

Exhibit 42

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STATE OF ILLINOIS)
) SS.
COUNTY OF C O O K)

IN THE CIRCUIT COURT OF COOK COUNTY
COUNTY DEPARTMENT-CRIMINAL DIVISION

THE PEOPLE OF THE)
STATE OF ILLINOIS)
) Case No. 06-13571
VS)
) Before JUDGE JOHN KIRBY
WILLIAM CARTER) (AND A JURY)

FEBRUARY 1, 2007
1:45 P.M.

Court convened pursuant to recess.

Paul P. Marzano, CSR, RPR
Official Court Reporter
2650 S. California, Room 4C02
Chicago, IL 60608
License #84-001789

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DATE: 2-1-07

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(The following proceedings
were had out of the
hearing of the jury:)

THE COURT: State, do you have your
instructions?

MS. EGAN: Yes, Judge. There's a clean copy and
a marked copy for your Honor.

THE COURT: Okay.

MS. EGAN: The Defense is reviewing them.

THE COURT: Come on in. Have a seat. Let's get
going. I said a quarter to two.

All right. Counsels, please
approach. State, you're going to be resting?

MS. EGAN: Yes.

What we will be asking to do is
strike all of the identification marks and offering them
into evidence.

We'd be asking to publish to the
jury the diagram and the pictures either right before or
right after we rest. I would like to have the jury be
able to see those.

THE COURT: How many photographs?

MS. EGAN: Five photos I think or four

1 photographs and the diagram, which I don't know if your
2 Honor wants the deputy to hold them in front of the jury
3 or how.

4 THE COURT: One, two, and three are photos?

5 MS. FIALKOWSKI: No. One through four are
6 photos.

7 THE COURT: Oh, right.

8 Five is the narcotics bag. Six is
9 the narcotics and seven is a diagram.

10 MS. EGAN: Correct.

11 THE COURT: I'll let them -- I'll let you publish
12 it. You can rest, ask the identifications be stricken.
13 And what I do with the narcotics is at the conclusion of
14 the trial when the jury begins to deliberate, the deputy
15 brings back the narcotics.

16 I explain to them they can look at
17 them, take them out. I rather they didn't take them
18 out. They can take them out. They can't open them.
19 Put them back in the bag, knock on the door, and they
20 come out. They don't stay there through the entire
21 deliberations just so you know.

22 MR. SIMMONDS: That's fine.

23 THE COURT: You'll be resting.

24 Defense, are you going to ask for a

1 motion for directed finding?

2 MR. SIMMONDS: Yes.

3 THE COURT: Do you want to argue that now so we
4 don't have to bring the jury out and back in? Motion
5 for directed finding?

6 MR. SIMMONDS: Yes.

7 THE COURT: Go ahead.

8 MR. SIMMONDS: I believe that the State's main
9 witness with regard to the culpability end of it --

10 THE COURT: Hold on.

11 Okay. There was a child crying in
12 the hallway, and I wanted to make sure that everything
13 was okay. It is. And you may continue on with your
14 argument on your motion for --

15 MR. SIMMONDS: Yes, Judge.

16 Judge, even perceiving the evidence
17 in the light most favorable to the State, the one
18 witness that the State has called here, the major
19 witness with regard to culpability, Officer Smith (sic),
20 was not credible, Judge. He was impeached with regard
21 to how many officers were with him.

22 THE COURT: Officer Jones.

23 MR. SIMMONDS: Officer Jones.

24 He was impeached with regard to how

1 many officers were with him at the time the alleged
2 transaction took place.

3 He indicated he made a mistake in
4 counting the amount of bags that were allegedly taken
5 from my client.

6 Judge, there was no further evidence
7 apart from his testimony. There was no other officers
8 that testified. Judge, I just don't think that the
9 State has met its burden.

10 THE COURT: State?

11 MS. EGAN: We would ask that you deny their
12 motion. Clearly, you are viewing the evidence in the
13 light most favorable to the People at this juncture.

14 The officer testified credibly. We
15 would say that he was not significantly impeached. The
16 fact that he said one, yes, there was one immediately
17 behind him that he was probably able to see the same
18 thing, but that does not mean we did not meet our burden
19 of proof, and the burden of proof is not weighed on the
20 amount of witnesses that we call.

21 They were credible. There was clear
22 evidence there was intent to deliver on CHA property and
23 the controlled substance was cocaine. We ask you deny
24 the motion.

1 THE COURT: All right.

2 After hearing the testimony that the
3 State presented in regards to Officer Alvin Jones and
4 civilian Halloran, the State Police chemist, the State
5 has met their burden of proof at this time. The motion
6 is denied.

7 MR. SIMMONDS: Thank you, Judge.

8 MS. EGAN: Judge, just a couple of things. I did
9 give your Honor a draft copy. I spoke to counsel. They
10 requested two additional jury instructions which I have
11 a law clerk up there now trying to get.

12 I guess I'm just bringing this to
13 the Court's attention. Counsel showed me -- well, two
14 things.

15 One: One witness by the name of
16 Valencia Cline, as I have been told the Defense intends
17 to call. There was a telephone conversation between
18 this witness and the defense attorney and notes that
19 were taken by counsel and tendered to us.

20 Clearly, if she goes off of that,
21 counsel would be a witness. I don't want to create a
22 big problem. He has said that he would stipulate to the
23 document that I have and the conversation that he had
24 with her should there be some impeachment. Otherwise,

1 we are going to be in a problem because there was no
2 prover --

3 THE COURT: No problem.

4 MS. EGAN: -- on the phone call.

5 And secondly: Aside from that
6 summary, there were no reports tendered to the State
7 from any other witness.

8 It's been brought to my attention
9 that the Defense has an investigator here to testify to
10 potential impeachment under Supreme Court Rule 413.

11 We also have the right to have
12 things disclosed to us. We have no memoranda of any
13 oral statements by those witnesses.

14 THE COURT: Did the investigator take any notes?

15 MR. SIMMONDS: I don't allow it, no.

16 THE COURT: Did he file any written reports?

17 MR. SIMMONDS: Just the report that they always
18 make up, that a job has been taken care of.

19 THE COURT: Have you tendered that?

20 MR. SIMMONDS: No, Judge. It has no information
21 in it.

22 THE COURT: Well, if he testifies, I think the
23 State has a right to verification of when this alleged
24 conversation took place.

1 MR. SIMMONDS: It's on the notes.

2 THE COURT: Okay.

3 MS. EGAN: We don't have any notes.

4 MR. SIMMONDS: I'm sorry. The one that you got.

5 THE COURT: No. I'm talking about the
6 investigator.

7 Your investigator's going to testify
8 he went out and interviewed somebody on February 1st.
9 If there's a document verifying that, even if it's just
10 a --

11 MR. SIMMONDS: I understand.

12 THE COURT: You know, you hand it into your
13 supervisor saying this is work I did on that day, I
14 think that the State can cross him in regards to whether
15 or not --

16 MR. SIMMONDS: We will collect them.

17 THE COURT: All right.

18 MS. EGAN: If we can deal with Sandra Barry's
19 issues before she testifies.

20 THE COURT: Is she the next witness?

21 MR. SIMMONDS: No.

22 THE COURT: You can -- well, let's do it now
23 because we might be able to move into her testimony.

24 MR. SIMMONDS: All right.

1 Two of my witnesses went to lunch.

2 I haven't seen them yet, but they could be outside.

3 THE COURT: Okay.

4 MS. EGAN: Your Honor wants me to strike the
5 identification marks, offer into evidence. There is no
6 objection, that will be allowed, publish and then rest?

7 THE COURT: Right.

8 MS. EGAN: Do you want the deputy to hold the
9 diagram? The pictures, we can hand to them and they can
10 pass around, but the diagram is a little cumbersome.

11 THE COURT: Yeah, I'll have Alicia walk it.
12 Alicia, would you mind showing the jury the diagram at
13 the appropriate time?

14 THE SHERIFF: What you want me to do, hold it up?

15 MS. EGAN: Right before I rest..

16 THE COURT: You know what? You can walk it.

17 MS. EGAN: Okay.

18 THE COURT: Okay?

19 MS. EGAN: Okay.

20 THE SHERIFF: What is it?

21 THE COURT: It's too heavy. If it's too heavy
22 for you Alicia, there is no problem. Can both of you
23 deputies handle that?

24 MR. SIMMONDS: Judge?

1 THE COURT:

2 Q. Miss Berry, would you step up, please?

3 Miss Barry, I have been informed by your attorney or
4 the public defender or defense attorney and the state's
5 attorney you will be testifying at this trial is that
6 correct?

7 A. Yes.

8 Q. There has been some rulings in regards to
9 the extent of your testimony. You cannot testify to
10 what happened at the preliminary hearing court. Do you
11 understand that?

12 A. Okay. You are talking about my trial?

13 Q. Right.

14 You can't testify to your trial or
15 anything that happened in your trial.

16 A. Okay.

17 Q. You can testify to the events that
18 happened on that night.

19 A. Okay.

20 Q. Okay?

21 A. Hmm, hmm.

22 Q. Nothing further.

23 A. Hmm, hmm.

24 Q. Okay. Do you understand that?

1 A. Yes.

2 Q. Okay.

3 MR. SIMMONDS: Thank you.

4 MS. EGAN: In regard to the testimony, should
5 there be -- because I don't know what she is going to
6 say, but should there be testimony of a purchase from
7 someone else.

8 THE COURT: I'm sorry.

9 Q. Miss Berry, do you understand that in
10 regards to the incident that occurred here on -- is it
11 May 1st?

12 MS. EGAN: Yes.

13 THE COURT: May 19th.

14 MS. EGAN: Yes.

15 THE COURT:

16 Q. You -- you -- if you admit to a crime on
17 the stand, you still potentially are capable of being
18 charged with a crime. Do you understand?

19 A. Hmm, hmm.

20 THE COURT:

21 Q. And if you do admit to a crime on the
22 stand, the defense attorney has told me you're not going
23 to admit. I don't know what you're going to testify to.

24 But if you do, I would stop the

1 trial and appoint -- or at least inform you that you
2 have a right to an attorney if they ask you questions
3 that could implicate your Fifth Amendment rights.

4 A. Okay.

5 THE COURT:

6 Q. Do you understand that?

7 A. Hmm, hmm.

8 THE COURT: Okay. Thank you.

9 A. Hmm, hmm.

10 MS. EGAN: Thanks, Judge.

11 THE COURT: All right.

12 Having done all that, are both sides
13 ready?

14 MR. SIMMONDS: I'll be right back. Can we
15 proceed with with our first witness?

16 THE COURT: The State's going to rest. Have your
17 first witness in court.

18 MR. SIMMONDS: Can I bring them in?

19 THE COURT: Yeah. Have them sit right in here.

20 MR. SIMMONDS: All right.

21 THE COURT: Bring the jury out.

22 MR. SIMMONDS: Judge, my first witness is in the
23 courtroom.

24 THE COURT: That's fine.

1 MR. SIMMONDS: Okay.

2 (The following proceedings were had in
3 the hearing and the presence of the
4 jury:)

5 THE COURT: The jury is now present. You may be
6 seated. State, you may proceed.

7 MS. EGAN: Judge, at this time, we are asking
8 leave of Court to strike the identification marks of
9 People's Exhibit 1 through 7. That's including 2, 3, 4,
10 5, 5A, 6, 6A, 6B, and 6C and we are offering those into
11 evidence at this time as People's Exhibits.

12 THE COURT: Any objections?

13 MR. SIMMONDS: None.

14 THE COURT: They will be stricken and admitted
15 into evidence at this time.

16 MS. EGAN: Judge, based upon that, we would be
17 asking to publish the photographs and the diagram to the
18 jury, at this time.

