

2009 CCLCE MIDDLE SCHOOL MOCK TRIAL COMPETITION
CASE MATERIALS

IN THE CRIMINAL COURT FOR CONNOR COUNTY, NEW JUSTICE
AT BRANTON

STATE OF NEW JUSTICE)	
V.)	CASE NO. 08-0011-1V
JESSIE CHANDLER)	
Defendant		

Adapted with permission from Young Lawyers Division of the Tennessee Bar Association.

CRIME WATCH:

Nancy Dew, ndew@Connorchronicle.com

ARRESTS REPORTED FOR THE WEEKEND OF MAY 2-4, 2008:

Local Smoothie Store Worker in a “Whirled” of Trouble

Connor County police have arrested an employee of Herb World in connection with its robbery. Herb World, Connor County’s only herbal remedy health store and smoothie store, is owned by Avery Lawson and has been in business since January 2006. Lawson claims that \$2,700.00 was stolen on the evening of May 3, 2008.

Herb World manager Nic Atwell, a relative of Lawson’s claims that Atwell’s co-worker, Jessie Chandler age 19, a resident of Branton, robbed the store shortly after Chandler’s shift ended at 11:00 p.m. According to Atwell, Chandler showed Atwell a pistol, demanded the code to the safe, and then bound Atwell and customer Amari Wilson with electrical tape before Chandler left.

Amari Wilson later identified Chandler as the gun-wielding robber and gave a statement to police.

Chandler and Wilson both had formerly been employed by Café of Dreams, a local coffee shop that was closed two years ago after police discovered ongoing illegal drug sales on the premises. Herb World has also been rumored to be a source of illegal drugs in the community, and Wilson has since been arrested for illegal use and possession of hydrocodone.

Chandler stated to police that Chandler had left Herb World shortly after 11:00 p.m. One unconfirmed source claims Chandler took only wages and reimbursement for the purchase of supplies for the store.

Police searched Chandler’s home and car but have not recovered a weapon.

Neither Avery Lawson nor Chandler could be reached for comment. Chandler remains at Connor County Correctional pending arraignment later in the week on the charge of aggravated robbery.

AGREED STIPULATIONS

1. The Defendant has only been charged with aggravated robbery. Teams cannot argue that any other lesser-included offense applies.
2. No *Miranda* issues exist. The Court held a hearing prior to the trial and ruled that the Defendant did not have standing to assert a *Miranda* defense to the interrogation of Amari Wilson as Exhibit 2.
3. In the state of New Justice polygraph examination results are not admissible of guilt or innocence under the law because they are inherently unreliable. However, they may be admissible in part or in their entirety for another purpose, such as impeachment of a witness. The polygraph examination results are included as Exhibit 5.
4. At the time of trial, Avery Lawson is unavailable as a witness because he is in the hospital on a ventilator following a massive stroke. He cannot speak or otherwise communicate. Avery was cross-examined by the Defendant's attorney at the preliminary hearing before the matter was bound over to the grand jury.
5. All witness affidavits have been sworn to by the declarant and were given during the month of May 2008. Amari Wilson's witness affidavit was given May 8, 2008 at 8:00 a.m.
6. Teams may not argue that there is an absent material witness.
7. Whenever a rule of evidence requires reasonable notice, teams must presume that such notice has been given.
8. All exhibits included in this problem are authentic and accurate in all respects. No objections as to the authenticity of the exhibits may be made.
9. Stipulations may not be contradicted or challenged. However, it shall be the responsibility of the teams to bring the stipulations to the attention of the Court as the situation requires.
10. In this problem the defendant has waived his/her fifth amendment right against self-incrimination and chooses to testify. No team may choose to not call the defendant as a witness.

RELEVANT LAW

Beyond a Reasonable Doubt

A defendant is presumed to be innocent of the charge against him/her. This presumption remains throughout every stage of the trial and is not overcome unless from all the evidence the jury is convinced beyond a reasonable doubt that the defendant is guilty of the offense charged.

The State has the burden of proving the guilt of the defendant beyond a reasonable doubt, and this burden remains on the State throughout the case. The defendant is not required to prove his or her innocence.

Reasonable doubt is that doubt created by an investigation of all the proof in the case and an inability, after such investigation, to let the mind rest easily as to the certainty of guilt. Absolute certainty of guilt is not demanded by the law to convict of any criminal charge, but moral certainty is required, and this certainty is required as to every element of proof necessary to constitute the offense.

Defendant's Choice to Testify

The defendant does not have to testify, and if the defendant chooses not to testify, no significance can be placed on that fact. The defendant is presumed innocent and the burden is on the State to prove guilt beyond a reasonable doubt. The defendant is not required to take the stand in his/her own behalf, and his/her election not to do so cannot be considered for any purpose against him/her nor can any inference be drawn from such fact. The State cannot comment on the defendant's choice to testify or to remain silent. (In this problem, the defendant has waived his fifth amendment right and chooses to testify.)

Circumstantial and Direct Evidence

The State may prove a criminal offense by direct evidence, circumstantial evidence, or a combination of the two.

Direct evidence is defined as evidence which proves the existence of the fact in issue without inference or presumption. Circumstantial evidence consists of proof of collateral facts and circumstances which do not directly prove the fact in issue but from which that fact may be logically inferred.

