University of Minnesota Law School Mock Trial Scholars Program

State of Minnesota v. Charles Darrow

DISTRICT COURT
COUNTY OF KING
STATE OF MINNESOTA

State of Minnesota,	)	**Case No.**
Plaintiff,	)	**22-CR-13-704**
	)	
v.	)	
	)	
Charles Darrow,	)	
Defendant.	)	
	)	

NOTE: All characters, names, events, places, and circumstances in this mock trial case are fictitious.

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2014 Mock Trial Case:

PLEADINGS

WITNESSES

Officer Clancy Barbrady

ARREST WARRANT NUMBER

DIRECT INDICTMENT

ACTION OF GRAND JURY

TRUE BILL

Peter Balish
Foreperson of Grand Jury
Date: October 1, 2013

VERDICT

Foreperson of Grand Jury
Date:

CASE NO. 22-CR-13-704

The State of Minnesota
County of King

DISTRICT COURT

THE STATE

VS.

CHARLES DARROW

INDICTMENT FOR

Minn. Stat § 609.582.1.(a)(2012)

STATE OF MINNESOTA	)	INDICTMENT
	)	
COUNTY OF KING	)	

At a Court of General Sessions, convened on October 1, 2013, the Grand Jurors of King County present upon their oath:

Burglary in the First Degree - Minn. Stat. § 609.582.1(a) (2012)

That the Defendant, Charles Darrow did, in King County, on or about August 29, 2013, commit the crime of Burglary in the First Degree when the Defendant did enter a dwelling at 302 South Broadway Street, Redwater City, King County, Minnesota without consent and with the intent to commit a crime therein, and another person who was not an accomplice was present in the dwelling when the Defendant entered.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

SANDY CLEGANE

Sandy Clegane, King County Attorney

STATE OF MINNESOTA	)	DISTRICT COURT
	)	
COUNTY OF KING	)	
	)	
	)	
STATE OF MINNESOTA,	)	22-CR-13-704
	)	
Plaintiff,	)	
vs.	)	
	)	
CHARLES DARROW,	)	
	)	
Defendant.	)	**DEMAND FOR JURY TRIAL**
	)	

The State of Minnesota filed an indictment against Defendant Charles Darrow. Defendant pleads not guilty.

I, the undersigned, do hereby demand a jury trial in the above matter.

Dated: October 14, 2013

Signed: Charles Darrow
Charles Darrow, Defendant

STATE OF MINNESOTA	)	DISTRICT COURT
	)	
COUNTY OF KING	)	
	)	
	)	
STATE OF MINNESOTA,	)	22-CR-13-704
	)	
Plaintiff,	)	
vs.	)	Joint Statement of the Case and Pre-Trial Order
	)	
CHARLES DARROW,	)	
	)	
Defendant.	)	
	)	

On the 7th day of January, 2014, the above-captioned matter came before the Honorable Robert Baratheon, Judge of District Court, for a pretrial conference. The parties, appearing through their counsel, indicated their agreement to the terms of this Order and requested that it be made the Order of this Court.

I. Statement of Case

The State charged Defendant, Charles Darrow, with one count of Burglary in the First Degree in violation of Minn. Stat. § 609.582.1(a)(2012), alleging that on August 29, 2013, Defendant entered an occupied dwelling with the intent to commit a crime therein, contrary to the laws of the State of Minnesota. Upon arraignment, Defendant pled not guilty to the charge. A trial was held on February 9 and 10, 2014, but due to juror misconduct Defendant successfully moved for a new trial.

II. Stipulations of the Parties

The parties have entered into the following stipulations, which shall not be contradicted or challenged:

1. All exhibits listed are authentic in all respects.
2. The chain of custody for evidence is not in dispute.
3. All witnesses who were questioned by law enforcement were properly advised of their *Miranda* rights. The search of Lommy Green's house was conducted with his consent and therefore was proper and in accordance with the law.
4. Exhibit 1 meets the requirements of the Business Records exception to the rule against hearsay, under Rule of Evidence 803(6).

5. The telephone records referred to in exhibit 7 were generated by a computer program without human input.

Dated: March 10, 2014.

Robert Baratheon

Judge of District Court

EXCERPTS OF THE MINNESOTA STATUTES AND SUMMARIES OF RELEVANT CASE LAW

Minn. Stat. § 609.02 (2012) Definitions

Subd. 3.Dwelling. "Dwelling" means a building used as a permanent or temporary residence.

Subd. 9.Mental state. (1) When criminal intent is an element of a crime in this chapter, such intent is indicated by the term "intentionally," the phrase "with intent to," the phrase "with intent that," or some form of the verbs "know" or "believe."

> (3) "Intentionally" means that the actor either has a purpose to do the thing or cause the result specified or believes that the act performed by the actor, if successful, will cause that result. In addition, except as provided in clause (6), the actor must have knowledge of those facts which are necessary to make the actor's conduct criminal and which are set forth after the word "intentionally."
>
> (4) "With intent to" or "with intent that" means that the actor either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.

Minn. Stat. § 609.582.1 (2012) Burglary in the First Degree

Whoever enters a building without consent and with intent to commit a crime, commits burglary in the first degree if:

(a) the building is a dwelling and another person, not an accomplice, is present in it when the burglar enters or at any time while the burglar is in the building; OR

(b) the burglar assaults a person within the building or on the building's appurtenant property.

Minn. Stat. 609.224 (2012) Assault.

Whoever does any of the following commits an assault and is guilty of a crime:

(1) commits an act with intent to cause fear in another of immediate bodily harm or death; or
(2) intentionally inflicts or attempts to inflict bodily harm upon another.

State v. Reams, 104 N.W.2d 503 (Minn. 2008): The Minnesota Supreme Court held that the Defendant could not be found guilty of Burglary when the Defendant entered a dwelling only intending to trespass. The State must prove that a defendant means to commit some further crime when he entered.