19 THE COURT: Okay.

20 You may do that. Ladies and
21 gentlemen, if you would examine the photographs or
22 documents as the state's attorney gives them to you and
23 then she will show you the diagram at the end of that.

24 MS. EGAN: I'll hand them the photographs as

1 well. When they are completed, then I can show them the
2 diagram.

3 THE COURT: Okay.

4 You can pass them down. State, you
5 may show them the diagram now.

6 MS. EGAN: Yes, Judge. Can everybody see?

7 THE COURT: Can everybody see the diagram?

8 THE JURORS: Yes.

9 THE COURT: Okay.

10 MS. EGAN: Thank you, Judge.

11 THE COURT: Okay.

12 MS. EGAN: With that, your Honor, the People of
13 the State of Illinois rest their case-in-chief.

14 THE COURT: Okay. Defense?

15 MR. SIMMONDS: May we proceed.

16 THE COURT: Sure.

17 MR. SHIH: The Defense calls its first witness.
18 Janine Maxwell.

19 THE COURT: Ma'am, would you please stand at the
20 chair there and raise your right hand. Stand there and
21 raise your right hand.

22

23

24

1 JANINE MAXWELL

2 called as a witness on behalf of the Defense, being
3 first duly sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 By MR. SHIH:

6 THE CLERK: You may be seated.

7 THE COURT: Have a seat. Ma'am, please keep your
8 voice up so everybody can hear you.

9 MR. SHIH:

10 Q. Would you please state your name for the
11 record?

12 A. Janine Maxwell.

13 Q. And where do you live?

14 THE COURT: Hold on. Can you spell that first
15 name for us?

16 A. J A N I N E.

17 THE COURT: Go ahead.

18 MR. SHIH:

19 Q. What address do you live at?

20 A. 4541 South Calumet.

21 Q. And what is your relation to William
22 Carter?

23 A. Mother.

24 Q. Do you see him in court?

1 A. Yes.

2 Q. Will you please identify him by including
3 an article of clothing that he's wearing and point him
4 out?

5 A. Purple shirt, brown tie.

6 THE COURT: In court ID will be noted.

7 MR. SHIH:

8 Q. Now, where does William live?

9 A. 527 East Browning, apartment 506.

10 Q. And was that where he was living on
11 May 19th, 2006?

12 A. Yes.

13 Q. Which apartment was he living at? Which
14 apartment number?

15 A. 506.

16 Q. Who else lives in apartment number 506?

17 A. My sister, Paulette, her daughter,
18 Valencia Cline, and Stephanie Brown.

19 Q. Now, how often do you visit William?

20 A. Twice out of the week.

21 Q. And do you help support him?

22 A. Yes.

23 Q. What do you usually give him money for?

24 A. Clothing and to look for a job.

1 Q. Okay.

2 Anything else?

3 A. That's it.

4 Q. Now, Miss Maxwell, prior to, before,
5 May 19th, 2006, when did you last see William?

6 A. A week before that.

7 Q. Okay.

8 And a week before, what happened
9 when you saw him a week before?

10 A. I bought him \$300 over.

11 Q. And what did you give him the money for?

12 A. Clothes and to help him go find a job.

13 Q. Okay.

14 Did you give it to him in person or
15 did--

16 A. In person. I bought it over.

17 MR. SHIH: No further questions.

18 THE COURT: Cross.

19 CROSS-EXAMINATION

20 By Miss Fialkowski:

21 MS. FIALKOWSKI:

22 Q. Ma'am, you testified that the week before
23 May 19th, you brought William \$300, is that correct?

24 A. Correct.

1 Q. Was that in cash?

2 A. Yes.

3 Q. And you testified that that was so he
4 could buy clothes?

5 A. Yes.

6 Q. And you say that you would give him money
7 every -- two times a week to buy clothes?

8 MR. SIMMONDS: Objection.

9 A. No.

10 THE COURT: Hold on. Hold on.

11 MR. SIMMONDS: It mischaracterizes the testimony.

12 THE COURT: She said no. Okay. Go ahead.

13 MS. FIALKOWSKI:

14 Q. How often do you give him money?

15 A. Probably -- I don't give him \$300 like
16 that. Probably every six months, I give him something,
17 but it don't be like that.

18 Q. So, you only give him money every six
19 months. Ma'am, what do you do for a living?

20 A. I do home child care.

21 Q. And you said that you were giving him this
22 money, this \$300, to buy clothes and to look for a job?

23 A. Yes.

24 Q. So William wasn't working on May 19th of

1 last year?

2 A. No.

3 Q. And did he ever show you the clothes that
4 he bought?

5 A. Yes, he be showing me what he bought.

6 Q. What did he buy?

7 A. At the time, I didn't ask him what did he
8 buy.

9 Q. So, you didn't know what he bought with
10 the \$300?

11 A. No.

12 Q. And you weren't in the building at 527
13 East Browning on May 19th, is that correct?

14 A. Correct.

15 MS. FIALKOWSKI: Nothing further.

16 MR. SHIH: Nothing.

17 THE COURT: Okay.

18 Thank you, ma'am. You may step
19 down. You may call your next witness.

20 MR. SIMMONDS: Judge, may we call our second
21 witness?

22 THE COURT: Sure.

23 MR. SIMMONDS: Thank you.

24 THE COURT: Ma'am, step up. Stand at the chair

1 there and raise your right hand.

2 A. Step up on here?

3 THE COURT: Yeah.

4 DAMICA NICKERSON

5 called as a witness on behalf of the Defense, being
6 first duly sworn, was examined and testified as follows:

7 DIRECT EXAMINATION

8 By MR. SIMMONDS:

9 THE CLERK: You may be seated.

10 MR. SIMMONDS: May I proceed?

11 THE COURT: Ma'am, please keep your voice up so
12 everybody can hear you.

13 MR. SIMMONDS:

14 Q. Ma'am, could you please tell us your name
15 and spell your last name?

16 A. Damica Nickerson N I C K E R S O N.

17 Q. Damica, where do you live?

18 A. At 527 East Browning, apartment 608.

19 Q. Is that the sixth floor?

20 A. Yes.

21 Q. And how long have you lived there?

22 A. I lived there for seven years.

23 Q. And do you know William Carter?

24 A. Yes.

1 Q. Do you have any kind of relationship with
2 him?

3 A. He's my friend. He's cool.

4 Q. Okay.

5 And do you know where he lives?

6 A. He's living on fifth floor.

7 Q. Do you know the apartment number?

8 A. I think 506.

9 Q. Do you see William here in court today?

10 A. Yes.

11 Q. Could you please point him out and
12 indicate an article of clothing he may be wearing?

13 A. He's to my right. He have on a blue shirt
14 with a tie.

15 THE COURT: In court ID.

16 MR. SIMMONDS: Thank you.

17 Q. Now, directing your attention to May 19th
18 of 2006, at approximately between 6:30 and 7:00 p.m.,
19 what were you doing at that time?

20 A. Cooking some food.

21 Q. And where were you cooking?

22 A. In my apartment.

23 Q. And do you do anything to support
24 yourself?

1 A. I sell food.

2 Q. To who, ma'am?

3 A. To customers and residents in the
4 building.

5 Q. What type of food do you make?

6 A. Italian beefs and pizza puffs.

7 Q. And did you have happen to see William
8 that day?

9 A. Yes.

10 Q. Was that about between 6:30 and 7:00?

11 A. Yes.

12 Q. And what happened when you saw him?

13 A. He came to my apartment to order him an
14 Italian beef. And we laughed and giggled around for a
15 couple of minutes, and he said he'd be back, and he
16 never came back.

17 Q. Okay.

18 Who else was in your apartment, if
19 you recall?

20 A. Me and a couple of my girlfriends.

21 Q. Okay.

22 And what did you do after he left?

23 A. I went looking for him to see where he was
24 at because he had placed an order.

1 Q. Okay.

2 And did you -- had you already
3 started cooking the sandwich for him?

4 A. No. I was like -- it was cooking at the
5 time. I told him he had to wait for like five minutes
6 because the meat wasn't all the way done. So I told him
7 to wait five, ten minutes or something.

8 Q. And when you told him he had to wait for
9 five or ten minutes because the food was still cooking,
10 what did he do?

11 A. He stood there for a couple of seconds.
12 Him and my friend laughed and played around for a
13 second, and he had left out, and he never came back.

14 Q. Did you happen to see him again that day?

15 A. I had went looking for him. When I went
16 to go look for him, the police had him.

17 Q. Where did you see him?

18 A. On the fifth floor.

19 Q. Do you recall at what apartment?

20 A. At his house, where he live at.

21 Q. What number was that?

22 A. 506.

23 Q. Okay.

24 Now you say you saw him and the

1 police had him?

2 A. Uh-huh.

3 Q. Can you describe what you saw?

4 A. I saw him. They had put handcuffs on him
5 and I was like what did he do, and they was mind your
6 business.

7 MS. EGAN: Objection.

8 THE COURT: Sustained. Sustained as to what
9 someone else told her. Ma'am, you may testify to what
10 you said.

11 A. Uh-huh.

12 THE COURT: Not what someone else told you.

13 MR. SIMMONDS: Thank you, Judge.

14 Q. Damica, without telling us what other
15 people told you, okay, like the judge said. So you saw
16 him being handcuffed, is that right?

17 A. Yes.

18 Q. All right.

19 How many police officers were there?

20 A. I had seen two at the time.

21 Q. Do you know those police officers?

22 A. I know them when I see them.

23 Q. How is it that you know them when you see
24 them?

1 A. Because they always in my building and
2 always downstairs.

3 Q. Okay.

4 Could you describe them for me?

5 A. Short, black, kind of husky like, and the
6 other was like kind of like tall and slim like.

7 Q. Was he also an African American officer?

8 A. Yes.

9 Q. Okay.

10 And after you saw him being
11 handcuffed, what happened after that?

12 A. They left with him. I went back to my
13 apartment.

14 Q. Okay.

15 MR. SIMMONDS: Thank you. Nothing further.

16 Tender the witness.

17 CROSS-EXAMINATION

18 BY MS. FIALKOWSKI:

19 MS. FIALKOWSKI:

20 Q. Ma'am, you said that you sell sandwiches
21 and pizza puffs to people in the building to make money?

22 A. Yes.

23 Q. Is that your sole means of support?

24 A. Yes.

1 Q. Okay.

2 So, when the defendant came to your
3 apartment and ordered that Italian beef sandwich on
4 May 19th, he paid you, right?

5 A. Yes.

6 Q. Okay.

7 And then he left?

8 A. He stood there for a hot second, a minute
9 or two, and then he left.

10 Q. So, he gave you the money for the
11 sandwich, but he didn't take the sandwich?

12 A. Because it wasn't ready yet.

13 Q. So, how long was it going to take to get
14 ready?

15 A. I told him like five or ten more minutes
16 because I had put the meat on maybe 30 minutes before he
17 came.

18 Q. And so you don't have sandwiches ready for
19 people --

20 A. Uh-uh.

21 Q. -- when they order them?

22 A. No.

23 Q. They have to order, pay and then come
24 back?

1 A. Right.

2 Q. And the officers that you saw with the
3 defendant after you went looking for him, was one of
4 those officers the officer that you testified -- that
5 you saw testifying earlier?