Before a judge or jury may convict a defendant of a criminal offense based upon circumstantial evidence alone, the facts and circumstances must be so strong as to exclude every other reasonable hypothesis save the guilt of the defendant. In order to convict on circumstantial evidence alone, the facts must establish such a certainty of guilt of the defendant as to convince the mind beyond a reasonable doubt that the defendant is the one who committed the offense. Before a verdict of guilty is justified, the circumstances taken together must be of a conclusive nature and tendency, leading on the whole to a satisfactory conclusion and producing in effect a moral certainty that the defendant, and no one else, committed the offense.

Aggravated Robbery

For the judge or jury to find the defendant guilty of Aggravated Robbery, the state must have proven beyond a reasonable doubt the existence of the following essential elements:

1. that the defendant knowingly obtained or exercised control over property owned by Avery Lawson d/b/a Herb World; and
2. that the defendant did not have the owner's effective consent; and
3. that the defendant intended to deprive the owner of the property; and
4. that the defendant took such property from the person of another by the use of violence or by putting the person in fear; and
5. (a) that the defendant accomplished this act with a deadly weapon or by display of any article used or fashioned to lead the alleged victim to reasonable believe it to be a deadly weapon;
or
(b) that the alleged victim suffered serious bodily injury.

The fear constituting an element of robbery is fear of present personal peril from violence offered or impending. Resistance of the party robbed is not required.

The taking from the person may be actual or constructive. It is actual when the taking is immediately from the person, but it is constructive when in the possession of the person or in the person's presence. The alleged fear or violence used in the taking of the property must precede, accompany or occur at the same time as the taking to constitute an element of aggravated robbery.

Aggravated Robbery is a Class B felony.

DEFINITIONS FOR AGGRAVATED ROBBERY STATUTE:

1. "Property" means anything of value, including but not limited to money.
2. "Owner" means a person, other than the defendant who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property.
3. "Effective consent" means assent in fact, whether or express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:
 - a. induced by deception or coercion; or
 - b. given by a person the defendant knows is not authorized to act as an agent;
or
 - c. given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by defendant to be unable to make reasonable decisions regarding the subject matter; or
 - d. given solely to detect the commission of an offense.
4. "Deprive" means to withhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner.

5. “Intentionally” means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person’s conscious objective or desire to encourage in the conduct or cause the result.
6. “Knowingly” means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person’s conduct when the person is aware that the conduct is reasonably certain to cause the result.
7. “Deadly weapon” means a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious bodily injury or anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.
8. “Serious bodily injury” means bodily injury that involves a substantial risk of death; protracted unconsciousness; extreme physical pain; protracted or obvious disfigurement; or protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty.
9. “Bodily injury” includes a cut, abrasion, bruise, burn, or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ or mental faculty.
10. “Violence” means evidence of physical force unlawfully exercised so as to damage, injure or abuse. Physical contact is not required to prove violence. Unlawfully pointing a deadly weapon at an alleged victim is physical force directed toward the body of the victim.

Identity

One of the issues in this case is the identification of the defendant as the person who took the money from the safe. The State has the burden of proving identity beyond a reasonable doubt. Identification testimony is an expression of belief or impression by the witness, and its value may depend upon consideration of several factors. Some of the factors that may be considered are:

- a. The witness’ capacity and opportunity to observe the offender. This includes, among other things, the length of time available for observation, the distance from which the witness observed, the lighting, and whether the person who committed the crime was a prior acquaintance of the witness;
- b. The degree of certainty expressed by the witness regarding the identification and the circumstances under which it was made, including whether it is the product of the witness’ own recollection;
- c. The occasions, if any, on which the witness failed to make an identification of the defendant, or made an identification that was inconsistent with the identification at trial; and
- d. The occasions, if any, on which the witness made an identification that was consistent with the identification at trial, and the circumstances surrounding such identifications.

Again, the State has the burden of proving every element of the crime charged, and this burden specifically includes the identity of the defendant as the person who committed

the crime for which the defendant is on trial. If after considering the identification testimony in light of all the proof there is a reasonable doubt that the defendant is the person who committed the crime, the defendant must be found not guilty.

Flight

The flight of a person accused of a crime is a circumstance which, when considered with all the facts of the case, may justify an inference of guilt. Flight is the voluntary withdrawal of oneself for the purpose of evading arrest or prosecution for the crime charged. Whether the evidence presented proves beyond a reasonable doubt that the defendant fled is a question for your determination.

The law makes no precise distinction as to the manner or method of flight; it may be open, or it may be a hurried or concealed departure, or it may be a concealment within the jurisdiction. However, it takes both a leaving the scene of the difficulty and a subsequent hiding out, evasion or concealment in the community, or a leaving of the community for parts unknown to constitute flight.

If flight is proved, the fact of flight alone does not allow you to find that the defendant is guilty of the crime alleged. However, since flight by a defendant may be caused by a consciousness of guilt, the fact of flight may be considered, if flight is so proven, together with all of the other evidence when deciding the guilt or innocence of the defendant. On the other hand, an entirely innocent person may take flight and such flight may be explained by proof offered, or by the facts and circumstances of the case.

Whether there was flight by the defendant, the reasons for it, and the weight to be given to it, are questions to be determined by the trier of fact.