In Re the Welfare of C.M.R., 102 N.W.2d 233 (Minn. 1886): The Minnesota Supreme Court held that a Defendant "entered" a dwelling for the purposes of the burglary statute when he reached through an open window and stole a wheel of cheese.

STATE OF MINNESOTA	)	DISTRICT COURT
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COUNTY OF KING	)	
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STATE OF MINNESOTA,	)	22-CR-13-704
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vs.	)	
	)	
CHARLES DARROW,	)	
	)	
Defendant.	)	
	)	

Final Jury Instructions

The Court hereby approves the following jury instructions in the above-captioned case.

A. Opening Instruction

You have been selected and sworn as the jury to try the case of the State of Minnesota against Charles Darrow. The defendant is charged with the offense of Burglary in the First Degree. The defendant has pled not guilty. A plea of not guilty requires the State to prove each element of the crime beyond a reasonable doubt. The defendant is presumed innocent of the crimes and this presumption continues unless and until after consideration of all the evidence you are convinced of his guilt. It is your responsibility as jurors to determine the facts from the evidence, to follow the law as stated in the instructions from the presiding judge, and to reach a verdict of based upon the evidence.

B. Summary of Charge / Elements of the Charge

The defendant is charged with Burglary in the First Degree. The statutes of Minnesota provide that whoever enters a dwelling without the consent of the person in lawful possession with intent to commit a crime and another person, not an accomplice, is present in the dwelling, is guilty of Burglary in the First Degree. The defendant has entered a plea of not guilty to this charge.

C. Presumption of Innocence

The defendant is presumed innocent of the charge made. This presumption remains with the defendant unless and until the defendant has been proven guilty beyond a reasonable doubt. That the defendant has been brought before the court by the ordinary processes of the law and is on trial should not be considered by you as in any way suggesting guilt. The burden of proving guilt is on the State. The defendant does not have to prove innocence.

D. Proof Beyond a Reasonable Doubt

Proof beyond a reasonable doubt is such proof as ordinarily prudent men and women would act upon in their most important affairs. A reasonable doubt is a doubt based upon reason and common sense. It does not mean a fanciful or capricious doubt, nor does it mean beyond all possibility of doubt.

E. Evidence-Definition

Evidence is the testimony received from the witnesses under oath, stipulations made by the attorneys, and the exhibits admitted into evidence during the trial.

F. Credibility of Witnesses

You are the sole judges of whether a witness is to be believed and of the weight to be given a witness's testimony. There are no hard and fast rules to guide you in this respect. In determining believability and weight of testimony, you may take into consideration the witness's:

[1] Interest or lack of interest in the outcome of the case,

[2] Relationship to the parties,

[3] Ability and opportunity to know, remember, and relate the facts,

[4] Manner,

[5] Age and experience,

[6] Frankness and sincerity, or lack thereof,

[7] Reasonableness or unreasonableness of their testimony in the light of all the other evidence in the case,

[8] Any impeachment of the witness's testimony,

[9] And any other factors that bear on believability and weight.

You should rely in the last analysis upon your own experience, good judgment, and common sense.

STATE OF MINNESOTA	)	DISTRICT COURT
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COUNTY OF KING	)	
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STATE OF MINNESOTA,	)	22-CR-13-704
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Plaintiff,	)	
vs.	)	
	)	
CHARLES DARROW,	)	
	)	
Defendant.	)	
	)	

VERDICT

We, the jury, empanelled and sworn in the above-entitled cause, do, upon our oaths, find as follows:

Defendant is:

COUNT 1 – Burglary in the First Degree

_____ Guilty

_____ Not Guilty

_____

Foreperson

SELECTED TRANSCRIPTS FROM STATE v. DARROW I.

1

STATE OF MINNESOTA	)	DISTRICT COURT
	)	
COUNTY OF KING	)	
	)	
	)	
STATE OF MINNESOTA,	)	22-CR-13-704
	)	
Plaintiff,	)	
vs.	)	
	)	
CHARLES DARROW,	)	
	)	**TESTIMONY OF LOMMY GREEN**
Defendant.	)	Given February 9, 2014
	)	

CALLED AS A WITNESS, FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

BY MR. CLEGANE

Q: Would you please state your name, for the record?

A: Lommy Green

Q: How old are you?

A: 26 and a half.

Q: What do you do for a living?

A: I work at a warehouse. I drive a forklift.

Q: How long have you been doing that?

A: A few months. It took me awhile to find work after I first moved here.

Q: And whereabouts do you currently live at?

A: In Redwater, Minnesota. Down on South Broadway Street.

Q: That's in King County?

A: Yeah, that's right.

Q: How long have you been living there?

A: Moved there around the middle of the summer of 2013. Brother had just moved to the area and he had been talking it up. Anyway, I'd been thinkin' about buying a house and the prices are just much cheaper around here.

Q: So let's talk about the morning of August 29, 2013. Were you living in your house in Redwater at that point?

A: Yeah. I woke up around noon, and decided to go apply for some jobs. So I just walked downtown.

Q: Did you get downtown?

A: No. I walked about ten blocks when I found a bunch of people grilling in a park.

Q: And what happened when you found them?

A: Well I didn't really know anyone from Redwater at that point, so I just started talking to folks and trying to make some friends.

Q: Did you meet anyone you remember?

A: Yeah. There was two of them who were closer to my age than everybody else and we just kinda hit it off.

Q: Do you see either of those two folks in the courtroom today?

A: Yes I did. I mean I do.

Q: Would you point them out to us?

A: Yeah, it's that guy wearing the gray shirt with the collar.

Q: Let the record reflect that Mr. Green has identified the Defendant.

THE COURT: The record shall reflect that the witness has identified the defendant.

Q: Do you know the individual's name now?

A: Charles Darrow.

Q: So after that where did you go, if any place?

A: After leaving my house?

Q: No, after leaving the party.

A: We went back to my house.

Q: Was that your idea?