6 A. Can you repeat that?

7 Q. Did you see that officer, that officer in
8 court today sitting where you're sitting?

9 A. I saw him downstairs. I didn't see him --

10 Q. You didn't see him in court? But you
11 recognized those officers?

12 A. Yes.

13 Q. Have you had any --

14 THE COURT: Hold on. Rephrase. She said she saw
15 an officer in court downstairs.

16 MS. FIALKOWSKI:

17 Q. You recognized that officer though?

18 A. I recognized him downstairs.

19 Q. Do you know his name?

20 A. No, not really. Uh-uh.

21 Q. No or not really?

22 A. No.

23 Q. You don't know his name?

24 A. No.

1 Q. And after the defendant left your
2 apartment until the time you saw him get arrested, you
3 don't know what he was doing, do you?

4 A. No.

5 MS. FIALKOWSKI: Nothing further.

6 MR. SIMMONDS: No questions. Thank you.

7 THE COURT: Thank you, ma'am. You may step down.

8 MR. SIMMONDS: Judge, may I bring our next
9 witness in?

10 THE COURT: Sure.

11 Ma'am, please step forward. Step
12 around the court reporter. Raise your right hand by the
13 chair.

14 DEANA COLEMAN

15 called as a witness on behalf of the Defense, being
16 first duly sworn, was examined and testified as follows:

17 DIRECT EXAMINATION

18 By MR. SHIH:

19 THE CLERK: You may be seated.

20 THE COURT: Ma'am, please keep your voice up so
21 everybody in the courtroom can hear you.

22 MR. SHIH:

23 Q. Will you please state your name for the
24 record?

1 A. Deana Coleman.

2 Q. And where do you live?

3 A. 4359 South King Drive.

4 THE COURT: Would you spell the last name?

5 A. C O L E M A N.

6 THE COURT: Your first name is?

7 A. Deana.

8 THE COURT: Can you spell that?

9 A. D E A N A.

10 THE COURT: D E A N A Coleman. And your address
11 again?

12 A. 4359 South King Drive.

13 THE COURT: Okay. Just slow down a little bit
14 and keep your voice up.

15 A. Okay.

16 MR. SHIH:

17 Q. Miss Coleman, do you know anyone who lives
18 in the 527 East Browning building?

19 A. Yes.

20 Q. Do you know a William Carter?

21 A. Yes.

22 Q. Okay.

23 Will you please point him out and
24 identify him by an article of clothing?

1 A. He's over there wearing the light blue
2 shirt with neck tie.

3 THE COURT: In court ID will be noted.

4 MR. SHIH:

5 Q. Also, do you know who lives at apartment
6 Number 608?

7 A. Yes.

8 Q. Who?

9 A. Damica Nickerson.

10 Q. Damica Nickerson?

11 Okay. Now, directing your attention
12 to May 19, 2006, at around 6:30 to 7:00, where were you
13 at that time?

14 A. I was up at Damica's house in apartment
15 608.

16 Q. And who else was there?

17 A. Me and Damica and William and Tanisha.

18 Q. And by William, what William?

19 A. William Carter.

20 Q. Okay.

21 You mean the defendant?

22 A. The defendant.

23 Q. Okay.

24 How long were you with William

1 Carter?

2 A. For like 15 to 20 minutes.

3 Q. And so what were you doing there?

4 A. I was sitting down eating.

5 Q. Okay.

6 And do you know what William Carter
7 was doing there?

8 A. He was purchasing Italian beef.

9 Q. Now, what happened -- what happened next?

10 A. He placed his order and then he left out
11 to go down to his auntie's house to get a pop.

12 Q. Okay.

13 Do you know where he lives?

14 A. In apartment 506.

15 Q. Okay.

16 And after that, how much time
17 elapsed before you saw him again?

18 A. Like five minutes.

19 Q. Okay.

20 What happened five minutes later?

21 A. We went down to see what was taking him so
22 long to come back up to get his food.

23 Q. And by we, you mean?

24 A. Me and Damica.

1 Q. And Damica Nickerson?

2 A. Yeah, me and Damica Nickerson.

3 Q. Where did the two of you go?

4 A. We went downstairs.

5 Q. Okay.

6 Which apartment did you go to?

7 A. To 506.

8 Q. Okay.

9 And what did you see when you got to

10 506?

11 A. That the officers had William Carter.

12 Q. Okay.

13 Was -- will you describe what

14 William Carter looked like in terms of --

15 A. Huh?

16 Q. Did he have any handcuffs on him?

17 A. Yeah, he had handcuffs on him.

18 MR. SHIH: No further questions.

19 THE COURT: Cross.

20 CROSS EXAMINATION

21 By Miss Fialkowski:

22 MS. FIALKOWSKI:

23 Q. Ma'am, how long have you known William

24 Carter?

1 A. For like three or four years.

2 Q. Okay.

3 How do you know him?

4 A. Through a friend.

5 Q. Is that the friend Damica?

6 A. No.

7 Q. Through a different friend?

8 A. Yeah.

9 Q. How long have you known Damica?

10 A. For like seven years.

11 Q. She is your friend as well?

12 A. Yeah.

13 Q. And she sells like sandwiches and stuff
14 out of her apartment?

15 A. Yes.

16 Q. William was there that day to buy a
17 sandwich?

18 A. Yes.

19 Q. So he came up and he bought a sandwich.
20 She got the sandwich ready for him, but he needed a pop?

21 A. Yes.

22 Q. His food was already. He just needed to
23 go get a pop?

24 A. Right.

1 Q. And that pop was downstairs at his aunt's
2 house?

3 A. Yes.

4 Q. So he leaves to go get the pop and then
5 you didn't see him again?

6 A. Right.

7 Q. So you and Damica went to go see him?

8 A. Yeah.

9 Q. To go find him?

10 A. Right.

11 Q. His food was getting cold?

12 A. Yes.

13 Q. Okay.

14 And when you saw him again, the
15 police had him?

16 A. Correct.

17 Q. Did the police arrest anyone else? Was
18 there anyone else under arrest with him?

19 A. No.

20 Q. So he was just under arrest by himself?

21 A. Yes.

22 Q. Did you talk to Damica before today about
23 what happened that night?

24 A. No.

1 Q. How did you get to court today?

2 A. Huh?

3 Q. How did you get here today?

4 A. A private investigator.

5 Q. Okay. From?

6 A. Huh?

7 Q. From one that you hired or from what
8 office?

9 A. From here.

10 Q. From here?

11 A. Uh-huh.

12 Q. Okay.

13 It wasn't somebody that you and your
14 friends hired to bring you here?

15 A. Uh-uh.

16 Q. It was from the defense attorney's office?

17 A. Yes.

18 Q. Okay.

19 Have you talked about that night
20 with your friends or with -- with William before today,
21 what happened?

22 A. No.

23 MS. FIALKOWSKI: I have nothing further.

24 MR. SHIH: Nothing further.

1 THE COURT: Okay.

2 Thank you, ma'am. You may step
3 down. Ma'am, please stand at the chair behind there.
4 Stand right at that chair.

5 A. This chair?

6 THE COURT: Yeah. Step up. Raise your right
7 hand.

8 VALENCIA CLINE

9 called as a witness on behalf of the Defense, being
10 first duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 By MR. SHIH:

13 THE CLERK: You may be seated.

14 THE COURT: Ma'am please keep your voice up so
15 everybody in the courtroom can hear you, okay?

16 A. All right.

17 MR. SHIH:

18 Q. Can you please state your name for the
19 record?

20 A. Valencia Cline.

21 THE COURT: Could you spell your first name?

22 A. V E L I N C I A.

23 THE COURT: And Cline is?

24 A. C L I N E.

1 THE COURT: Thank you.

2 MR. SHIH:

3 Q. And, Valencia, where do you live?

4 A. 527 East Browning.

5 Q. And how old are you? How old are you?

6 A. Nineteen.

7 Q. And which apartment do you live in?

8 A. Apartment 506.

9 Q. Who else lives in apartment 506?

10 A. My mother, Paulette Dixon, my big cousin,
11 William Carter, and my little brother, Brian Brown.

12 Q. And do you see William Carter in court
13 today?

14 A. Yes.

15 Q. Will you please point him out and identify
16 him by an article of clothing?

17 A. He right there in the purple shirt.

18 THE COURT: In court ID will be noted.

19 MR. SHIH:

20 Q. Now, Valencia, on the evening of May 19th
21 of 2006, about 6:45 p.m., where were you?

22 A. In the house.

23 Q. And by in the house, you mean in your
24 apartment?

1 A. In the apartment.

2 Q. Okay.

3 And what were you doing?

4 A. I was coming looking -- I was in the
5 apartment looking for something. I had just came from
6 outside.

7 THE COURT: Hold on.

8 Ma'am, you have to keep your voice
9 up. You are lowering your voice at the end. Keep your
10 voice up all the way.

11 A. I was in the apartment.

12 THE COURT: Go ahead.

13 MR. SHIH:

14 Q. And did anything --

15 THE COURT: Hold on. She said she was looking
16 for something, but then I lost the rest of it.

17 A. I was in the apartment looking for
18 something for my child.

19 THE COURT: Okay.

20 MR. SHIH:

21 Q. And did anything out of the ordinary
22 happen?

23 A. Yes, there was a knock at the door.

24 Q. And did you open the door?

1 A. Yes.

2 Q. Okay.

3 And who was it?

4 A. It was the police.

5 Q. Okay.

6 How did you know it was the police?

7 A. Because he told me.

8 Q. Okay.

9 And could you describe what he

10 looked like?

11 A. He was a short black man with a bald head.

12 Q. Okay.

13 Now, this police officer, is he --
14 is he around the building a lot?

15 A. Yes.

16 Q. Okay.

17 Is he known to the residents of the
18 building?

19 A. Yes.

20 Q. What happened after you opened the door
21 and saw the police officer? What did he do?

22 A. He asked me could he pull --

23 MS. EGAN: Objection.

24 A. -- who else was is in my apartment.

1 THE COURT: Hold on. Basis?

2 MS. EGAN: Hearsay.

3 THE COURT: Response?

4 MR. SHIH: Judge, I'll ask the witness to --

5 THE COURT: Okay.

6 MR. SHIH:

7 Q. Without saying what he said, what did the
8 police officer do after you opened the door?

9 A. Came in the apartment.

10 Q. And what did he do when he was in your
11 apartment?

12 A. Looked around.

13 Q. Okay.

14 Did he find anything?

15 A. No.

16 Q. How long was he searching for?

17 A. For like five minutes.

18 Q. Okay.

19 What happened next?

20 A. Then as he was about to walk out the door,
21 that's when William came in.

22 Q. William Carter?

23 A. Yes.

24 Q. All right.

1 And what was William Carter doing
2 when he was coming in?

3 A. Rapping.

4 Q. What did you say?

5 A. What was William doing when he came in?

6 Q. Right.

7 A. He was rapping.

8 Q. Okay.

9 Was he doing anything else?

10 A. No.

11 Q. Did you see anything in his hands?

12 A. No.

13 Q. What happened next?

14 A. And then he -- the officer grabs him,
15 William, by his hand, by his collar, and told him to
16 come out in the hallway. That's the man he's looking
17 for.

18 MS. EGAN: Objection.

19 THE COURT: Sustained.

20 Hold on. The answer to that
21 question will be stricken, ladies and gentlemen. You
22 are to disregard it. Go ahead.

23 MR. SHIH:

24 Q. Without saying what the officer said, what

1 did the officer do to William Carter?