Inference from Possession of Recently Stolen Property

If the trier of fact finds beyond a reasonable doubt from the evidence that the property in question had been recently stolen and that soon thereafter the same property was discovered in the exclusive possession of the defendant, this possession, unless satisfactorily explained, is ordinarily a circumstance from which an inference may reasonably be drawn that the defendant gained possession through theft.

However, the trier of fact is never required to make this inference. It is for the trier of fact to determine whether the facts and circumstances shown by the evidence in this case warrant any inference that the law permits to be drawn from the possession of recently stolen property.

When the evidence is offered that the defendant was in possession of recently stolen property, the defendant has the right to introduce evidence that the defendant came into possession of the property lawfully, or possession may be satisfactorily explained through other circumstances or other evidence, independent of any evidence offered by the defendant.

In considering whether possession of recently stolen property has been satisfactorily explained, the trier of fact is reminded that in the exercise of constitutional rights, the accused need not take the witness stand and testify.

The term “recently” is a relative term, and has no fixed meaning. Whether property may be considered as recently stolen depends upon the nature of the property and all the facts and circumstances shown by the evidence in the case. The longer the

period of time since the theft, the more doubtful becomes the inference which may be drawn from unexplained possession.

The correctness of the inference, and the weight to be given any explanation that may be shown by the evidence, are matters that must be determined by the trier of fact, and the trier of fact is not bound to accept either. All the evidence presented as to the defendant's alleged possession of the property in question must be weighed and it must be decided, in light of all the facts and circumstances present whether any inference is warranted.

JESSIE CHANDLER
(Defendant)

1. My name is Jessie Chandler. I am nineteen years old, and I reside in Connor County
2. with my mom, Marcy Chandler. I used to reside with a friend of mine, but when all
3. this happened I had to move back home. My mom was fearful living alone after my
4. dad died of a heart attack in February 2008.

5. Mom's money has been tight for a while, but most people in the community have no
6. idea. I was sending her money from my job at Herb World until I got arrested. She
7. was just barely scraping by since February because they didn't have any life
8. insurance for Dad.

9. I work at Herb World in Branton. I've been working there since before I graduated
10. high school. Of course, I work a lot more hours now that I am not in school. Avery is
11. not a very hands-on boss, and Nic and I basically run the place. Avery is pretty old
12. and out of touch anyway for the kind of clientele Herb World attracts.

13. I have been sick of the way things are run around there for a while now, especially
14. since Avery and Nic are so tight and Avery cannot see things for what they really
15. are where Nic's concerned. Nic is Avery's relative. I had just applied next door at the
16. dry cleaners when this whole thing came up.

17. On May 3rd, 2008, I was scheduled to get off work at 11:00 p.m. I had been working
18. all day because Saturdays are usually my big days. There was a lot of traffic in the
19. store with people buying herbs and things. Right before we closed, a bluegrass band
20. came in, and almost all of them ordered smoothies. I am not the herb expert-that's
21. more Nic. I hear him talking about cannibas and candidas and all those strange words
22. I don't understand. Nic kinda has a customer base of regulars, just like I do. I mostly
23. make smoothies. Nic usually works the floor and the back room. The greenies-no, I
24. think they were just another flavor of smoothie. I haven't had one. Nic usually makes
25. them for certain customers.

26. Well on the 3rd, I cleaned the blenders from making smoothies, put all the dirty dishes
27. in the dishwasher, and swept the front area. When I was finished I told Nic I was
28. leaving. Nic said, "I still have to close the register and prepared a deposit for in the
29. morning." Usually, when Nic prepares a deposit it's put into the safe overnight, and
30. then on Monday it's taken to the bank. I never take the money to the bank, and I don't
31. know who usually does that. I just know we do a daily count of the register. Avery
32. has never let me do it, but Avery does let me ring people up.

33. Anyway – I left Herb World about 11:00. One of our customers was still there –
34. Amari Wilson. Amari is always hanging around there with Nic. I am not sure
35. what's going on there. I never met Amari until I worked at Herb World.

36. After I got off work, I went out the back door to get in my car. I park behind the strip

37. mall next to the dry cleaning van. I drive a VW bug; it's dark navy. I don't have
38. flowers in my vase because I think that's silly.

39. See, I had not gotten that far out of town before Detective Marchetti and the cop
40. clan from both the city and county was blocking the road. When I looked in my
41. rear-view mirror, there was a squad car on my tail too. Blue lights and the whole
42. nine yards. It was a big spectacle. I guess they don't get much action in Connor
43. County if they thought they needed all that to get me to stop the car. I stopped
44. immediately – I didn't have a choice anyway because they were blocking the road.

45. Detective Marchetti walked up to my window and demanded that I get out of the
46. car. Detective asked, "You Jessie Chandler? There's a warrant that allows me to
47. arrest you, and I am taking you to the station. Now, step out of the car and I am going
48. to search it." They found \$900.00 cash and an old roll of electrical tape in my car.
49. The money was in the glove box. The electrical tape was under the passenger seat, I
50. guess. At least that's what they told me. I didn't know it was there.

51. I had been planning my trip to the Smokies for a couple of weeks, and I had talked
52. to Nic about it. I guess the Smokies will still be there when I get out of here.
53. Sometimes when time is slow at the store, we chat about our personal lives. But, Nic
54. has always run with a different kind of crowd than me.