A: Yeah. We were just gonna hang out. Maybe see if we could start an after party or somethin'. Charles and Raff Sweet started callin' people, and I called a few people too, but we didn't really reach anybody.

Q: So what did you do?

A: We lifted weights, and just kind of hung out and joked. Played some Texas hold 'em and I won some money. We were all drinking, too.

Q: Were you drunk?

A: No. I drank about four or five beers, same as everybody else. I was a bit tipsy, but nothing I couldn't handle.

Q: At some point did Mr. Darrow and you have some kind of conflict or . . .

A: Yeah. It wasn't anything out of the ordinary. After the game we just got into a little scuffle, no big deal. He wasn't very happy about losing that money, so I didn't take it personal or nothin'. It was in my kitchen.

Q: And so what happened after that?

A: We went to go to Raff's house. We were still looking to find an after party.

Q: What happened when you got there?

A: There was an argument that started.

Q: Between who?

A: Me and Charlie. Up to that point I'd been getting along with both of them, but when we got to the house, Raff went inside and Charlie and I stayed out front and got into an argument.

Q: Was it over anything specific?

A: Honestly I couldn't tell ya. It just kind of escalated. We were telling jokes and then he told me to shut up and never talk about his mom again and this and that. We just started yelling back and forth.

Q: So what did you do?

A: I just left and went home.

Q: Did you get there?

A: Yeah.

Q: Did you lock the doors when you did?

A: Yeah. All the doors were locked.

Q: What happened then?

A: I was just hanging out. I called my girlfriend and we talked for a while.

Q: And after you had been there for a while did anything unusual happen?

A: All of a sudden it sounded like people were kicking my back door in. Screaming, you know, I'm gonna beat you up, I'm gonna kill you, things like that.

Q: Did you hear knocking first?

A: No.

Q: Did you hear someone ask for a phone?

A: No nothing like that. All I heard was the screaming.

Q: Did you know that it was Charles Darrow at that time?

A: Yeah, I mean I knew his voice from earlier. I could hear him screaming.

Q: Were you scared?

A: Yeah.

Q: So what did you do?

A: I went and got my gun.

Q: That would be the gun depicted here in Ex. 2?

A: I can't really see it when you're waiving it around like that. Oh, yeah that's the one.

Q: Did you warn them that you had a gun?

A: Yeah. I told him "Get away from my door or I'll shoot."

Q: Did he?

A: No he just kept kicking.

Q: Did he kick the door down?

A: Yeah. It took a couple more kicks, but the door eventually gave way. When it did I fired a couple three shots out the door.

Q: Did you hit him?

A: No. He ran off once I started shooting.

Q: Did he actually get inside?

A: Well his leg did when he kicked the door down, I guess. None of the rest of him, as far as I know.

Q: What condition was your door in before all of this happened?

A: Just about brand new.

Q: Do you recognize Exhibit 3 here?

A: Yeah that's a picture of what my door looked like after Charlie kicked it in. You can see where the core shattered.

Q: Now at the time this happened, did you know Mr. Darrow well enough to have a sense of what he was capable of?

A: Well he told me that he'd just gotten out of prison, if that's what you're asking?

Q: Were you afraid?

A: Yeah. I thought he was gonna kill me.

Q: Did you call 911 at some point?

A: Yeah, right after I heard the kicking.

Q: Do you recognize exhibit 1 here?

A: Yeah it's the transcript of my 911 call that you showed me earlier.

Q: Nothing further.

STATE OF MINNESOTA	)	DISTRICT COURT
	)	
COUNTY OF KING	)	
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	)	
STATE OF MINNESOTA,	)	22-CR-13-704
	)	
Plaintiff,	)	
vs.	)	
	)	
CHARLES DARROW,	)	
	)	**TESTIMONY OF OFFICER CLANCY BARBRADY**
Defendant.	)	Given February 9, 2014
	)	

CALLED AS A WITNESS, FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

BY MR. CLEGANE

Q: Would you state your full name for the Jury?

A: Clancy Barbrady. That's B-A-R-B-R-A-D-Y

Q: You're a peace officer?

A: Yes I am. I am licensed by the State of Minnesota and I work for the City of Redwater.

Q: Did you have to go to school for that?

A: Yes, of course. I've got a two year degree in criminal justice from Riverland Community College in Austin, Minnesota. We learn some basic forensics, some criminal law, that kind of thing.

Q: How long have you been working as a police officer?

A: The last four years I've been working full time in Redwater. Before that I worked part time for about three years in Smokehouse, Minnesota.

Q: Have you ever worked on a burglary case before?

A: Of course. Probably somewhere in the low triple digits at this point.

Q: I want to call your attention to August 29, 2013. Were you working that day?

A: Yes I was. I came on duty at approximately 7:00 P.M.

Q: Did you get a call sending you to 302 South Broadway Street here in Redwater?

A: Yes I did. It was at approximately 7:30 P.M.

Q: Tell us about that?

A: I was told that a male party had tried to get inside a house. He had broken the door down, but run off when the homeowner fired three shots at him.
Q: Did you go there?
A: Yeah I did. It was just a few blocks away.
Q: Initially did you go to the front door or the back door?
A: I drove past the front door and didn't see anybody. I called dispatch to ask if people were still there and she said "yes, they're in the back of the house. " So I drove around back.
Q: Were you able to see anybody in the back yard?
A: Yeah I saw two males up in the back yard.
Q: What were they doing?
A: Well Charles Darrow was pacing around, and shouting something I couldn't hear. Raff Sweet was on his cell phone a few feet away talking to someone.
Q: Did they see you as you approached?
A: Yes. As I drove up Mr. Sweet saw me, and pointed me out to Charles Darrow.
Q: How did you know that the two men were Sweet and Darrow?
A: Redwater is a small town. If you live here long enough you get to know everybody. Especially folks like Mr. Darrow. Man's got anger issues. It wouldn't surprise me at all if he just got mad and decided to kick down that door.
Q: Did you ask them what was going on? What the problem was?
A: Yes I did. Darrow told me that he had been inside earlier that evening, and that he'd left his phone there. When he came back to get it, no one answered the door at first. He told me he started to knock a little louder and tried to yell to see if anyone was inside. He said that as soon as he yelled, someone inside shot at him without any warning.
Q: Did they seem intoxicated?
A: In my expert opinion, they were extremely intoxicated.
Q: So what did you do?
A: Well I told Mr. Darrow and Mr. Sweet to wait where they were and then I approached the house.
Q: Did you speak with Lommy Green?
A: Yes I did. I knocked on the door and identified myself as a police officer.
Q: What condition was the door in when you saw it?