2 A. Took him in the hallway.

3 Q. And anything else?

4 A. No.

5 Q. Was he in handcuffs?

6 A. No.

7 Q. Okay.

8 How long were you in the hallway
9 for? Or did you stay in the hallway or go back inside?

10 A. No, I went back inside.

11 Q. Okay.

12 MR. SHIH: No further questions.

13 CROSS EXAMINATION

14 By Miss Egan:

15 MS. EGAN:

16 Q. Miss Cline, you said that you live at 527
17 East Browning, is that correct?

18 A. Yes.

19 Q. And that's a CHA building, a Chicago
20 Housing Authority building, right?

21 A. Yes.

22 Q. And it's referred to or called Ida B.
23 Wells, is that correct?

24 A. Yes.

1 Q. Now, how long have you lived there?

2 A. For 19 years.

3 Q. And you live there in room or apartment
4 506?

5 A. Yes.

6 Q. And there is other people that live in
7 that building, too, is that right?

8 A. Yes.

9 Q. Children live in that building?

10 A. Yes.

11 Q. Some elderly people live in that building?

12 A. Yes.

13 MR. SIMMONDS: Objection.

14 THE COURT: Overruled.

15 MS. EGAN:

16 Q. And there is a lot of drug dealers that
17 come into that building, right?

18 A. Yes.

19 MR. SHIH: Objection, relevance.

20 THE COURT: Hold on. Sustained.

21 MS. EGAN:

22 Q. Well --

23 THE COURT: Hold on. Sustained. That answer
24 will be stricken.

1 MS. EGAN:

2 Q. There's families that live in that
3 building, right?

4 MR. SIMMONDS: Objection. Asked and answered.

5 A. Yes.

6 THE COURT: Overruled.

7 MS. EGAN:

8 Q. On May 19th of 2006, you were in your
9 apartment, 506, at about 6:45, is that right?

10 A. Yes.

11 Q. And you said that you were looking for
12 something for your daughter?

13 A. Yes.

14 Q. While you were looking for something --
15 well, was anyone else in the apartment with you?

16 A. No.

17 Q. While you were looking for whatever you
18 were looking for, you heard a knock at the door, you
19 say?

20 A. Yes.

21 Q. And that was the police officers?

22 A. Yes.

23 Q. And you told us earlier that when counsel
24 asked you how did you know they were the police, you

1 said they told me, right?

2 A. Yes.

3 Q. Because they weren't wearing a police
4 officer uniform, were they?

5 A. No.

6 Q. No star, badge?

7 A. No.

8 Q. No vest?

9 A. I saw a vest.

10 Q. Okay.

11 How many officers came to that door?

12 A. One.

13 Q. Was he the officer that you saw in this
14 courtroom earlier today?

15 A. Yes.

16 Q. A short guy, bald?

17 A. Yes.

18 Q. Do you know him to be Officer Jones?

19 A. I don't know his badge -- I don't know his
20 name.

21 Q. He patrols that building, is that correct?

22 A. Yes.

23 Q. Now, you say that he just asked to come in
24 and look around, right?

1 A. Yes.

2 Q. And you said that you let him in?

3 A. Yes.

4 Q. And he looked around?

5 A. Yes.

6 Q. And you're saying he was on his way out
7 when the defendant came into the apartment?

8 A. Yes.

9 Q. Why did the defendant come into the
10 apartment?

11 A. Because he live there.

12 Q. Was he coming there for anything, in
13 particular?

14 A. I don't know.

15 Q. Okay.

16 And then you say for no reason at
17 all, Officer Jones grabs him by the collar and takes him
18 out of the apartment?

19 A. Yes.

20 Q. You don't know what the defendant was
21 doing right before he went into that apartment, do you?

22 A. No.

23 Q. You don't know what he had in his hand,
24 right?

1 A. I saw that he had nothing in his hand.

2 Q. You don't know what he had in his pockets?

3 A. No, I don't.

4 Q. He doesn't work, does he?

5 A. No.

6 Q. Do you know a woman by the name of Sandra

7 Berry?

8 A. No, I don't.

9 Q. Was there any other women arrested with
10 this defendant?

11 A. I don't know.

12 Q. After this defendant left your apartment
13 with the police officers --

14 MR. SIMMONDS: Objection.

15 MS. EGAN: -- you don't know what happened.

16 A. No, I don't.

17 THE COURT: Basis?

18 MR. SIMMONDS: She testified she went back inside
19 of her apartment.

20 THE COURT: The question was after he left the
21 apartment.

22 MR. SIMMONDS: Right.

23 THE COURT: The answer no will stand. She didn't
24 see what happened after that.

1 MR. SIMMONDS: Okay.

2 MS. EGAN:

3 Q. Miss Cline, you are the defendant's
4 cousin, right?

5 A. Yes, I am.

6 Q. And you live in that building with this
7 defendant, is that right?

8 A. Yes, I do.

9 Q. You're very close to him, aren't you?

10 A. Yes.

11 Q. And you probably talked to him a lot about
12 this case since he was arrested, right?

13 A. No.

14 Q. You've never talked with this defendant
15 about this case --

16 A. I talked to him.

17 Q. -- what you were going to say when you
18 came into this courtroom?

19 A. No.

20 Q. You never talked to him about that?

21 A. No, ma'am.

22 Q. How did you get to court today, Miss
23 Cline?

24 A. I had a ride.

1 Q. Who did you have a ride from?

2 A. My cousin.

3 Q. And who is your cousin?

4 A. Andrea Carter.

5 Q. And some of the people here today got
6 rides from investigators, right?

7 MR. SIMMONDS: Objection.

8 THE COURT: Sustained.

9 MS. EGAN:

10 Q. Do you know how the other people that
11 testified here today got to court?

12 MR. SIMMONDS: Objection.

13 THE COURT: Overruled.

14 A. No, I do not.

15 MS. EGAN:

16 Q. You've seen the other people here today on
17 behalf of of the defendant, right?

18 A. Yes.

19 Q. You know all of those people, right?

20 A. Yes.

21 Q. And you've been with all of those people
22 all day while you've been in court today, right?

23 A. Yes.

24 Q. And you have been talking about what it is

1 you are all going to say in this courtroom, right?

2 A. No.

3 Q. None of you have talked about it at all?

4 A. No, ma'am.

5 MS. EGAN: Judge, I have no further questions of
6 this witness.

7 MR. SHIH: No questions.

8 THE COURT: Thank you, ma'am. You may step down.

9 MR. SIMMONDS: Judge, we would be calling one
10 further witness.

11 THE COURT: Okay. Ma'am, please stand at the
12 chair there and raise your right hand.

13 SANDRA BERRY
14 called as a witness on behalf of the Defense, being
15 first duly sworn, was examined and testified as follows:

16 DIRECT EXAMINATION

17 By MR. SIMMONDS:

18 THE CLERK: You may be seated.

19 MR. SIMMONDS: May I begin?

20 THE COURT: Sure.

21 MR. SIMMONDS:

22 Q. Ma'am, could you please tell us your name
23 and spell your last name?

24 A. Sandra Berry, B E R R Y.

1 Q. Sandra, where do you live?

2 A. 4244 South Michigan.

3 Q. And how old are you, ma'am?

4 A. 54.

5 Q. And do you recall where you were on
6 May 19th, 2006, between 6:30 and 7:00 p.m.?

7 A. Yes.

8 Q. Where were you at that time?

9 A. On 37th and Browning.

10 Q. I'm sorry?

11 A. 37th and Browning.

12 Q. On 37th and Browning?

13 A. Hmm, hmm.

14 Q. Were you near the building of 527 East
15 Browning?

16 A. Yes.

17 Q. Did you see somebody in that building on
18 that night that you see here in court today?

19 A. Yes, him.

20 Q. Could you point him out and indicate an
21 article of clothing he may be wearing?

22 A. The one that's sitting with the -- with
23 the -- with the checkered shirt or tie on.

24 THE COURT: In court ID.

1 MR. SIMMONDS: Thank you, Judge.

2 A. Huh?

3 MR. SIMMONDS:

4 Q. Ma'am, please just tell us. What happened
5 that day around that time in that location to you?

6 A. I had went down there. I was looking for
7 someone. I went in the building. And when I got in the
8 building, he was sitting on the stairs.

9 Q. When you say he, who do you mean?

10 A. The one sitting there.

11 Q. Mr. Carter?

12 A. Uh-huh. He was sitting on the stairs when
13 I came in the building.

14 Q. Right.

15 A. And then I came in the building. And
16 somebody said you got to get in line. I said get in
17 line? And I turned around and went out because I don't
18 know what they was talking about. And he was already in
19 there when I came in the building.

20 Q. Okay.

21 What happened after you --

22 A. Huh?

23 Q. What happened after you tried to leave?

24 A. The police came out behind me, and he

1 grabbed me by my arm and he said don't show out because
2 I'll show out with you. And I'm like what you talking
3 about? And then he said come on and then he took me
4 back in the building.

5 Q. Okay.

6 And when he took you back in the
7 building you saw Mr. Carter again?

8 A. Yes, he was sitting on the stairs.

9 Q. Did he have handcuffs on?

10 A. Yes.

11 Q. Was there anybody else sitting with him?

12 A. No.

13 Q. You indicated that some police officers
14 were there?

15 A. Yes.

16 Q. How many police officers?

17 A. Three.

18 Q. Could you describe them to us, please?

19 A. All right. A short --

20 Q. Describe them for us.

21 A. A short dark skinned husky one, and one
22 with my complexion. He was like maybe six feet. And
23 there was another one. He was short and dark-haired.
24 He had wavy hair, good hair, three police.

1 Q. Okay.

2 And after you returned, you were
3 taken into the building by the police officers, is that
4 correct?

5 A. Yes.

6 Q. What happened after that?

7 A. They kept on telling me to say I come down
8 there to buy something. And I told them I didn't come
9 down there to buy nothing. And they said you know him.
10 I said I don't even know him.

11 MR. SIMMONDS: Objection.

12 THE COURT: Hold on. Relax. We will get to it.
13 Okay. Ma'am, you are not able to testify to what
14 somebody else told you.

15 A. Okay.

16 THE COURT: Okay. That will be stricken. Go
17 ahead.

18 MR. SIMMONDS:

19 Q. Just answer my questions --

20 A. Okay.

21 Q. -- directly, okay?

22 A. All right.

23 Q. You were brought back into the building
24 and you had conversation with some police officers, is

1 that right?

2 A. Yes.

3 Q. Okay.

4 And what happened to you at that
5 time?

6 A. They kept talking to -- to -- to me.

7 Q. All right.

8 A. They took me away.

9 Q. They took you away?

10 A. Yes.

11 Q. Did they put handcuffs on you?

12 A. Hmm, hmm.

13 Q. At that time, did you see Mr. Carter with
14 any drugs?

15 A. No.

16 Q. Did you have any drugs?

17 A. No.

18 Q. Were you giving anybody money to buy
19 drugs?

20 A. No.

21 Q. Did you see a short African American
22 officer with a bald head in the area?

23 A. Hmm, hmm.

24 Q. Did you?

1 A. Hmm, hmm. Yes.

2 Q. You have to answer yes or no.

3 A. Yes.

4 Q. All right. Where did you see him?

5 A. He was -- he wasn't -- let me see. Okay.

6 You come in the hall. He was like up some more stairs

7 over, you know.

8 Q. Okay.

9 He was up the stairs a little bit?

10 A. Yes.

11 Q. What was he doing?

12 A. Who?

13 Q. Yes, the short Afro American officer.

14 THE COURT: At what point in time now?

15 MR. SIMMONDS: Thank you, Judge.

16 THE COURT: Be specific.

17 MR. SIMMONDS:

18 Q. Okay.

19 At the time you first observed that

20 officer --

21 A. Hmm, hmm.

22 Q. -- the one we're talking about, what was

23 he doing?