55. I go to church all the time-I am just not the kind of person who would ever steal
56. from anyone. And I have never been violent! I cannot imagine carrying a gun,
57. much less flashing it around. I did not commit this crime.

58. Sure, Nic had unmistakably red hair back when this happened and I didn't, but it
59. doesn't make sense why everyone believes someone who didn't know anything
60. because of "hitting the sauce" or something. Wasn't Amari Wilson's drug screen
61. positive?? I heard that from my lawyer. I don't even own a gun now—mine was
62. stolen. Yeah, I've reported that to police.

63. I have like three of those red hoodie sweatshirts that Avery wants us to wear while
64. we're working. Sometimes I take mine off, like when the weather is too warm for
65. a sweatshirt. Nic usually wears a red hoodie, too. Nobody has asked me to do a lie-
66. detector test yet so I don't know if I'd take one. I heard they had Nic take one.

67. I cannot believe I am being prosecuted for this crime. I have never stolen anything
68. from Herb World! Avery Lawson cannot see this for what it is—Nic stole from Avery
69. and Avery just cannot accept that. Nic completely set me up, and I believe Nic had
70. that planned from the beginning. I mean, ask yourself why the electrical tape wasn't
71. preserved? And why Nic used electrical tape in the first place? And why the
72. surveillance tape didn't record? What about Nic's choice to do this while a customer
73. was still in the store so that it looked like it was me? On a weekend when Nic knew I
74. was heading out of town to see friends? There are just so many things that are
75. obvious.

76. I think they said I took the money because the Detective told them they found
77. \$900.00 in my car. I had the money because I have been saving a deposit and first
78. month's rent for an apartment of my own—plus I was going on vacation or might
79. have an emergency while out of town. My roommate had started hanging out with
80. some people who I heard do drugs, and I just didn't want to be around it. I had to put
81. it in my car before I went to work that day because I was leaving to go to the Smokies
82. right afterward. What if they'd found my money when needing some drug money or
83. something? I worked hard for that.

84. Avery Lawson has no idea how much money was in that safe anyway. I bet Nic got
85. away with a lot more than \$900.00 that night.

Jessie Chandler

Signature

PARKER MADDOX
(Witness for the Defendant)

1. I like insects; I find it easy to relate to them. Their needs and wants are simple.
2. To the extent that they think, they think collectively and logically. I'm not just
3. another employee of "Just Buggin;" I revolutionized the process. My dream is
4. for Just Buggin to be the first insect-friendly pest-control service. Instead of
5. poison, I spray a blend of cold air that I patented. It knocks them unconscious.
6. I than vacuum them into a holding unit. Then, after I leave the premises, I set
7. the creatures free. Or I keep them. Mostly I keep them. I haven't told the owner
8. about my special patent or my vacuum. He would strip me of my green uniform
9. if he knew I was deviating from his standards. He thinks I kill them. He clearly
10. doesn't believe in Karma.

11. Strictly speaking, of course, the term "bug" is inaccurate when referring to
12. insects as a whole. A "true bug," or hemipteran, refers to insects with biting
13. or sucking mouthparts and two sets of wings. Similarly, "pest" is an incorrect,
14. and dare I say, offensive word. Just because an ant wants to eat the food you
15. carelessly left out on your counter doesn't make the ant a pest. Perhaps you are
16. the one pestering said creature.

17. Herb World has been a good customer. Of course, its clientele is a little different
18. from the gang I play Magic with. But everyone's always been nice to me. One
19. time someone thought my wand was a gun. That was kind of funny. No one's
20. ever been afraid of me before.

21. I always go in the back door when I arrive for a treatment. Avery said that the
22. customers would "freak out" if they saw me enter the front door in all my gear.
23. Avery's always worried about people "freaking out."

24. That night, I came in the back as usual. It was unlocked. I saw Nic reaching into
25. the open safe. I didn't think anything of it, and I didn't notice anything unusual.
26. I mean, Nic is the manager, and there was still a customer in the building. Of
27. course, I usually have my mind on my job; I try to watch where I'm walking
28. so I don't smoosh anybody.

29. I don't usually do out in the front of the business. The insects tend to stay behind
30. the bar, anyway. So, someone might have seen me behind the bar as I was
31. finishing up.

32. No, the police didn't interview me about anything. Police tend not to notice me
33. unless they're warning me not to release insects into the city parks. I wouldn't
34. have been able to tell them much. If it's not a bug, I don't notice it. In fact, the
35. only thing unusual that I did notice that night was a Volkswagen Bug pulling
36. out of the parking lot as I was pulling in.

Parker Maddox
Signature

LOU COBB
(Witness for the Defendant)

1. My name is Lou Cobb. I am the owner of the Press-N-Clean dry cleaner
2. that's the next door to Herb World in the strip mall in Blanton. I don't
3. own the building. As far as I know, we all rent from Old Man Woods-
4. he owns half the real estate in this town. Legend is that he buries rent in
5. coffee cans in his back yard because he doesn't believe in banks.

6. I have received an application from Jessie Chandler from employment
7. at my dry cleaners. Jessie applied about three days before being arrested.
8. I had not gotten back to Jessie with my decision, mostly because I was
9. trying to decide what to do. I was a little skeptical of anyone who has worked
11. at Herb World, but I knew Jessie was always there on time and worked long
12. hours. Plus, I know Jessie's family. And, I did need some help. People aren't
13. exactly lining up to help me press clothes! That's especially true in the
14. summer months.