A: It was pretty banged up. It was a steel-coated door with a wooden core. The wooden core was broken and the steel coating was dented pretty heavily, and there were two bullet holes in it.

Q: Did you take any pictures?

A: Yeah. Exhibits 3, 4, and 5 are all pictures that I took of the door.

Q: In your expert opinion is this consistent with someone attempting to break in?

A: Yes, mostly. The doorjamb wasn't broken near the lock, which is typical in a kicked-down door situation.

Q: Does that mean the door wasn't kicked down?

A: It's unusual. In my opinion the door was in fact kicked in, but in 90% of cases in which we can prove that a door was kicked in, the doorjamb is broken too. I'm not sure why it wasn't in this case.

Q: Now you said you spoke with Mr. Green. Did he seem intoxicated to you?

A: No.

Q: What did you do after you spoke with the Mr. Green?

A: We spoke for about 10-20 minutes. That's when I asked if I could take a look around; I needed to secure the weapon, take some crime-scene photos, and look for the phone.

Q: Did you find it?

A: Yes. It was in the cushions in the living room couch. The picture I took of it is Exhibit 6.

Q: What did you do after you after you searched the house?

A: I returned to my squad car. Darrow and Sweet were still waiting there. Mr. Green told me that he heard Darrow threatening him. Based upon that conversation and what I saw I took Mr. Darrow into custody.

Q: What about Mr. Sweet?

A: Well as far as I could tell he'd been near a crime in progress but hadn't actually done anything, so I let him go.

Q: During the time that you were speaking with Mr. Green, were Darrow and Mr. Sweet under arrest?

A: No. They were just waiting by the car. I was the only officer on the scene so they could have left at any time.

Q: What happened after you placed Mr. Darrow under arrest?

A: I spoke with him briefly. He told me that he hadn't been attempting to break in or hurt anybody, but judging by the state of the door he was lying. Nobody would do that much damage to a steel coated door on accident.

Q: Did you write an incident report about these events?

A: Yeah, I did. That would be Exhibit 7.

Q: Have you ever been called to that address before?

A: Yes, actually. The house was foreclosed on in March of 2013 and the former owners weren't too happy about that. They broke in around April of 2013 and took a baseball bat to most of the doors, the cabinets, the windows, pretty much everything. I got the call and ended up having to arrest them. Don't really know what happened to the place after that. I guess I assume that the bank fixed it up before they sold it. They usually do.

STATE OF MINNESOTA	)	DISTRICT COURT
	)	
COUNTY OF KING	)	
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	)	
STATE OF MINNESOTA,	)	22-CR-13-704
	)	
Plaintiff,	)	
vs.	)	
	)	
CHARLES DARROW,	)	
	)	**TESTIMONY OF CHARLES DARROW**
Defendant.	)	Given February 10, 2014
	)	

CALLED AS A WITNESS, FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

BY MS. STARK

Q: Would you state your full name for the Jury?

A: Charlie Darrow.

Q: Where are you from?

A: Chicago.

Q: Chicago, Illinois?

A: No, Chicago Minnesota. It's in Rice County, about half an hour south of the cities.

Q: What do you do for a living?

A: I'm a painter. I paint houses, churches, businesses, other things too.

Q: Do you know why you're here today?

A: That idiot Lommy Green somehow managed to get the police to believe that he was the victim in all of this, even though he stole my phone and then shot at me.

Q: Let's start at the beginning. What were you doing on August 29, 2013?

A: Okay. This is what happened. Me and Raff, we come back from fishing and we want to have a cook out. So we call some folks up and we get out the grill. People come over, start hanging out and everybody's having a good time.

Q: Did you invite Lommy Green?

A: No, I didn't know him. He just come walking down the street and pretty much invites himself over. Which was cool at the time—I mean the more the merrier, right?

Q: Did you speak with him at the cook out?
A: Yeah. He seemed like a pretty stand-up dude at the time so me and Raff and him we kinda joked around and stuff.
Q: What happened after the cook out?
A: Well it starts getting dark, but we're thinkin' that we want to get a party started. So Lommy says, "Hey, let's go to my place." And we were like "Sounds good." So we walked over there.
Q: What did you do when you got there?
A: We started calling people, trying to get something started. Didn't get nobody though. So instead we just played some hold 'em.
Q: Who won?
A: I did. $100. Lommy wasn't too happy. Which is fair enough, I know I couldn't afford to lose that kind of money on a game.
Q: Were you drinking?
A: I wasn't. Lommy was. He was so plastered he couldn't see straight.
Q: Did you go home after that?
Q: Well, we still wanted to see if we could get something started, ya know? But Raff's phone was dead, so we decided to walk over to his place to get the charger.
Q: What happened when you got there?
A: Me and Lommy waited out on the street while Raff went inside to grab the thing.
Q: Did you get into an altercation with Mr. Green at that point?
A: A what?
Q: A fight.
A: Nope. We had some words, though. Dude just started talking crap about me and Redwater. So I pretty much told him to get lost.
Q: What happened after that?
A: I reached into my pocket and realized that I didn't have my cell phone. I knew that I'd had it at Lommy's place, so when Raff came out, we walked back over there.
Q: What happened when you got there?
A: I went up to the door and I knocked on it. Lommy didn't answer. I heard voices in there, so I knew he was home. So I knock some more, and I shout "Hey, it's Charlie. I just want my phone back."
Q: Did Mr. Green answer?