24 A. Just standing there.

1 Q. Okay.

2 MR. SIMMONDS: Thank you. I have no further
3 questions.

4 CROSS-EXAMINATION

5 BY MS. EGAN:

6 MS. EGAN:

7 Q. Miss Berry, on May 19th of 2006, you went
8 to the Ida B. Wells building complex, is that right?

9 A. Yes.

10 Q. And that's a CHA property, isn't it?

11 A. Yes.

12 Q. Now, you went there alone, right?

13 A. No, I wasn't alone.

14 Q. Okay.

15 Who were you with?

16 A. My cousin and them. They was waiting in
17 the car.

18 Q. You walked into the building alone?

19 A. Yeah.

20 Q. The people you were with were out in the
21 car?

22 A. Well, they was coming -- well, they was
23 coming behind me, but they hadn't got to the building
24 yet.

1 Q. Did they get to the building by the time
2 the police put you under arrest?

3 A. Yes.

4 Q. But the police didn't put them under
5 arrest?

6 A. They talking -- because there was a little
7 girl with us. That's why.

8 Q. The police didn't put them under arrest?

9 A. No.

10 Q. Did they?

11 A. No.

12 Q. They put you under arrest?

13 A. Yes.

14 Q. Now, you say when you first walked into
15 the building, that's on the first floor, is that right?

16 A. Hmm, hmm.

17 Q. You have to say yes or no for the court
18 reporter.

19 A. Yes.

20 Q. And was that in the back of the building
21 that you went in?

22 A. You know what? I don't know how to answer
23 that because I don't know which is the front and which
24 is the back because I don't go in the projects. So, I

1 wouldn't know how to answer that one.

2 Q. Okay.

3 But whatever door you went in, it
4 was the first floor?

5 A. Yes.

6 Q. And that's where you first saw this
7 defendant, right?

8 A. Hmm, hmm. Sitting on the stairs, yes.

9 Q. On the first floor, is that correct?

10 A. I don't know if you can call it the first
11 floor. It's like when you first come in, it's like a
12 hallway and then there's some stairs.

13 Q. Right. And you walked into that hallway,
14 right?

15 A. Yeah.

16 Q. And when you walked into that hallway on
17 that first floor, you saw this defendant sitting on the
18 steps, right?

19 A. Yes.

20 Q. People's 3.

21 A. You mean -- when you first come in, it
22 wasn't the first floor because you have to go some more
23 stairs before the first floor.

24 Q. Miss Berry, let me show you People's

1 Exhibit Number 3 in evidence. Take a look at that. Do
2 you recognize that picture?

3 A. Yeah, I think so. He was sitting right
4 here.

5 THE COURT: Hold on. Ma'am, even though she is
6 standing next to you, everybody in the courtroom's got
7 to hear you.

8 MR. SIMMONDS: Judge, may I approach?

9 THE COURT: Sure. You can approach.

10 THE COURT: Hold on now. Wait a minute. You
11 have to keep your voice up even if they're standing next
12 to you.

13 MS. EGAN:

14 Q. That's a picture right, Miss Berry? Is
15 that a yes?

16 A. Yes.

17 Q. And you pointed on that picture to an area
18 on the steps where you say you first saw this defendant,
19 right?

20 A. Yes.

21 Q. Take this pen and put a big X on this
22 picture where you first saw the defendant sitting.

23 A. Like right here.

24 Q. You put a circle with an X in the middle.

1 A. Hmm, hmm.

2 Q. You say when you first saw the defendant,
3 you heard somebody say you got to get in line, right?

4 A. Yes.

5 Q. Because there was a lot of people right in
6 front of this defendant, weren't there?

7 A. No.

8 Q. Well, there was a line of people in front
9 of him?

10 A. No, there wasn't.

11 Q. Well, what line were you supposed to get
12 in?

13 A. I don't know. That's why I turned around
14 and walked out.

15 Q. Is that what he said?

16 A. He didn't say it. The police said it.

17 Q. Oh, the police said you have to get in
18 line?

19 A. Yes.

20 Q. Which police officer told you you have to
21 get in line?

22 A. The light tall skinned one.

23 Q. And where was he?

24 A. Standing at the door when I came in. He

1 waited until I came in the door.

2 Q. When you say policeman, was he in a
3 uniform?

4 A. No. Afterwards I found he was the police.

5 Q. Okay.

6 And so you're saying this policeman
7 in the doorway told you to get in line?

8 A. Yes.

9 Q. But there was no line for you to get in?

10 A. No.

11 Q. So, it was just you walking in and seeing
12 this defendant on the steps?

13 A. Yes.

14 Q. Now, you say that you eventually saw three
15 police officers. One was a short bald guy, right?

16 A. Hmm, hmm.

17 Q. Is that a yes?

18 A. Yes.

19 THE COURT: Ma'am, you have to say yes or no.

20 A. Yes.

21 THE COURT: Take your time. But you got to
22 answer the question with a word, okay?

23 A. Okay.

24 THE COURT: All right. Thanks.

1 MS. EGAN:

2 Q. And you say that he was up on the stairs
3 near where you first saw this defendant?

4 A. Yes.

5 Q. Did you see the police officers place this
6 defendant under arrest?

7 A. No, I did not.

8 Q. Because you had walked out for a second?

9 A. No.

10 Q. When you walked in and saw the defendant
11 on the stairs, he wasn't in handcuffs or under arrest at
12 that time, right?

13 A. Yes, he was. That's what I said.

14 Q. So, he was sitting on the stairs under
15 arrest?

16 A. Yes.

17 Q. And you think he was under arrest because
18 why?

19 A. I don't know.

20 Q. So you just assumed he was under arrest at
21 that time?

22 MR. SIMMONDS: Objection.

23 THE COURT: Overruled. You can answer.

24 A. Oh. Yes.

1 MS. EGAN:

2 Q. And then you say that you tried leaving?

3 A. Yes.

4 Q. That first floor, right?

5 A. Yes.

6 Q. And the police officers stopped you?

7 A. Yes.

8 Q. And placed you under arrest?

9 A. Yes.

10 Q. So, of all of the people in that building
11 in that first floor at that time, the only two people
12 that the police officer arrested was you and him, right?

13 MR. SIMMONDS: Objection.

14 THE COURT: Overruled. You may answer.

15 A. See, that ain't a yes or no answer.

16 THE COURT: Okay. Then she will rephrase it.

17 Rephrase.

18 MS. EGAN:

19 Q. Well, you were placed under arrest, right?

20 A. Yes.

21 Q. And the defendant was placed under arrest?

22 A. Yes.

23 Q. Was anybody else placed under arrest?

24 A. No, because there wasn't nobody else

1 there.

2 MS. EGAN: I have nothing else, Judge.

3 REDIRECT EXAMINATION

4 BY MR. SIMMONDS:

5 MR. SIMMONDS:

6 Q. Ma'am, you were arrested that day?

7 A. Yes.

8 Q. Do you have any cases pending against you?

9 A. No.

10 MR. SIMMONDS: Thank you. Nothing further.

11 THE COURT: Anything based upon that?

12 MS. EGAN: No.

13 THE COURT: Thank you, ma'am. You may step down.

14 MR. SIMMONDS: Judge, we have no further
15 witnesses.

16 THE COURT: Okay. At this time, the Defense has
17 rested. State?

18 MS. EGAN: Judge, we would have one officer in
19 rebuttal.

20 THE COURT: Okay. Stand there and raise your
21 right hand.

22

23

24

1 ELLIS SMITH

2 called as a witness on behalf of the People of the State
3 of Illinois, being first duly sworn, was examined and
4 testified as follows:

5 DIRECT EXAMINATION

6 By MS. EGAN:

7 THE CLERK: You may be seated.

8 MS. EGAN:

9 Q. Officer Smith, in a loud clear voice,
10 please state your name, star number and unit of
11 assignment.

12 A. My name is Officer Ellis Smith. I'm
13 assigned to the Second District. My star number is
14 11737.

15 Q. How long have you been assigned -- and
16 that's for the Chicago Police Department, is that
17 correct?

18 A. That's correct.

19 Q. How long have you been assigned, so
20 assigned?

21 A. I have been with the Chicago Police seven
22 years now.

23 Q. And is part of your assignment to patrol
24 the Ida B. Wells housing complex?

1 A. That's correct.

2 Q. What type of building is that?

3 A. It's a public housing building.

4 Q. And directing your attention to May 19th
5 of 2006, at approximately 7:15 p.m., were you on duty
6 and working as a Chicago police officer at that time?

7 A. Yes, I was.

8 Q. Were you working alone or with other
9 partners?

10 A. With other partners.

11 Q. Who were your partners?

12 A. Alvin Jones, Kenny Young and Khalad
13 Mohammed.

14 Q. Now, were all four of you together?

15 A. No.

16 Q. Okay.

17 Who were you with?

18 A. I was with Alvin Jones and Kenny Young.

19 Q. And were you in uniform or plain clothes?

20 A. Plain clothes.

21 Q. And when you say plain clothes, describe
22 to the members of the jury what that means.

23 A. Just everyday clothes. I probably had on
24 a jacket, a regular shirt and a pair of jeans.

1 Q. And why were you wearing plain clothes on
2 that day?

3 A. Our job is to try to fit in and blend in
4 with the people in that area.

5 Q. Did you have any bulletproof vest on?

6 A. Yes.

7 Q. Was that on over or under your plain
8 clothes?

9 A. Underneath.

10 Q. And how about your star, your badge, and
11 your gun?

12 A. That's usually underneath our clothing
13 also.

14 Q. And was it underneath your clothing on
15 that particular day and time?

16 A. Yes, they were.

17 Q. And how about any police radios? Did you
18 have those with you?

19 A. Yes.

20 Q. And were those concealed as well?

21 A. Yes, they were.

22 Q. At about 7:15 in the evening, where in the
23 Ida B. Wells building at 527 East Browning were you and
24 your two partners?

1 A. At that time, we were walking toward the
2 rear entrance to the building.

3 Q. And did you enter the building?

4 A. Yes, we did.

5 Q. And describe the area that you entered.

6 A. We entered the rear door. There is a
7 small narrow hallway that we had to walk to which we to
8 our left and --

9 Q. Are there any stairs in the hallway?

10 A. Yes, there are.

11 Q. And did you walk down that hallway?

12 A. Yes, we did.

13 Q. And where did you go?

14 A. We walked up the steps.

15 Q. Who was first or were you all walking
16 together? Explain to us how the three of you were
17 walking in that area.

18 A. Well, routinely we have to do --

19 MR. SIMMONDS: Objection.

20 THE COURT: Okay. Do not testify to what
21 routinely you do. Testify to what you did that day.

22 A. Okay.

23 THE COURT: Rephrase.

24 MS. EGAN:

1 Q. On May 19th at 7:15, how were you and your
2 two partners walking in that hallway?

3 A. We approached the rear door, and we
4 entered the building at that time.

5 Q. Were you behind anyone?

6 A. Yes, I was.

7 Q. Who was that?

8 A. Officer Alvin Jones.

9 Q. And where was Officer Young?

10 A. Officer Young was right behind me.

11 Q. And as you went up those stairs, what
12 happened?

13 A. We observed two people standing at the top
14 of the stairwell.

15 Q. Do you see any of the people that you
16 observed at that time in this courtroom today?

17 A. Yes.

18 Q. Would you please point to that person and
19 describe an article of clothing of their clothing?

20 A. The gentleman sitting over there in the
21 shirt and tie.

22 MS. EGAN: Your Honor, may the record reflect the
23 in-court identification of the defendant?

24 THE COURT: In court ID will be noted.

1 MS. EGAN:

2 Q. You said the defendant was with a woman.

3 Do you now know that woman's name to be Sandra Barry?

4 A. Yes.

5 Q. What did you observe this defendant and
6 Sandra Barry doing?

7 A. I saw Mr. Carter. He was reaching into a
8 clear plastic bag and pulled out an item. He was given
9 some form of USC, money, and at that time, we announced
10 our office.