15. I was at work the night the alleged robbery occurred, but I was in the back
16. pressing pants to try and catch up. I really didn't see anything. I couldn't
17. hear what happened either because of the noise of the machines and the
18. big fan that was running to cool things off.

19. Even though there was a noise in my store, I really think I would have
20. heard some commotion if something were really going on. My back
21. door was open to the alley way, and the walls aren't that thick.

22. I saw Jessie leaving the store about five minutes or so after 11:00 pm
23. on May 3rd. I remember because I waved goodbye and said I'd be there
24. tomorrow. Jesse replied, "I'll be long gone by then!" I didn't know what
25. Jessie meant, but I didn't stop to chat. I still had a huge stack of pants left.
26. I glanced at the clock because I was so surprised it was 11:00 already with
27. so much left to do! Now I know Jessie was heading for the Smokies. It seems
28. like I remember Jessie telling me of the travel plans when turning in the
29. application for a job.

30. I don't know if anyone was still working or not next-door after Jessie left. I
31. never went to look. I saw the cops com up to the building about 11:45 that
32. night. I didn't go over and get involved-to tell you the truth, I just figured
33. the place was finally being busted for drugs. I was glad Jessie had already
34. left for the night.

35. I tried to tell Dakota Marchetti, the officer for the PD who investigated this
36. case, that Herb World had some "shady business" going on two days before
37. this supposed robbery, but Marchetti did not investigate it. I really don't like
38. Avery Lawson, but it's for good reasons. Avery has never run a clean business

39. over there, and I think it hurts the retailers in the strip mall. Beatrice has
40. people come pawn stuff all the time to get small amounts of cash. Then,
41. they go running next door to Herb World. I think there are more than herbs
42. being sold over there.

43. I used to be in the local civic club, "Making a Difference," with Avery
44. Lawson, the owner of Herb World. I have seen Avery be all chummy
45. with Dr. Roberts on several occasions. Dr. Roberts came in and out of
46. Herb World five times in the few days before the alleged robbery. Dr.
47. Roberts always had a duffle bag coming and going. I'm not sure what
48. was going on there, but I definitely noticed. Detective Marchetti seemed
49. to write it off.

50. I heard Dr. Roberts talking about THC as a natural painkiller, but Dr. Roberts
51. never looked like a smoker to me.

52. There were three people working at Herb World in May 2008. Only one of
53. them had red hair-I think the name started with an "N." If you said it, I'd
54. know but I just can't remember right now. Then, there was Jessie Chandler
55. and a gal named Mauve. Mauve was a little "out there" if you know what I
56. mean. I never had conversations with the red head because I got the
57. impression that friendliness was not a priority. I didn't push it. Avery is hardly
58. ever at the store. I don't know what Avery does all day.

59. I know Parker Maddox. Maddox has been an employee for Just Buggin' for
60. a while, I think. I have had Parker Maddox come spray my business before
61. when going next door. I have always thought a lot of the owner of Just Buggin',
62. Marty Roach. I know Marty through "Making a Difference." He runs a good,
63. clean business. I cannot imagine that he'd hire anyone who is a problem.

64. I have known Jessie for a long time because Jessie is the child of Marcy
65. Chandler, an upstanding member of the community and member of the
66. civic organization along with Avery Lawson and me. It seems strange to me
67. that Jessie has to work so much because I know Marcy has plenty of money
68. from her family. She inherited an apartment complex several years back. The
69. apartments are right here in Blanton, and they keep her plenty busy. I tried to
70. tell Marcy I was concerned about Jessie working for Herb World back when
71. Jessie went to work there during high school. Marcy didn't seem concerned,
72. and I have to say, I don't think the environment has changed Jessie at all.

73. I don't think Jessie is violent. One time I saw someone try to hit Jessie, and
74. Jessie just backed up with hands in front of the face saying, "Peace man,
75. Peace. Can't we just get along?"

76. You asked if there's anything else you should know, and to tell you the truth,
77. I think you have the wrong person. Jessie is not a robber. Jessie is smarter than

78. that, for one thing. Plus, Jessie doesn't have a drug problem like what you're
79. insinuating.

80. The red-head from Herb World was at the Pit Shop market at the same time the
81. day after all this happened, asking the clerk to break two \$100.00 bills. There
82. was a wad of \$100's in the money clip the red pulled from the pockets of the
83. Herb World red sweatshirt, but only two were given to the clerk. The Clerk
84. asked, "Were you there last night when the place was robbed?" Red looked
85. confused, then seemed to realize that the hoodie gave it away. "I don't work
86. there, but I did read about it in the paper this morning." Then, red asked for
87. two lottery tickets and said, "I hope my luck continues 'cause I am on a
88. winning streak!" The Clerk smiled and said something like, "Hope it's
89. contagious!" I know red didn't recognize me. For one thing, I was dressed
90. up because I had been to church. I called Detective Marchetti to let the police
91. know, but I don't know if they really investigated it.

Lou Cobb
Signature

DAKOTA MARCHETTI
(Witness for the State)

1. My name is Dakota Marchetti. I am the lead detective in Conner County.
2. I have worked in law enforcement for over ten years, but I have only been in
3. Conner County since 2007. I was a lateral hire, and as soon as I came to Connor
4. County I began my post as a detective.