A: Nope. All of a sudden I just heard BOOM BOOM BOOM and a couple a holes opened up in the door.

Q: Did you know that you'd been shot at?

A: It took me a sec. I mean who does that? Dude didn't give me no warning or nothing. He just starts shootin'. Anyway as soon as I figured it out I ran down to the street and told Raff to call the cops.

Q: Were you scared?

A: Not really, no. I mean by the time I figured what had happened it was mostly over.

Q: Did the police ever arrive?

A: Yeah, they came. And they arrested me, can you believe it?

Q: Did you ever get your phone back?

A: Yeah. Officer Barbrady found it in Lommy's place.

Q: Is that Exhibit 6?

A: Yeah.

Q: Were you trying to break in and hurt Mr. Green?

A: No. I mean the little punk did piss me off pretty bad, but I just wanted my phone back. I mean I'm a free man. Why would I want to jeopardize that when I just got back? So that's what I'm saying.

Q: Nothing further.

STATE OF MINNESOTA	)	DISTRICT COURT
	)	
COUNTY OF KING	)	
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	)	
STATE OF MINNESOTA,	)	22-CR-13-704
	)	
Plaintiff,	)	
vs.	)	
	)	
CHARLES DARROW,	)	
	)	**TESTIMONY OF RAFF SWEET**
Defendant.	)	Given February 10, 2014
	)	

CALLED AS A WITNESS, FIRST BEING DULY SWORN, TESTIFIED AS FOLLOWS:

BY MS. STARK

Q: Would you state your full name for the Jury?

A: Raff Sweet

Q: Where are you from?

A: Keister, Minnesota.

Q: Is that near here?

A: It's a couple of miles from Redwater, yeah.

Q: How old are you?

A: 28.

Q: What do you do for a living?

A: I'm a mechanic. I repair cars, small engines. Sometimes I sell used cars, too.

Q: Do you know why we're here today?

A: Yes. Basically we are here because Lommy Green is a lying jerk who won't admit that he shot at Charlie for no reason, so he made up a story about us trying to break into his house. And because Clancy Barbrady has never passed up an opportunity hassle Charlie no matter how obviously fictional it was.

Q: Let's start at the beginning, what were you doing on August 29, 2013?

A: Charlie had just gotten out of prison a few weeks before, and while he was in I'd call him. We'd always talk about how much he missed fishing. So Charlie and I decided that we were gonna go. We spent the morning fishing on Pomme de Terre Lake, which is just south of Redwater.

Q: When you say "Charlie" you mean Charles Darrow, right?

A: Yes, that's right.
Q: How do you know him?
A: He's basically my best friend. We go way back. We've been friends ever since middle school. He's just a really nice guy who will pretty much do anything to help out someone who is trouble. I owe him a lot.
Q: Moving back to the day in question, you said that you were fishing?
A: We caught a couple, and so we decided that we wanted to go grill them.
Q: Did you?
A: We did. We went back to Charlie's place (which is right on main street) called some people over, and fired it up.
Q: Was Lommy Green there?
A: Eventually, yeah. He just came wandering by after we had been out there for an hour or so. He stopped to talk, and he seemed like a decent guy so we invited him to come hang out with us.
Q: So what happened after the cook-out?
A: As it got dark people started to head home. But Charlie, Lommy, and I decided that we weren't ready to be done so we went over to Lommy's place to play cards.
Q: What happened when you got there?
A: We played for a couple of hours, until around 9:00. Lommy cleaned up-he took me for $100 and Charlie for $300.
Q: Were you drinking?
A: Charlie and I had one apiece. Lommy overindulged, if you know what I mean. By the time we were done he was stumbling, slurring his speech, and generally making a fool of himself.
Q: Was Charlie angry about that?
A: He sure wasn't happy about it, but he seemed willing to let it go. He suggested that we see if we could get some people together.
Q: Did you?
A: We tried. Lommy didn't know anybody in town, and Charlie's phone was brand-new so he didn't have anybody's contact information, and my phone was dead.
Q: So what did you do?
A: We decided that we would walk over to my house and grab my charger. Redwater is a pretty small town, so it wouldn't take too long.
Q: What happened when you arrived?

A: Lommy and Charlie waited outside while I slipped in and grabbed it.

Q: How long were you in the house?

A: Around twenty minutes, maybe a bit more.

Q: Were they still outside when you returned?

A: Charlie was. Lommy wasn't.

Q: Did you ask him where Lommy was?

A: Yes. All he said was "Screw that jerk" or something to that effect. He looked pretty mad, but I thought that it would be better not to ask. Charlie's got a bit of a temper, sometimes.

Q: How did you two end up at Lommy's house that second time?

A: We were about to go our separate ways when Charlie realized that he had left his phone at Lommy's. So he asked me to walk back with him, and I did.

Q: What happened when you got there?

A: Charlie walked up to the door and knocked. He didn't pound on the door or try to kick it down or anything like that, he just walked up to it and knocked. We could see lights on, and could hear a voice, but no one came to the door. So Charlie knocked some more and as he did it, he said "it's me, Charlie. I just want my phone back."

Q: When did the shooting start?

A: The first shot was fired after Charlie said "it's me."

Q: What was it like?

A: At first I didn't even understand what had happened. I gather that the gun Lommy used was a fairly small one, a 9mm or something like that, so it wasn't very loud from our side of the door. I just heard a pop and all of a sudden there was a hole in the door. Then another. And another.

Q: Were you scared?

A: As soon as I realized what was happening, absolutely. I skedaddled across the yard and called the police.

Q: Did Charlie come with you?

A: Yes.

Q: Did the police arrive?

A: Yes.

Q: What did they do when they got there?

A: Well "they" was Clancy Barbrady. And what he did was look around for whatever excuse he could find to arrest Charlie, just like always.