11 Q. Who was he given that money from? Who
12 gave that money to him?

13 A. The lady.

14 Q. Was that Sandra Barry?

15 A. Yes.

16 Q. Were you able to see what denomination
17 that money was?

18 A. No.

19 Q. After Miss Barry gave the defendant the
20 money and the defendant gave Miss Barry the items, what
21 happened?

22 A. At that time we announced our office. We
23 detained both, Mr. Barry -- Miss Barry and Mr. Carter at
24 that time.

1 Q. When you say detained, you placed this
2 defendant under arrest, is that correct?

3 A. No, I didn't. My partner did.

4 Q. You and your partner were there, but your
5 partner physically placed him under arrest?

6 A. Yes.

7 Q. Did you place anybody under arrest?

8 A. Yes.

9 Q. Who was that?

10 A. Miss Berry.

11 Q. And after you placed her under arrest, did
12 you do anything?

13 A. Yes.

14 Q. What?

15 A. I retrieved two items from her hand, a
16 clear plastic bag containing a white powdered substance.

17 Q. Can you describe those items?

18 A. Two small zip-lock baggies.

19 Q. After you recovered those items from Miss
20 Berry, what did you do with them?

21 A. I gave them to my partner.

22 Q. And which partner was that?

23 A. Officer Young. I'm sorry. Officer Jones.

24 Q. I'm showing opposing counsel People's

1 Exhibit 5A.

2 Officer, take a look at People's
3 Exhibit 5A in evidence and tell me if you recognize
4 what's inside of that envelope.

5 A. Yes.

6 Q. What is it?

7 A. It's two rocklike substances, suspect
8 crack cocaine.

9 Q. Are those the two substances that you
10 retrieved from Miss Berry's hand on May 19th?

11 A. Yes.

12 Q. And are they in the same or substantially
13 the same condition as they were when you last saw them?

14 A. Well, it's been awhile since I seen them,
15 but I would assume so.

16 Q. Well, are they in substantially the same
17 condition?

18 A. Yes.

19 Q. And when you gave those to your partner,
20 Officer Jones, you and your partners and the defendant
21 and Miss Berry all went back to the police department
22 correct?

23 A. Yes.

24 Q. And it's at that time that the Chicago

1 Police Department inventory procedures were done at the
2 station, is that correct?

3 A. That's correct.

4 Q. You didn't personally inventory the items?

5 A. No, I didn't.

6 Q. Did you ever go up to an apartment 506 and
7 arrest the defendant?

8 A. No.

9 Q. Did Officer Jones go up to apartment 506
10 and arrest this defendant?

11 MR. SIMMONDS: Objection.

12 THE COURT: Overruled.

13 A. No.

14 MS. EGAN:

15 Q. And how about Officer Young?

16 A. No.

17 Q. The arrest of the defendant and Sandra
18 Barry all took place on the first floor, correct?

19 A. That's correct.

20 Q. I'm showing opposing counsel People's
21 Exhibit 3 in evidence.

22 Officer, I'm going to show you
23 People's Exhibit 3 in evidence. Can you take a look at
24 that and tell me if you recognize it?

1 A. Yes, I do.

2 Q. What is it?

3 A. That's the stairwell to the first floor.

4 Q. And is this the stairwell that you walked
5 up when you first saw the defendant?

6 A. Yes, it is.

7 Q. Does this picture truly and accurately
8 show how that hallway and the stairs looked on May 19th
9 of 2006?

10 A. Yes, it is.

11 Q. Showing opposing counsel People's 4.
12 Officer, I'm going to show you People's Exhibit Number 4
13 in evidence. Can you take a look at that tell me if you
14 recognize that?

15 A. It looks like the hallway by the rear exit
16 door.

17 Q. And what is that hallway? What happened
18 in that hallway by the rear exit?

19 A. That's where we had to walk to before we
20 get to the stairwell.

21 Q. And did you see anything happen in this
22 area?

23 A. No.

24 Q. Showing you People's Exhibit -- does this

1 truly and accurately show how the back rear hallway
2 looked --

3 A. Yes.

4 Q. -- at that time?

5 MS. EGAN: Your Honor, may I have a moment?

6 THE COURT: Sure.

7 MS. EGAN: Judge, I have no further questions.

8 THE COURT: Cross.

9 MR. SIMMONDS: Thank you, Judge.

10 CROSS EXAMINATION

11 By Mr. Simmonds:

12 MR. SIMMONDS:

13 Q. You indicated there were three officers
14 with you that day?

15 A. Yes.

16 Q. And another one as well that wasn't
17 present?

18 A. That's correct.

19 Q. In the building, is that right?

20 A. That's correct.

21 Q. Do you recall how you guys got there that
22 day?

23 A. Well, we usually -- that day we were in
24 the vehicle, and we walked toward the building, parked

1 the vehicle.

2 Q. Okay.

3 How far away did you park that
4 vehicle?

5 A. I don't recall at the present moment.

6 Q. Could it have been a block away?

7 A. I don't recall.

8 Q. You don't recall?

9 A. No, I don't.

10 Q. Okay.

11 How far did you walk?

12 A. That I don't recall either.

13 Q. So you walked with two other officers,
14 right?

15 A. That's correct.

16 Q. From where you had parked your car, right,
17 through a certain amount of streets you don't remember?

18 A. Well.

19 Q. Right?

20 A. I know it wasn't more than a block. If we
21 parked away, usually it's no more than a half a block or
22 a block away.

23 Q. Usually, it's more than a half a block,
24 but you think maybe it might have been a block?

1 A. At least.

2 Q. At least?

3 A. Like I said, I don't recall at the present
4 moment.

5 Q. You don't recall. All right.

6 And the three of you -- or there was
7 four of you, right, but three went into the building?

8 A. Yes.

9 Q. And the four of you walked along there.

10 THE COURT: Sustained.

11 You just asked the fourth one didn't
12 go with him, and then you said the four of you walked
13 along. Rephrase. There is three walking in the
14 building.

15 MR. SIMMONDS:

16 Q. Three walk in the building.

17 Did the four of you walk together
18 from the car?

19 A. No.

20 Q. All right. I understand now. Thank you,
21 Judge.

22 And so you walked at least a block
23 up to the back entrance of this building, right?

24 A. That's correct.

1 Q. All right.

2 And the last -- is there artificial
3 lighting around the back entrance of that building?

4 A. Yes, there is.

5 Q. As a matter of fact, there's several light
6 poles there, is that correct?

7 A. Yes.

8 Q. It's well lit up at night, is that
9 correct?

10 A. It's dimly "litted".

11 Q. You think it's dimly litted?

12 A. There's lights out there but, you know,
13 they are not bright lights.

14 Q. Okay.

15 And you entered this building, and
16 the three of you walked through the back door, right?

17 A. That's correct.

18 Q. One right behind the other, is that right?

19 A. Yes.

20 Q. All right.

21 And you made a quick left and you
22 went ten feet, is that right?

23 A. Yes.

24 Q. And then immediately close to the three

1 stairs that go up, that's where you saw Mr. Carter, is
2 that right?

3 A. Yes.

4 Q. Is that right? Okay.

5 That's where you saw Miss Berry, is
6 that right?

7 A. Yes.

8 Q. And there was -- Officer Jones was in
9 front of you?

10 A. Yes, he was.

11 Q. And then my client and Miss Berry were
12 past him, is that right?

13 A. Yes.

14 Q. How far away was Officer Jones from my
15 client and Miss Berry?

16 A. Probably about three, five feet, maybe.

17 Q. Three to five feet, right? And you saw
18 the back of Miss Berry?

19 A. Yes.

20 Q. And my client was facing you guys, right?

21 A. I think he was -- he was turned sideways.

22 Q. But he was facing you?

23 A. Yes.

24 Q. So he could see you?

1 A. Yes.

2 Q. He could see Officer Jones?

3 A. Yes.

4 MS. EGAN: Objection.

5 THE COURT: Sustained as to what somebody else
6 can see. That answer will be stricken.

7 MR. SIMMONDS:

8 Q. But you could see my client clearly, is
9 that right?

10 A. Yes.

11 Q. And how long did you observe the two of
12 them together?

13 A. I don't recall at the present moment.

14 Q. Was it a minute?

15 A. It was less than a minute. I know that.

16 Q. How much less than a minute, sir?

17 A. I don't know.

18 Q. You don't know?

19 A. I don't recall at the present moment.

20 Q. Okay.

21 And could it have been five seconds?

22 MS. EGAN: Objection. He said it was less than a
23 minute.

24 THE COURT: Overruled. You can answer.

1 MR. SIMMONDS:

2 Q. Could it have been five seconds?

3 A. More than five seconds.

4 Q. But it was more than five seconds?

5 A. That's correct.

6 Q. Maybe ten seconds?

7 A. It was more than ten seconds.

8 Q. More than ten seconds. Could it have been
9 15 seconds?

10 A. I don't recall.

11 Q. You don't recall at this time. Okay.

12 And for those, let's say, 15 seconds
13 you observed Miss Berry hand my client some money,
14 right?

15 A. That's correct.

16 Q. And he's facing you, right?

17 A. That's correct.

18 Q. All right.

19 And you saw my client take the
20 plastic bag from his hand is that right?

21 A. He was holding the bag in his hand.

22 Q. He took the money from Miss Berry?

23 A. That's correct.

24 Q. Do you recall what he did with it?

1 A. I don't recall.

2 Q. You don't recall at this time?

3 A. No.

4 Q. All right.

5 But he did take the money and then
6 take the two items out of the bag, is that right?

7 A. That's correct.

8 Q. And then he handed them to her, is that
9 right?

10 A. That's correct.

11 Q. That's what must have taken the whole
12 15 seconds, is that right?

13 A. I don't recall how many seconds it took.

14 Q. Now you don't recall.

15 MS. EGAN: Objection.

16 MS. FIALKOWSKI: Objection.

17 THE COURT: Sustained as to the form of that
18 question. Go ahead.

19 MR. SIMMONDS:

20 Q. All of this happened while you were
21 standing there watching the two of them, is that right?

22 A. Yes, it did.

23 Q. And he could see you clearly?

24 MS. EGAN: Objection.

1 THE COURT: Sustained as to what -- he cannot
2 testify to what somebody else can see. Sustained. All
3 right.

4 MR. SIMMONDS:

5 Q. All right after these 15 seconds went by
6 and you were -- you were what, three, four, five feet
7 away from them, is that right?