5. I came to the scene of an aggravated robbery on May 3, 2008 after 11:00 but
6. sometime before mid-night. I know it was before midnight because I was
7. really not supposed to be at work, and I got to count overtime for Saturday
8. and Sunday.

9. When I got there, a subject by the name of Amari Wilson was sitting in the floor
10. bound with electrical tape about the wrists. I immediately told the officers to
11. secure the scene while I bent down and cut the tape to free things up a bit. Amari
12. seemed grateful and grabbed me by the neck with a tight squeeze. Amari smelled
13. like a hemp, and I have never liked that smell, so I was not thrilled about being
14. so close. Hair really holds the scent.

15. I asked Amari what happen. Amari gave me some sort of answer, but I didn't
16. focus too much on what was said to me right then because Amari consented
17. to come to the station to give a full report. I like coffee much more than
18. smoothies, and there wasn't a coffee pot in sight if you know what I mean.

19. Nic Atwell was also there. When we arrived, Nic was in the bathroom on
20. the toilet and there was a tape crumpled up in the floor. Nic said, "I went
21. ahead and took this off. I hope it's ok, but I just really had to go." I couldn't
22. believe Nic would have done something so silly. But, sometimes that's the
23. privilege of investigation-you encounter some pretty strange things out there.

24. Anyway- Nic explained what happen. The story was pretty much the same as
25. the Affidavit of Complaint Nic gave the Judicial Commissioner. I don't know
26. of any big differences. Because the crime had already occurred, I did not do
27. much investigation. I just told Nic to go on down to the Commissioner and
28. swear out a warrant. I mean, there wasn't much question in Nic's mind who
29. did it-Nic certain it was Jessie Chandler.

30. While I believed Nic's story-after all, there was the tape on Nic, too-I didn't
31. want to let my concerns go all together. Particularly because we've been
32. investigating a tip from an anonymous citizen that Herb World is a front for
33. illegitimate business, namely of the drug distribution sort. So, I wanted to get
34. to the bottom of the bigger issue.

35. So, I set Nic up for a lie-detection test later in the week as a way to rest my
36. concerns that Nic might have been involved. Tell the Truth Examinations,

37. LLC performed the test. The examiner was an old friend of mine, Melinda
38. Martin. Melinda and I used to be on the force together years ago, and Melinda
39. has been doing examinations of this kind for over twenty years. Melinda didn't
40. know anything about the case, so I had to fill her in before the exam. Also,
41. Melinda discusses the questions and facts with the subject before performing
43. the test. If anyone could get answers, it was Melinda. So, when the test came
44. back inconclusive, I was feeling pretty good about Nic's version of the facts.

45. Also, I had the prints on the safe. My investigations commonly rely on
46. fingerprint analysis. There are 250 points of identification on a fully rolled
47. fingerprint. Fingerprints taken in a controlled environment, like for employment
48. purposes or upon booking at the jail, are full prints. Latent prints are usually
49. partial and not given purposely. When comparing a latent print to the fingerprint,
50. you look for pattern type, ridge flow, and the overall fingerprint. Smooth surfaces
51. can be extremely difficult to print because of undeveloped ridges that are difficult
52. to manufacture into a print.

53. We were able to lift partial latent prints on the safe keypad for the numbers "3"
54. and "9" that matched Jessie Chandler's fingerprint in enough ways to be
55. conclusive in a computerized comparison. We did not run any prints for Nic
56. because we expected that they would be present given Nic's position as a
57. manager and Avery's confirmation that Nic was allowed in the safe every day
58. at closing and on mornings for deposits. We only found a partial print for Jessie
59. inside the safe around the top rim of the outside edge.

60. I know that Nic was entitled to get in the safe because I checked that out with
61. Avery Lawson. Avery owns Herb World. Avery gave me a statement in this case
62. as well. Basically, it's sad what's happened to Avery-with the stroke and all. I
63. can't believe our luck on this one-I mean, the State likes to put criminals away.
64. So, to have a big witness unavailable like this is tragic. We'll just have to go
65. forward and hope for the best.

66. Avery's report was basically that the code to the safe was 1391. Avery says Avery
67. has given this code to Nic and Jessie before. I did not get a print from the "1" key
68. because it was too distorted, and I surmise that's because the double stamping
69. required to enter the key smeared the print or moisture from the fingertip was left
70. was left on the "1" as the first key in the sequence. Moisture is the number one
71. cause of a lost or distorted print.

72. I asked Avery to go count the money in the register and safe on Sunday morning.
73. Avery did, and called me back to report that there was \$2,700.00 missing from the
74. safe. Avery also provided me a bank statement dated April 4 through May 4, 2008
75. as evidence in this case. We discussed the bank statement, and Avery showed me
76. that payroll is paid on a regular schedule and supplies are ordered usually on
77. Tuesdays so they are received no later than Fridays. Sure, I still have the
78. statement, but I am not sure it matters to the case.

79. I found a red hooded sweatshirt at the scene with “Herb World” embroidered
80. on the back in gold letters. I don’t know whose sweatshirt it was. Jessie, Nic,
81. and Avery all agreed that every employee has at least one. In the pocket was a
82. piece of paper with “Pass Your Drug Test” at the top and an extensive list of
83. drugs and how long they are in the body under a variety of testing models.
84. Based on my knowledge, experience, and training, I agree with the information
85. posted on that paper. For example, I have independent recollection that, for
86. example, hydrocodone, an opiate, remains in the system for one-to-six days
87. if ingested orally and marijuana remains in the system for two days-to-six
88. weeks if smoked or orally ingested-just like the paper said. By “remains in
89. the system” I mean it will be revealed in a urine drug test.