Q: Did you ever hear Charlie threaten Lommy Green?

A: No.

Q: Did he try to kick down Lommy's door?

A: Absolutely not.

Q: Nothing further.

EXHIBITS

EXHIBITS AVAILABLE TO BOTH PARTIES

The parties have stipulated to the authenticity of the trial exhibits listed below. The Court will, therefore, not entertain objections to authenticity of these trial exhibits. The parties have reserved any objections to the admissibility of any of these exhibits until the trial of this matter. The trial exhibits may be introduced by either party, subject to the Rules of Evidence and the stipulations of the parties contained in the materials.

EXHIBIT #	EXHHIBIT DESCRIPTION
1	911 Transcript
2	Photograph of Lommy Green's Gun
3	First Photograph of Lommy Green's Door
4	Second Photograph of Lommy Green's Door
5	Third Photograph of Lommy Green's Door
6	Phone Found at Scene
7	Redwater City Police Incident Report

The parties reserve the right to dispute any other legal or factual conclusions based on these items and to make objections to these items based on other evidentiary issues.

EXHIBIT #1: 911 Phone Transcript (page 1 of 2)

08-29-2013 19:24

Dispatch: "Emergency 911. Is your emergency Police, Fire, or Medical?"

Caller 1: **"**Some crazy guy is trying to break my door down!"

Background: Thumping noise

Dispatch: "I need your name and location, please."

Caller 1: "My name is Lommy Green. If this guy comes in I'm going to shoot him"

Dispatch: "Help is coming but I need to know your address, what is it?"

Caller 1: "I'm at 302 South Broadway Street."

Background: Thumping noise continues

Dispatch: **"**Patrol 1, Prepare to copy."

Patrol 1: **"**Patrol 1 here. Go ahead dispatch."

Dispatch: "Report of an attempted home invasion in progress at 302 South Broadway Street, Redwater. Homeowner is armed. No further information available at this time. Your incident number is 46-108290911, and time of dispatch is 21:07."

Patrol 1: "Patrol 1 copies. I am on my way to 302 South Broadway Street for report of a home invasion in progress. My E.T.A. is three minutes."

Dispatch: "Good copy."

Dispatch: "I've dispatched police to your house, but it's a long street. Do you know the nearest cross-street?"

Caller 1: "We're near the intersection of North Pope Street. It's a big white house, the only one on the block."

Background: Thumping grows louder.

Caller 1: "Oh God, he's gonna get in! Oh my God oh my God oh my God…"

Dispatch: **"**OK, I just want you to stay on the line with me. We need to know what's going on."

EXHIBIT #1: 911 Phone Transcript (page 2 of 2)

Caller 1: "OK."

Unknown: “It’s [inaudible] I just want [inaudible] back!”

Background: Thumping resumes

Caller 1: “He’s gonna get in! I gotta shoot”

Dispatch: “Just hang on, help is almost there.”

Caller 1: “Not soon enough”

Background: Three gunshots. Silence.

Dispatch: “Sir? Sir? What’s happening? Are you alright? Sir?”

Patrol 1: “Dispatch, Patrol 1.”

Dispatch: “Go ahead Patrol 1.”

Patrol 1: “Patrol 1 on scene.”

Dispatch: **“**Copy. Patrol 1 on scene at 19:27.”

Caller 1: "Thank goodness, the police are here. Thank you. Thank you. I'm going now." – CALL ENDS