8 A. About so.

9 Q. Yeah.

10 And after all that happened then you
11 detained him. You arrested him?

12 A. My partner detained him.

13 Q. But you arrested Miss Berry?

14 A. That's correct.

15 Q. Okay.

16 Did she put up a struggle by the
17 way, Officer?

18 A. No, she didn't.

19 Q. I'm sure. Okay.

20 Do you recall what she was wearing
21 that day?

22 A. No, I do not.

23 Q. Do you recall what hand she used to hand
24 him the money?

1 A. No, I don't.

2 Q. You don't recall at this time. Okay.

3 Do you recall if she had anything
4 else in her hand, like a pocketbook?

5 A. I do not recall at the present moment.

6 Q. You do not recall at the present time.

7 MS. EGAN: Objection to counsel repeating.

8 THE COURT: Sustained. One question, one
9 answer. It moves much quicker that way.

10 MR. SIMMONDS: I apologize, Judge.

11 THE COURT: All right.

12 MR. SIMMONDS:

13 Q. Who recovered the drugs?

14 A. Officer Jones.

15 Q. Did you recover anything?

16 A. Yes.

17 Q. What did you recover?

18 A. I recovered from Sandra Barry two items
19 that she was holding in her hand that was in a clear
20 plastic bag.

21 Q. It wasn't Officer Jones that recovered
22 them?

23 A. No, he recovered some items from Mr.
24 Carter.

1 Q. Okay.

2 Who recovered the money?

3 A. Officer Jones.

4 MR. SIMMONDS: Judge, I have nothing further.

5 Thank you.

6 THE COURT: Any redirect?

7 MS. EGAN: No.

8 THE COURT: Thank you. You may step down.

9 MS. EGAN: We do have one just very quick
10 rebuttal witness, an officer --

11 THE COURT: Yes.

12 MS. EGAN: -- who previously testified.

13 ALVIN JONES

14 called as a witness on behalf of the People of the State
15 of Illinois, being first duly sworn, was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. EGAN:

19 THE COURT: Okay. Officer Jones, you are still
20 under oath.

21 A. Yes, sir.

22 THE COURT: Okay.

23 MS. EGAN:

24 Q. Officer Jones, on May 19th of 2006, you

1 arrested this defendant, William Carter, is that
2 correct?

3 A. Yes.

4 Q. And was that on the first floor of the Ida
5 B. Wells housing complex?

6 A. Yes.

7 Q. Did you encounter this defendant at all on
8 that day or that time in apartment 506 of that complex?

9 A. No.

10 Q. Did you go into apartment 506 right before
11 you arrested this defendant?

12 A. No.

13 Q. Did you search that apartment right before
14 you arrested this defendant?

15 A. No.

16 MS. EGAN: Nothing else.

17 MR. SIMMONDS: Judge, I have no questions.

18 THE COURT: Okay. Thank you, Officer. You may
19 step down.

20 A. Thank you.

21 MS. EGAN: Judge, we would rest in rebuttal.

22 THE COURT: Okay.

23 Ladies and gentlemen, we are going
24 to take a short break. Closing arguments will be in

1 about ten minutes. Please step back.

2 (The following proceedings
3 were had out of the
4 hearing of the jury:)

5 THE COURT: Counsels, approach.

6 MS. EGAN: Yes, Judge.

7 MR. SIMMONDS: Yes, sir.

8 THE COURT: You are going to ask the
9 identification marks be stricken and admitted into
10 evidence?

11 MR. SIMMONDS: Yes.

12 THE COURT: All right. They didn't ask for their
13 evidence to be admitted.

14 MR. SIMMONDS: I was going to do it before.

15 THE COURT: Okay.

16 MR. SIMMONDS: We just have the one thing.

17 THE COURT: Yeah. A, B and C.

18 MR. SIMMONDS: It's altogether.

19 THE COURT: All right.

20 Are we ready for the instructions
21 conference?

22 MS. EGAN: Yes, Judge.

23 MR. SHIH: Can I use the restroom?

24 THE COURT: Sure.

1 THE COURT: He can stay right here. Stay here,
2 Mr. Carter. Stand next to your attorney. We are on the
3 record. This is for the instructions conference.

4 MR. SIMMONDS: Judge, my co-counsel's handling
5 those. Could we just wait?

6 THE COURT: Okay. We'll wait one moment.

7 (Whereupon, there was a recess
8 had in the above-entitled
9 cause, after which the
10 following proceedings were had:)

11 THE COURT: This is the issues or the
12 instructions conference. All parties are present before
13 the Court in open court and the State is asking for
14 I.P.I. Number 101 as People's Instruction Number 1. Any
15 objection?

16 MR. SIMMONDS: No objection.

17 THE COURT: No objection. That will be admitted.

18 Number two is I.P.I. 1.02.
19 Believability of the -- only you are the judges of the
20 believability of the witnesses any objection.

21 MR. SIMMONDS: No objection.

22 THE COURT: Okay.

23 MR. SHIH: No objection.

24 THE COURT: That will be admitted. People's 3 is

1 I.P.I. 1.03, opening statements.

2 MR. SHIH: No objection.

3 THE COURT: No objection. That will be admitted.

4 People's Number four is I.P.I. 1
5 point 05 concerning notes.

6 MR. SHIH: No objection.

7 THE COURT: No objection. That will be admitted.

8 People's five is 2.01.

9 MR. SHIH: No objection.

10 THE COURT: No objections. That will be
11 admitted.

12 MS. EGAN: Judge, I didn't say it and I guess I
13 should say at this time because it will become apparent
14 through the instructions that we are going to be
15 proceeding only on the PCS with I on CHA property and
16 nolleing what I believe is Count 2, which will leave us
17 with Count 1.

18 THE COURT: You're nolleing Count 2 now?

19 MS. EGAN: Yes.

20 THE COURT: Okay.

21 MS. EGAN: I just want to be clear on the Court's
22 paperwork that's only leaving the PCS with I on CHA
23 property.

24 THE COURT: Okay.

1 All right. So, that would be
2 instruction number five. There is no objection.

3 Instruction Number six is the
4 charges and the information. Any objection?

5 MR. SHIH: Which number?

6 THE COURT: 202, People's 6.

7 MR. SHIH: No objection.

8 THE COURT: No objections. That will be
9 admitted. People's Exhibit 7 is I.P.I. 203.

10 MR. SHIH: No objection.

11 THE COURT: No objection. That will be admitted.

12 I.P.I. number eight is 2.04, the
13 fact that the defendant did not testify. Any objection?

14 MR. SHIH: No objection.

15 THE COURT: No objection. That will be admitted.

16 Number nine is 3.02, circumstantial
17 evidence. Any objection?

18 MR. SHIH: No objection.

19 THE COURT: No objection. That will be admitted.

20 Number ten is 17 point 19. We will
21 go through yours in a moment.

22 MR. SHIH: Okay.

23 THE COURT: 17 point 19 is the possession with
24 intent to deliver.

1 MR. SHIH: No objection.

2 THE COURT: That was number ten.

3 MR. SHIH: Yes.

4 THE COURT: No objection. That's admitted.

5 And 17 point 20 to sustain the
6 charge of possession with intent to deliver. Any
7 objection?

8 MR. SHIH: No objection.

9 THE COURT: No objection. That will be admitted
10 as People's Number 11.

11 People's 12 is 26.01, when you
12 retire to the the jury room. Any objection?

13 MR. SHIH: No objection.

14 THE COURT: No objection. That will be admitted.
15 People's 13 is the jury form, not guilty.

16 MR. SHIH: No objection.

17 THE COURT: No objection. That will be admitted.

18 And People's Number 14 will be
19 guilty. Any objection?

20 MR. SHIH: No objection.

21 THE COURT: No objection. That will be admitted.
22 Defense, you have some?

23 MR. SHIH: Yes, Judge. I would request the
24 addition of I.P.I. --

1 THE COURT: Let me see that.

2 MR. SHISH: 310 and 311.

3 THE COURT: Okay.

4 This is -- it is proper for an
5 attorney or an attorney's investigator to interview or
6 attempt to interview a witness for the purpose of
7 learning the testimony the witness will give. However,
8 the law does not require a witness to speak to an
9 attorney or an attorney's investigator before
10 testifying.

11 MS. EGAN: Judge, we would object. I don't think
12 that's relevant. There was a potential for it since the
13 investigator did interview witnesses. There was no
14 impeachment. There was nothing of that sort. This is
15 irrelevant.

16 MR. SIMMONDS: Judge, I agree. We thought that
17 there was going to be some.

18 THE COURT: This will be withdrawn?

19 MR. SHIH: Withdrawn. Sorry.

20 THE COURT: And the only -- the only inference to
21 an investigator was an individual who gave somebody a
22 ride to court.

23 MR. SIMMONDS: Exactly.

24 THE COURT: So that will be withdrawn.

1 MR. SHIH: Okay. There's also 3.11.

2 THE COURT: Okay. Just hand it up to me. I'll
3 take it from there.

4 MR. SHIH: Here it is.

5 THE COURT: 3.11 is the believability of a
6 witness may be challenged --

7 MR. SHIH: In terms of prior inconsistent
8 statements.

9 THE COURT: State?

10 MS. EGAN: Judge, the only thing that would apply
11 to is what the Defense is getting to is Officer Jones.
12 There was one question with regard to the preliminary
13 hearing transcript.

14 MR. SIMMONDS: The other one is on rebuttal.

15 THE COURT: Okay. Go ahead.

16 MS. EGAN: So based on that, Judge, I would not
17 have an objection.

18 THE COURT: Okay.

19 So, this will be Defense Number one,
20 and I'll place it in there before I read them, but
21 there's no objection. Okay. Each side gets a copy for
22 your records.

23 MS. EGAN: Thank you. You need a clean copy of
24 that?

1 THE COURT: I got a clean copy.

2 MS. EGAN: Okay.

3 THE COURT: Okay. Anything else?

4 MR. SHIH: No.

5 THE COURT: All right.

6 Then let's while we are here then,
7 3.11 will be after circumstantial evidence. So it will
8 go between nine and ten, okay? Does everybody got that
9 there?

10 MR. SHIH: Yes.

11 THE COURT: All right.

12 MS. EGAN: Can it just be 9A or something? I'm
13 sorry.

14 THE COURT: I'm going to -- I'm not going to
15 leave it 9A. It's Defense Number one.

16 MS. EGAN: Okay.

17 THE COURT: But that's where it will be placed.

18 MS. EGAN: Okay.

19 THE COURT: I'm striking People's Instruction
20 Number 1 since you did not proffer it. You wrote in
21 your bottom there, People's Instruction Number 1. I'll
22 make that Defense Number one.

23 MS. EGAN: Okay.

24 THE COURT: It goes after circumstantial

1 evidence. Okay. All right. Then let's take ten
2 minutes and then we'll get started.

3 MR. SIMMONDS: Thank you.

4 (Whereupon, there was a recess
5 had in the above-entitled
6 cause, after which the
7 following proceedings were had:)

8 THE COURT: Both sides ready?

9 MS. EGAN: Yes.

10 MR. SIMMONDS: Yes.

11 THE COURT: Would you approach for a moment,
12 counsels? We are off the record for a minute.

13 (A discussion was had off
14 the record, after which
15 the following proceedings
16 were had:)

17 THE COURT: On the record.

18 MR. SIMMONDS: Judge, at this time, we are
19 seeking to remove the identification marks on
20 Defendant's Exhibit Number 1.

21 THE COURT: The Defense request to admit the
22 photo array 1A B and C is granted.

23 MR. SIMMONDS: Judge, I would also --

24 THE COURT: The ID marks will be stricken and

1 it's admitted into evidence.

2 MR. SIMMONDS: Thank you. Judge, I would like to
3 publish it to the jury.

4 THE COURT: Sure.

5 MS. EGAN: You mean during your argument?

6 THE COURT: Oh, sure. Either side can show the
7 exhibits to the jury during their arguments.

8 THE SHERIFF: All rise for the jury.

9 (The following proceedings were had in
10 the hearing and the presence of the
11 jury:)

12 THE COURT: All right.

13 The jury is now present. You may be
14 seated.

15 Ladies and gentlemen, both sides
16 have now rested their case. You have heard all of the
17 evidence in the case that's going to be presented, but
18 the trial has not yet ended.

19 At this time, the attorneys have the
20 opportunity to make final arguments. First the State
21 and then the Defense and then the State will have a
22 chance to respond to the Defense argument.

23 What the lawyers say during these
24 closing arguments is not evidence and should not be

1 considered by you as evidence.

2 After you have heard the arguments
3 the Court will instruct you as to the law that applies
4 to this case. You will then retire to the jury room and
5 begin your deliberations.