90. A drug test is a technical examination of urine, blood, sweat, or oral fluid
91. samples to determine the presence of a specified drug or their metabolized
92. traces. In the USA, testing can be divided into two distinct groups: federally
93. and non-federally regulated testing. Federally regulation testing started with
94. Reagan. The ranges of detection periods depend on the amount and
95. frequency of use, metabolic rate, body mass, age, overall health, and urine
96. pH. The efficacy of urine testing is debatable due to systematic cheating.
97. However, our department routinely relies on urinalysis detection of drug
98. use. I have studied urine drug testing for years.

99. Conner County Medical Center does most of our urine screens because
100. they have a room with toilet water that’s dyed blue to prevent cheating tests.
101. Also, we make subjects dress in the hospital’s gown and remove all personal
102. belongings from them prior to giving a specimen. Oh-and they screen for the
103. cheaters that can be used to detox a person’s urine in preparation for a test.
104. I have had someone cheat the system once before, but it was from having a
105. relative working at the hospital who switched the specimens right before they
106. went to the lab. We caught the employee of the hospital, and Conner County
107. Medical Center fired the person. I took Amari Wilson to Connor County
108. Medical for a urine screen on May 8, 2008 right before taking a statement
109. at the police department. Amari didn’t know we were going there first-I
110. picked Amari up at the local park and stopped there first. Because the test
111. with the cheater identifier is so expensive to run, we didn’t include that.
112. Surprise tests are best anyway because you get a better chance of catching
113. things.

114. Amari’s statements are a little unreliable, sure. But, from my perspective,
115. you have to use all the evidence you have and see what commonalities are
116. exposed during investigation. When piecing all the parts together, it’s the
117. subtleties that sometimes prove the case. In this one, Amari has given consistent
118. statements when you really think about it. Plus, Amari’s statements are
119. consistent with what lots of others have said.

120. Amari Wilson also ruled out Nic Atwell in a photo identification lineup at the
121. police department. Amari could not say it was any other subject whose picture
122. I provided, but the clear answer was that Nic was not involved. This was based
123. on Nic's glaringly red hair. I provided Amari with pictures including the
124. following subjects in the photo lineup: Jessie Chandler, Nic Atwell, Mauve
125. Mason, and Parker Maddox. I went ahead and included Parker's picture
126. because Nic reported that Parker was present at one point in the evening and I
127. had to have someone else. Research shows that you need at least four people's
128. pictures for an accurate photo lineup presentation. Anyway-I felt confident in
129. Amari ruling out Nic, especially after the lie detection testing that we ordered
130. later in the month.

131. No, I didn't get Avery's cell phone records before the phone company lost them.
132. Avery doesn't appear to have a home number-I checked into that, too.

133. Anyway-after Nic swore out the warrant, the Judge called me and told me to go
134. pick it up because he found probable cause for an arrest. I went over to Herb
135. World, and Nic told me Jessie was heading out of town last Nic heard. I didn't
136. realize that the night before or I would have acted more quickly. Luckily, it
137. didn't matter because we found Jessie headed east toward the Smokies-just like
138. Nic said. We searched Jessie's car incident to arrest and for inventory purposes
139. upon impounding and found \$900.00 cash and a roll of electrical tape. We didn't
140. find a gun, but that's not surprising. I mean, there are lots of people everyday
141. who commit crimes with a weapon and then lose the thing. We have it happen
142. a lot more than I care to tell you about.

143. There is a handgun registered in Tennessee to Jessie Chandler. There are no
144. registrations for Nic Atwell.

145. All these facts, taken together with the timing of Jessie's report that Jessie's
146. gun was stolen, support a conviction for Jessie Chandler. I believe Nic Atwell
147. had absolutely nothing to do with this.

Dakota Marchetti
Signature

AMARI WILSON
(Witness for the State)

1. I was hanging out at Herb World that night. I didn't have anything goin' on.
2. I had had a real bad headache earlier in the day. I get, um, headaches a lot-stuff
3. Advil can't take care of. Vic Liason hooked me up with the hydrocodone. Vic
4. would give them to me if I would clean Vic's house. Vic died in a car accident a
5. while back. Yeah, I knew better, but when you're hurting, you're hurting. When I
6. have my headaches, I cant even stand to wear my glasses.

7. I went to Herb World to see if I could get one of their greenie smoothies-that's a
8. special recipe Nic, the manager, made up. They sometimes help with my
9. headaches. When I got there the place was deserted because they were just about
10. to close up. Nic was the only one in the place and said they'd had a busy night
11. because the Blue Man Group, the local bluegrass band, not those weird
12. performances guys, had been in after the show. Nic looked pretty beat but made
13. me a greenie anyway.

14. Then I saw Jessie Chandler come in from the back, I knew Jessie from when we
15. both worked at Café of Dreams before it got shut down. Well, let's just say that
16. the customers at Café of Dreams must have had worse headaches than I did. That
17. place was shut down a while ago when the cops learned about the drugs being
18. sold there on a regular basis. I mean, cops will look away at occasional stuff, but
19. they're gonna shut down a full-scale business operation like Café of Dreams was.
20. Herb World? Nah, they weren't selling drugs. I mean, I don't do drugs so, I
21. wouldn't know, but I don't think they were.

