

## **LAW REVIEW**

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### **LAWYER WORKING OVERTIME ON BURGLARY CASE**

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When an indigent person commits a crime they are appointed a free attorney to represent them. I am perfectly fine with the free counsel; however, I chafe when the defendant's lawyer comes up with garbage defenses that waste taxpayers' money.

#### 12-Year Old Burglar

Matthew A., a juvenile so his name is protected (why is that?), is accused of burglarizing Lisa Campo's apartment which is next door to Matthew and his Mom's apartment. In fact, their apartments share attic space.

When Lisa returned from work on December 15, 2006, she found "a mess" with bottles of wine empty and yogurt "spread out all over". A camcorder, jewelry, a Nintendo, and children's clothing were missing. It didn't take Long Beach Police detectives long to crack the case—the attic door was open.

Further evidence that young Matthew committed the crime was obtained when his Mom returned some of the stolen goods the next day.

#### The Confession

Matthew told detectives that he and a buddy "hung out a little bit" at Lisa's, ate some food, and watched television, then took the items from Lisa's

apartment. So case closed right? You are thinking even Jim Porter as prosecutor could win this case. Not so fast.

### Burglary

As you know, not from personal experience but from reading previous *Law Review's*, burglary involves the act of unlawful entry accompanied by the specific intent to commit larceny or a felony. It is your intent (the bad guy's intent) when entering that is important even if the theft or felony is committed later or even if it is not committed. The defendant must intend to commit a theft or felony at the time of entry—as the cases hold.

### Defendant's Arguments

Matthew's presumably underpaid but creative lawyer claimed he "had only been curious and mischievous in attempting to entry Campo's apartment." In another words, he entered her apartment through the attic door with no intent to commit a crime, just to "hangout".

Then, as the argument goes, after entering the apartment Matthew belatedly, perhaps high on spread yogurt, decided to commit vandalism, write graffiti and steal Lisa's belongings. I.e. Matthew is innocent.

### Ruling

Fortunately, the Court of Appeal upheld the trial court and found Matthew A. guilty of burglary, noting that the evidence of theft of property following entry creates a reasonable inference that the intent to steal existed at the moment of entry. His actual thefts support the inference he entered the apartment with the intent to steal. Of course, that his Mom returned some of the stolen goods did not help.

For his efforts Matthew was placed on home probation (lucky Lisa)—meaning he probably hasn't yet learned his lesson.

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