EXHIBIT #2: Lommy Green's Gun

EXHIBIT 3: First Photograph of Lommy Green's Door

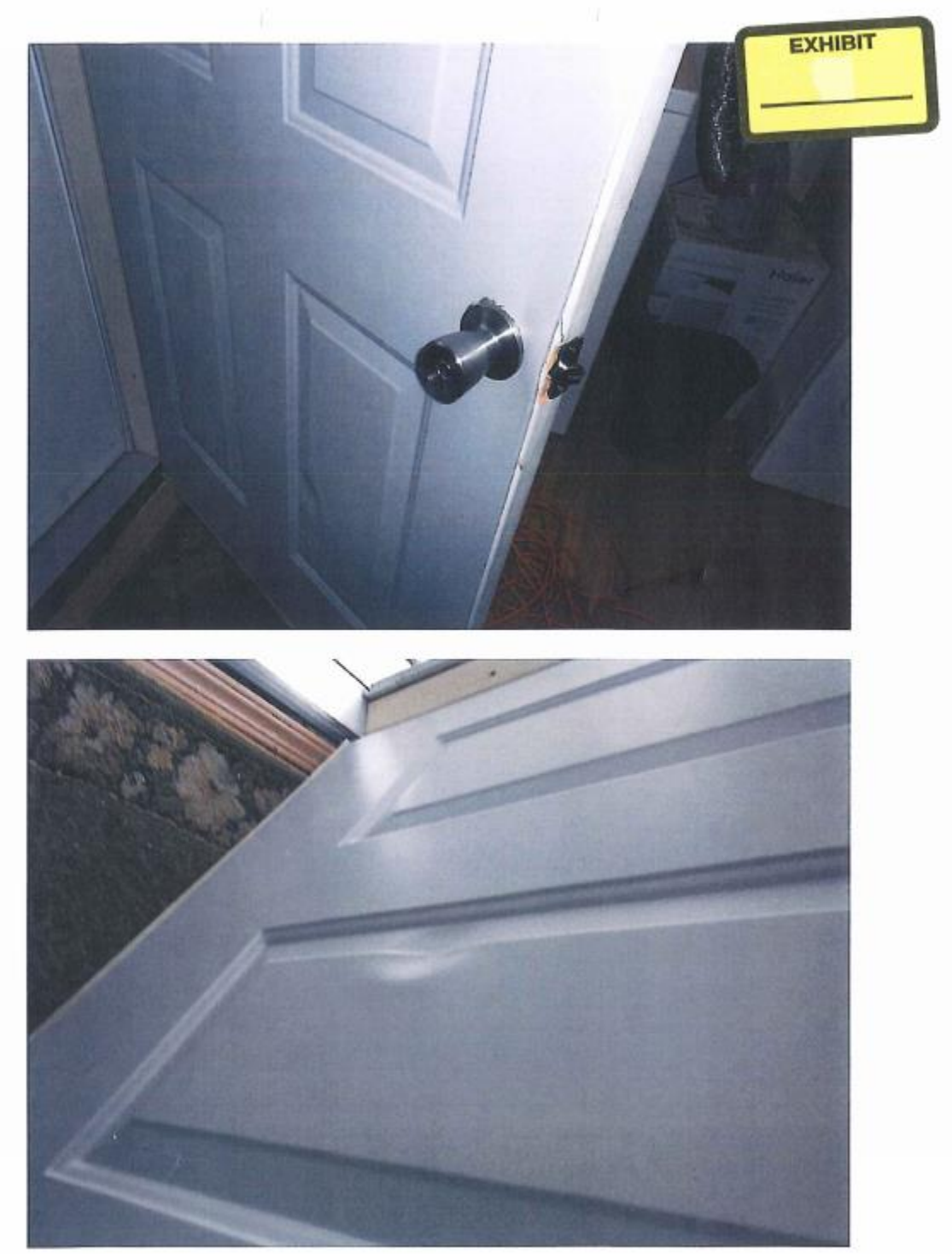

EXHIBIT 4: Second Photograph of Lommy Green's Door

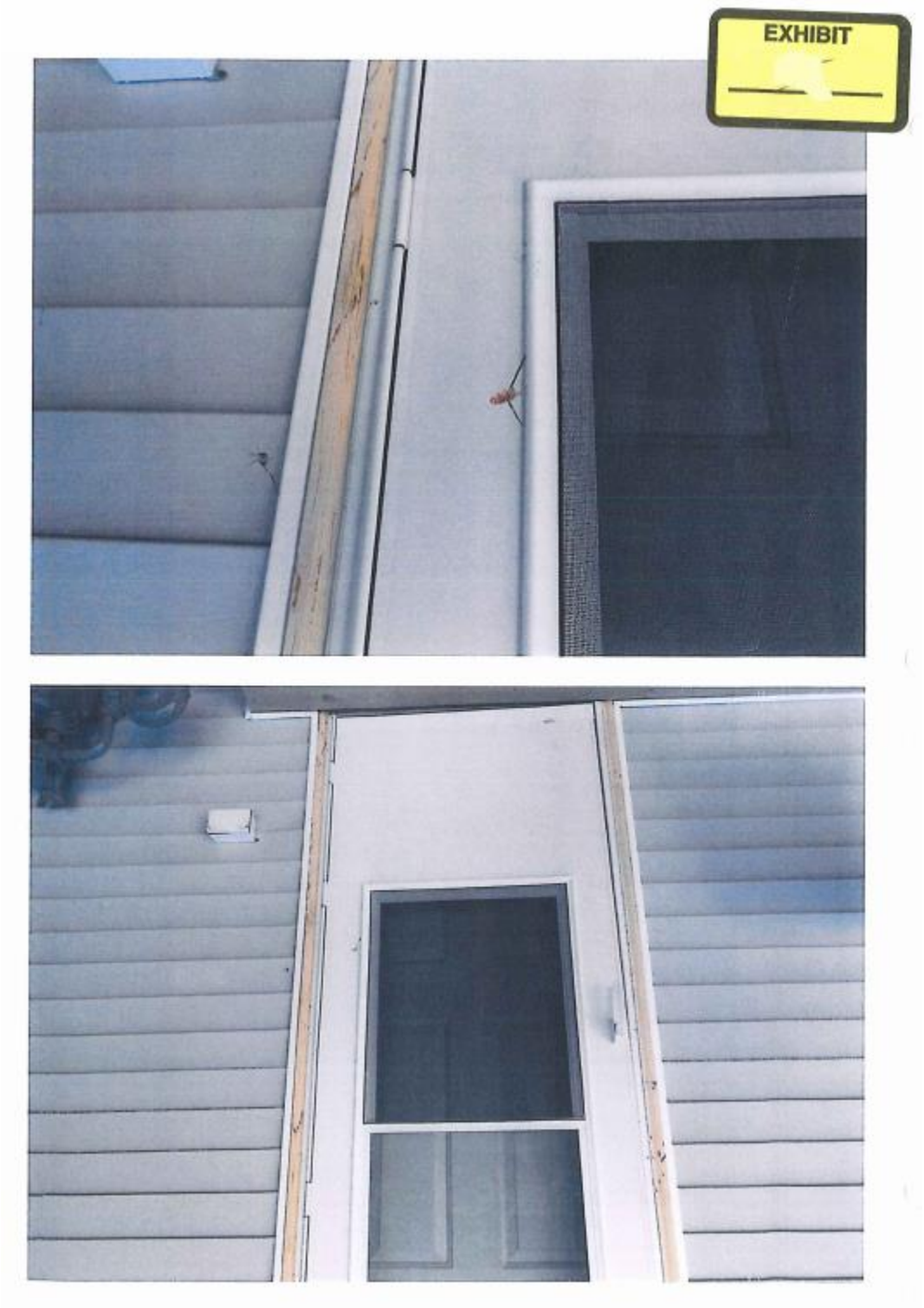

EXHIBIT 5: Third Photograph of Lommy Green's Door

EXHIBIT 6: Phone Found at Scene

EXHIBIT 7: Incident Report

AGENCY ID
MN56013

CITY OF REDWATER POLICE DEPARTMENT

Redwater, Minnesota (507) 526-5959

INCIDENT #
8-13-1082

INCIDENT REPORT

PRINT OR TYPE ALL INFORMATION

EVENT

INCIDENT TYPE	COMPLETED	FORCED ENTRY	PREMISE TYPE	UNITS ENTERED	TYPE VICTIM
Burglary	☑YES ☐NO	☑YES ☐NO	Res.	1	☑ Individual ☐ Business ☐ Government ☐ Other
	☐YES ☐NO	☐YES ☐NO			
	☐YES ☐NO	☐YES ☐NO			

