible, manifest or obvious." See id. "Property" was defined as "anything of value including, but not limited to money, real estate, tangible or intangible personal property." See id. 11.01; Tenn. Code Ann. § 39-11-106(a)(31).

Thus, in order to classify the forgery offenses, the jury was tasked with determining the visible, manifest, or obvious fair market value of the forged UCC-1s at the time and place of the offense, *i.e.*, when the forged UCC-1s were filed with the Secretary of State.[10] The jury also was instructed to indicate which of the following ranges the apparent value of the UCC-1s fell within: (1) $500 or less; (2) more than $500 but less than $1,000; (3) $1,000 or more but less than $10,000; (4) $10,000 or more but less than $60,000; (5) $60,000 or more but less than $250,000; (6) $250,000 or more; (7) value cannot be ascertained. After receiving these instructions and considering the evidence presented at trial, the jury determined that the value of each forged UCC-1 was at least $250,000. Our review of the jury's decision requires us to determine whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found that the apparent value of the UCC-1s was at least $250,000. Jackson, 443 U.S. at 319; see State v. Reynolds, 635 S.W.3d 893, 915 (Tenn. 2021); Tenn. R. App. P. 13(e).

At trial, the State presented 102 UCC-1 forms the Defendants filed with the Secretary of State. In the "Collateral" portion of the UCC-1s, all of the Defendants' UCC-1s contained language similar to the following:

> This Financial Statement covers the following collateral:
> Claim of Lien # MJU-169218-2-1001 under Common law-contract #7015 1730 0002 1561 9051
> October 14, 2016 in the amount of Twelve Million and no cents Dollars ($12,000,000.00) in the money of account or in lieu of the money of account I will "Receive without prejudice" payment in Treasury-Notes, Federal Reserve-Notes or a Bank-Draft of the United States-Dollars or whatever

[10] Because the jury was instructed without objection to fix the apparent fair market value of the UCC-1s, we do not address whether the UCC-1s constitute "evidence of a debt" under Tennessee Code Annotated section 39-11-106(a)(39)(B).

currency is prescribed as lawful currency in satisfaction of all debts Public or Private in the County in which this Claim was executed.

Although the language used is somewhat garbled, the collateral descriptions were clearly intended to convey, at least obliquely, an impression that the victims owed the Defendants underlying debts in the millions of dollars. In addition, Mr. Birdsell testified that when he explained his legal troubles to those attending the Knoxville Patriots meeting, Defendant Cooper responded, "Well, that's four million dollars." After that, Defendant Cooper instructed him how to file fake UCC-1s. Mr. Birdsell testified that, after following Defendant Cooper's instructions, he never got the compensation Defendant Cooper implied he would.

Based on this evidence, we conclude that a rational trier of fact could have found that the apparent value of the UCC-1s was at least $250,000. The collateral descriptions in the forged UCC-1s and Mr. Birdsell's testimony serve as a basis for a rational juror to infer that the Defendants intended for the UCC-1s to assert a claim that the victims owed money to the Defendants in amounts equal to or in excess of $250,000 and that the UCC-1s had granted corresponding liens against the victims' property. Given this evidence, a rational juror could have found that the apparent fair market value—the "visible, manifest or obvious" fair market value—of the UCC-1s was at least $250,000.

Although the evidence is not overwhelming, our standard of review does not require it to be. The standard of review is highly deferential—it merely requires us to determine whether *any* rational trier of fact could have found that the apparent value of the UCC-1s was at least $250,000. Because we conclude that a rational trier of fact could have made such a finding, we hold that the evidence was sufficient to support the jury's decision as to the apparent value associated with the UCC-1s filed by the Defendants. Accordingly, we affirm the holding of the Court of Criminal Appeals on this issue.

CONCLUSION

We hold that the evidence in this case was sufficient to support the Defendants' convictions for forgery under Tennessee Code Annotated section 39-14-114(b)(1)(B). We also hold that the evidence was sufficient to support sentencing the Defendants for forgery as a Class A felony. Accordingly, we affirm the holding of the Court of Criminal Appeals on both issues.

JEFFREY S. BIVINS, JUSTICE