22. Anyway, I know I recognized Jessie that night. We used to drive around and listen
23. to my Bob Marley tapes-yeah, tapes; they were my mom's. Tapes. That's a funny
24. word. Tapes. Tapes. Oh, yeah, we'd listen to the tapes after we'd finish work
25. sometimes. But that night Jessie didn't look cool, ya know? Jessie's usually cool,
26. but that night Jessie seemed amped up-really excited. Jessie practically ran up to
27. Nic. I couldn't see very well, but it looked like Jessie showed Nic something in
28. Jessie's pants. Jessie was talking really loud-or; at least, I think it was loud.
29. Jessie also sounded kind of far away. One thing I remember Jessie saying was,
30. "I'm not joking, Nic. This is not a joke, Ok." But I don't know, I thought it was
31. pretty funny, because Jessie was running around and trying to show Nic
32. something in Nic's pants. I was laughing pretty hard, you know that kind of laugh
33. that just takes over and you don't know when it will stop? I spilled the rest of my
34. greenie, and it made me mad 'cause I didn't have enough green to buy another
35. greenie. Still, I knew Nic would hook me up. He's always good about free
36. samples if you know what I mean. But I stopped laughing pretty quickly right
37. after I threw my cup away when I saw that what Jessie was showing Nic was
38. a gun. Then, Jessie came over to me and put a burlap bag- one of the Herb World
39. "earth bags" over my head. Earth bags. But they're not made of earth. Then I felt
40. someone wrapping tape around my wrists. I heard a voice say, "Sorry about this."

41. For some reason, I'm not sure if it was Jessie's voice or not. It was kinda far
42. away, too.

43. I'm not sure how long I sat there with that bag on my head, but eventually I
44. realized I could just lean over and shake it off my head. I was kinda like,
45. "Whoa, why do I even need hands?" It was a pretty profound thought, but I
46. didn't dwell on it because that's when the weirdest thing happened. Nic and
47. Jessie had vanished, but there was a bug-zapper person standing in the middle
48. of the store. Cold air surrounded and Bug-dude or dudette-hard to tell from the
49. uniform-emerged all in green and had this ventilator and goggles on. To be
50. honest, after all that I'd been through I thought that it was some sort of bugman
51. from outer space, or some sort of buggy grim reaper. The bug sprayer thingy
52. kinda looked like a grim reaper's sythe. Yeah, I guess it also could have looked
53. like a gun. I remember looking at my greenie in my hand and wondering if
54. bugman drank too many greenies and they turned him green. Huh, yeah, come
55. to think of it, I though I had spilled my greenie before I was tired up, too.

56. I did tell all of this to that cop Marchetti. He didn't do any fingerprinting or
57. look to close at the tape on my wrists, but I was fine with that. The less I have
58. to talk to those guys the better- you've got to look out for your civil liberties,
59. you know. I wasn't too pleased when Marchetti asked me to ID the photo
60. lineup, but I ruled out Nic right off? It was Jessie with the gun-not Nic. Sure
61. I'm sure. I mean, I didn't have any glasses on, but the person with the gun did
62. not have red hair.

Amari Wilson
Signature

NIC ATWELL
(Witness for the State)

1. My name is Nic Atwell, and I am not a drug dealer. I cannot believe how some
2. people assume the worst based on people's past. I mean, sure-there's that one
3. thing in my past. I don't know why people make such a big deal. That's what they
4. have the diversion program for-a clean start. It was more than two years ago, and
5. nothing else has happened. So, don't you think I'm behaving?

6. I was adopted a few years ago by my Mom's husband, and I still live at home
7. with my parents. I don't know many people. I have worked at Herb World since
8. the store opened-My uncle Avery Lawson owns the place. Uncle Avery has
9. always been good to me, even when I got in trouble before.

10. Avery hasn't been doing well. I hope he lives a lot longer because my life
11. would not be the same without him to talk to. He's my rock. When I was
12. diagnosed, I spent a lot of time in the pit if you know what I mean. But, Avery
13. brought me out. Now, I am a manager at his store, Herb World, and I love what
14. I do. Customers regularly come see me-especially for the greenie. The greenie is
15. my magic combination of good stuff to help people, especially people with pain.
16. I like helping people like Avery helped me.

17. I gave a statement to the Judicial Commissioner right after it happened. There's
18. nothing I would change about what I said that day, except now I know it was
19. \$2,700.00 that Jessie took. That's pretty much what happened, you know.

20. I guess I just wish that I could have seen it coming-done something to keep
21. Jessie Chandler from stealing from my uncle and scaring me and Amari half to
22. death. I mean, what was the point in bringing a gun into it? And tying us up?
23. Really? I would have protested, sure, if Jessie had tried to take it with me
24. knowing. But there were other ways to do it-I mean, like from the register or
25. when I wasn't paying attention and the safe was open. I don't know. But,
26. anything other than what Jessie did!

27. The whole time, Jessie was apologizing to me and Amari about things "having
28. to be this way." I guess that still seems to weird to me. I don't see that they had
30. to be any such a way.

Nick Atwell
Signature