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)	ZIP CODE	WEAPON TYPE
302 South Broadway Street, Redwater, Minnesota	56013	UNK

INCIDENT DATE	24 HOUR CLOCK	TO	DATE	24 HOUR CLOCK
8/29/2013	19:27		8/29/2013	21:05

VICTIM'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	DAYTIME PHONE	EVENING PHONE
Green, Lommy	Friend	UNK	UNK

ADDRESS	CITY	STATE	ZIP CODE
302 South Broadway Street	Redwater	MN	56013

SUBJECT NO.1

NAME (LAST, FIRST, MIDDLE)	AKA
Darrow, Charles	Charlie

FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULARITIES, ETC.
None

ADDRESS	CITY	STATE	ZIP CODE
313 Senate Street	Redwater	MN	56013

SUBJECT (NO.1) USING:	ARRESTED NEAR OFFENSE SCENE	DATE / TIME OF OFFENSE	DATE / TIME OF ARREST
ALCOHOL ☑YES ☐NO ☐UNKNOWN DRUGS ☐YES ☐NO ☑UNKNOWN	☑YES ☐NO	8/29/2013 19:27	8/29/2013 20:30

NARRATIVE

Responding officer arrived at the scene at the above date and time. Subject #1 and Raff Sweet were in the back yard, near a tree. I approached them, and they reported that they had been shot at by the homeowner, Lommy Green. They claimed that Mr. Green had stolen subject #1's phone, and approximately $400 earlier in the evening, and that they had come to the house in order to get the phone and the money back. I told them to wait where they were, and approached the home to speak with the Mr. Green. The front door was visibly dented at approximately waist height, and the area around the lock had been broken. Mr. Green reported that he had won the money fairly in a poker game, and that subject #1 had attempted to kick his door down Screaming obscenities and threats. He felt that his life was in danger, and so he called the police, and fired a few warning shots.

PROPERTY

TYPE (GROUP)	ITEM	OWNER		TOTAL VALUE
STOLEN				
DAMAGED	Front Door	Lommy Green		Unknown
BURNED				
RECOVERED	Cell Phone	Raff Sweet		$300
SEIZED				

ADMINISTRATIVE

SUBJECT IDENTIFIED	SUBJECT LOCATED			
☑ YES ☐ NO	YES	☑ ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED	☐ ARRESTED UNDER 18 ☑ ARRESTED 18 AND OVER	☐ EX-CLEAR UNDER 18 ☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE: 1. ☐ OFFENDER DEATH. 2. ☐ NO PROSECUTION 3. ☐ EXTRACTION DENIED 4. ☐ VICTIM DECLINES OPERATION 5. ☐ JUVENILE NO CUSTODY

REPORTING OFFICER	DATE	24 HR CLOCK	APPROVING OFFICER	DATE	UNIT NUMBER
Clancy Barbrady	9/2/2013	16:50	Lt. Solomon	9/5/2013	4618

FOLLOW-UP INVESTIGATION REQUIRED ☑ YES ☐ NO

AGENCY ID
MN56013

CITY OF REDWATER POLICE DEPARTMENT

Redwater, Minnesota (507) 526-5959

INCIDENT #
8-13-1082

SUPPLEMENTAL INCIDENT REPORT

PRINT OR TYPE ALL INFORMATION)

INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)	ZIP CODE	CASE #
302 South Broadway Street	56013	1879320

INCIDENT DATE	24 HOUR CLOCK	TO	INCIDENT DATE	24 HOUR CLOCK
8/29/2010	19:27		8/29/2013	21:05

COMPLAINTANT'S NAME (LAST, FIRST, MIDDLE)	RELATIONSHIP TO SUBJECT	DAYTIME PHONE	COMPLAINTANT'S NAME (LAST, FIRST, MIDDLE)
Green, Lommy	Victim	602-555-0789	Green, Lommy

ADDRESS	CITY	STATE	ZIP CODE
302 South Broadway Street	Redwater	MN	56013

SUBJECT NO.2

NAME (LAST, FIRST, MIDDLE)	AKA
Sweet, Raff	

FACIAL HAIR, SCARS, TATOOS, GLASSES, CLOTHING, PHYSICAL PECULARITIES, ETC.
None

ADDRESS	CITY	STATE	ZIP CODE
83 Eustis Street	Keister	MN	56013

SUBJECT (NO.2) USING:	ARRESTED NEAR OFFENSE SCENE	DATE / TIME OF OFFENSE	DATE / TIME OF ARREST
ALCOHOL ❒YES ❒NO ❒UNKNOWN DRUGS ❒YES ❒NO ❒UNKNOWN	❒YES ❒NO	8/29/2013 19:27	8/29/2013 20:30

SUPPLEMENTAL NARRATIVE

DATE	9/2/2013	24 HOUR CLOCK	16:50

After Mr. Green told me what happened, he consented to a search of his home. During this search I located the gun, and took a photo of it. I also located a phone underneath the cushions in the living room sofa. Mr. Green stated that the phone was not his. I asked both subjects about it, and both denied owning it. A later subpoena of telephone records indicated that it was owned by Raff Sweet.

Based on the condition of the door, Mr. Green's information, and my prior experience with subject #1 (he beat a man into a coma for stealing his motorcycle) I determined that subject #1 had committed the crime of burglary, and arrested him.

While I believe that alcohol was a factor in this crime, I did not perform the walk-and-turn test, the horizontal gaze nystagmus test, or the one-legged stand test. I also forgot to ask either subject to take a Breathalyzer.

REPORTING OFFICER	DATE	24 HOUR CLOCK	SUPERVISING OFFICER
Clancy Barbrady	9/2/13	16:50	Lt. Solomon