6 Does counsel for the State wish to
7 make an opening?

8 CLOSING ARGUMENT

9 BY MS. FIALKOWSKI:

10 MS. FIALKOWSKI: Yes, your Honor.

11 Ladies and gentlemen of the jury,
12 sometimes the best police work that is done is done when
13 the criminal doesn't know that the police are the
14 police, and that's exactly what happened on May 19th,
15 2006, on the first floor of the Ida B. Wells housing
16 project at 527 East Browning.

17 Officer Jones, Officer Smith and
18 Officer Young went into that building just to
19 investigate any criminal activity that may be going on
20 in that building. That's their job. That's what they
21 do.

22 But in order to do that job more
23 effectively, they dress in a way that allows them to
24 blend in with the surroundings in that building. And by

1 doing that, they are able to better observe what happens
2 and stop the criminal activity as it happens, and that's
3 exactly what happened that evening.

4 We've reached the point in the trial
5 when you're about to go back into the jury room and
6 evaluate the evidence and deliberate. And there are
7 three things you will take back into that jury room with
8 you.

9 First, you'll take the evidence.
10 That's the testimony of all of the witnesses and
11 including the regular -- the physical evidence, the
12 narcotics, the pictures. All of that you'll be able to
13 evaluate.

14 You heard Officer Jones testify that
15 that evening he walked into that building with his
16 partners, went about ten feet down a hallway, up some
17 stairs, turned a corner. And when he hit that corner,
18 he saw the defendant accepting \$20 from Sandra Barry and
19 giving Sandra Barry in exchange for that \$20 two items
20 of cocaine.

21 You also heard Officer Jones testify
22 that in his hand, in the defendant's hand was a bag with
23 additional items in them. He had those items in his
24 hand, and he had retrieved the two items that he gave to

1 Sandra Barry from that bag just previous to Officer
2 Jones seeing him exchanging them for the money.

3 To sustain the charge of possession
4 with intent to deliver a controlled substance when the
5 substance containing the controlled substance weighs one
6 gram or more but less than 15 grams while in a
7 residential property owned, operated and managed by a
8 public housing agency, the State must prove the
9 following propositions: That's the first paragraph of
10 the law which is the second thing you'll be taking back
11 into the deliberation room with you, the law that Judge
12 Kirby will instruct you on. And you don't have to
13 memorize it. You'll all get copies of it.

14 We have three things we must prove
15 to sustain this charge, to meet the law.

16 First: That the defendant knowingly
17 possessed with the intent to deliver a substance
18 containing cocaine, a controlled substance.

19 Well, you heard Officer Jones
20 testify and you heard Officer Smith testify that they
21 saw the plastic baggie with the additional items in the
22 defendant's hand. He obviously possessed it. It was in
23 his hand.

24 Did he have the intent to deliver

1 it? Well, he had just delivered two of the items from
2 that bag to Sandra Barry in exchange for money. He had
3 the intention to deliver the rest of those items in
4 exchange for money, but Officer Jones and his partners
5 interrupted that trade.

6 Second: That the possession with
7 intent to deliver took place in a residential property
8 owned, operated and managed by a public housing agency.
9 Well, ladies and gentlemen, you heard both, Officer
10 Jones, Officer Smith and residents of that building
11 testify that that is a Chicago Housing Authority
12 building. It's owned by the Chicago Housing Authority.
13 It's managed by the Chicago Housing Authority, and it
14 was operating as the Ida B. Wells housing complex on
15 May 19th.

16 Third: That the weight of the
17 substance containing the controlled substance was one
18 gram or more but less than 15 grams.

19 You heard Mr. Halloran testify that
20 he received those items. He weighed 1.2 grams of them,
21 and they were positive for cocaine. More than one gram,
22 less than 15 grams.

23 We have met all three of the
24 conditions that prove the defendant guilty. But there's

1 a third thing that you take back besides the facts, the
2 testimony and the law. There's your common sense. It's
3 with you. It stays with you. You use it to evaluate
4 everything that you have heard today.

5 You can use your common sense when
6 you evaluate the credible, corroborated testimony of
7 Officer Jones and Officer Smith, and you can use that
8 same common sense when you evaluate the testimony of the
9 Defense witnesses. And we ask that you use all three of
10 those things, the evidence, the law and your common
11 sense to evaluate this case and return a verdict of
12 guilty against the defendant. Thank you.

13 MR. SIMMONDS: One second, Judge. If I may,
14 Judge?

15 THE COURT: Sure.

16 CLOSING ARGUMENT

17 BY MR. SIMMONDS:

18 MR. SIMMONDS: Counsel, ladies and gentlemen.
19 Folks, don't be fooled. Don't be fooled by what these
20 police officers said happened that day.

21 This young man is innocent of these
22 charges. Don't be fooled. Let's look at what they said
23 happened that day and whether it's believable or not.
24 These officers are talking about that three of them got

1 together in a car. They drove up to the area, and they
2 walked a block or so. Most of them couldn't remember,
3 and that's something that happened with all of the
4 police officers. They couldn't remember very well what
5 happened.

6 They indicated that they walked
7 together approximately a block to walk into the back of
8 that building.

9 Let me show you these pictures.
10 You'll recall that Officer Jones, I believe it was, the
11 first officer, looked at these pictures and agreed that
12 they -- that they were -- that was the area that he
13 walked into.

14 Look at these pictures. This is the
15 door that would be -- referring to Defendant's
16 Exhibit 1A. This is the door that he would have gone
17 into. You see the area surrounding that, all right?
18 See that? Okay.

19 Look at B now. This is the actual
20 door where he would -- where they -- where the three of
21 them would have had to gone into. Take a look at that.
22 Do you see that door?

23 Now, look at the third picture.
24 This is looking out from that door to the area they

1 would have had to walk through. They're indicating that
2 they parked at least about a block away, correct? So,
3 they couldn't have parked right here because that's too
4 close. And look at how large the area is around that
5 back door and look at the lighting. There's a pole
6 there, all right? Right there, right where they walked.

7 Well, you know what, folks? Use
8 your common sense. The problem that these police
9 officers that night was they couldn't sneaki in there
10 without somebody sounding the alarm. Do you see that?
11 Don't be fooled.

12 This was a raid. That's what they
13 did. They raided this house. They ran in here. And by
14 the time that they walked that block or so, these
15 officers, this one officer indicated that he had worked
16 there for seven years, all right? That he had -- that
17 the tenants knew him and that he had been in the area
18 working there for a long time.

19 I submit to you, folks, that nobody
20 standing around in the back here would not have known
21 that those were police officers and would have known
22 what they were up to. They ran in to raid that
23 building. And you'll be able to look at this later on
24 when you are in the back, when you deliberate.

1 So, they indicate that they walked
2 in there. Now, what do they claim happened after they
3 walked in? Supposedly, they walked ten feet down the
4 corridor, and they supposedly see Miss Berry, who you
5 met, a very nice woman. Did she look like a drug addict
6 to you? A very nice woman. She testified, came here,
7 did her duty, just like you're doing your duty to tell
8 you the truth about what happened that night. She has
9 no cases pending against her, okay? You heard her say
10 that.

11 But these officers had the temerity
12 to arrest that woman. Why? Because they needed her.
13 So, they are indicating that they saw Miss Berry and
14 that this young man was standing past Miss Berry between
15 her and those three officers. But he was facing her.
16 They clearly agreed, all of those officers, that he was
17 facing them. And they claim, one officer claims five
18 seconds. One thousand one, one thousand two, one
19 thousand three, one thousand four, one thousand five.
20 Another officer claims ten seconds. So, one thousand --
21 I'm sorry 15 seconds. One thousand six, one thousand
22 seven, one thousand eight, one thousand nine, one
23 thousand ten, one thousand 11, one thousand 12, one
24 thousand 13, one thousand 14, and one thousand 15.

1 For all that length of time, this
2 young man was supposed to have held a bag of drugs, a
3 clear plastic bag. He was supposed to have accepted a
4 \$20 bill from that sweet woman who testified here and
5 was supposed to have then -- and they don't recall what
6 he did with that money, but with that same hand, he goes
7 and he takes the two bags, the two smaller bags, and
8 hands them to her.

9 Use your common sense. Is that
10 plausible? Of course not. Any young man living in this
11 building would have known what was going on and would
12 have run. A drug dealer would have taken off, run, up
13 the stairs. The State was kind enough to show you the
14 stairs.

15 That's not what happened here. Like
16 I said, they arrested Miss Berry because they needed her
17 as the buyer, okay? They probably never expected that
18 woman to have the guts to come in here and tell you the
19 truth.

20 None of the officers were there when
21 Miss Berry -- they don't remember what hands were used.
22 Can you imagine that? Three to five feet from them for
23 15 seconds and you don't recall where their hands are,
24 police officers, afraid of his safety, not knowing where

1 somebody's hands are?

2 They didn't recall what she was
3 wearing, even though they had to write up a report about
4 it. They didn't recall if the woman had a pocket book
5 with her or anything else, which she could have a gun.
6 These are trained police officers. They don't recall.

7 Who recovered everything? Officer
8 Jones. He recovers the drugs. He recovers the money.
9 He does all of that. But you know what he does, too?
10 He counts those bags. He goes back to the station. He
11 counts those bags and guess what?

12 He counts 16 bags. He says, well,
13 you know what? Somebody sent an extra bag up there to
14 the lab because the lab told -- the lab tech told you
15 that he discovered 17.

16 They are asking you to find this
17 young man guilty on that kind of evidence? We asked
18 you, we picked you as jurors because we wanted you to be
19 fair. And I ask you, is that fair? Can you convict
20 that young man on that type of what, mistake?

21 What did he say? He made a mistake
22 with the evidence that he's been charged with having in
23 contravention of the law.

24 Let me say something else. The

1 purpose of those police officers for being there that
2 night was to catch people with drugs. So, you're
3 telling me a police officer with seven years experience
4 is not going to be careful as to how many drugs, how
5 many little packets of drugs he found?

6 What did the chemist say? The
7 amount of the drugs is how they decide what to charge a
8 person with. So, the amount of drugs is crucial in this
9 matter, crucial.

10 You can't tell me that some police
11 officer with seven years experience is not going to know
12 exactly how much drugs. But you know what? There's
13 something wrong with this case, right? I don't recall
14 at this time. That's Officer Smith. Well, if he
15 doesn't recall at this time, how can you find this young
16 man guilty? It's their burden. It's their case. They
17 have to prove it to you. I don't recall at this time.

18 The chemist was -- gave you some
19 good information. He told you that when he counted that
20 there was more drugs in the bag than he supposedly found
21 the day of the arrest, he told you that he had to fill
22 out an official discrepancy report. That's how
23 important that was. It's a major thing. This is not
24 oh, gee, I made a mistake. This is an important,

1 important thing that happened, a major mistake.

2 How could you -- how could you find
3 this young man guilty on a major mistake, a discrepancy
4 report? He had to tell his -- he had to make a report
5 out to his own superiors so he didn't get in trouble
6 about it.

7 There's another thing he told you.
8 Right in the building where he works, the unit that does
9 fingerprints is right there, but the -- but fingerprints
10 are done when they're ordered, when the police officers,
11 when they ask for it to be ordered. They didn't ask
12 this time.

13 And do you recall what Officer Jones
14 said? He testified he said that he was so careful about
15 handling those bags. Why did he say that? Because he
16 didn't want to contaminate them. Why? Because you can
17 get fingerprints on them.

18 Nobody here testified, no forensic
19 officer came in here and testified and told you that my
20 client's fingerprints were on those bags; the easiest,
21 the simplest evidence that could have presented to you.

22 You're the jury. You're supposed to
23 find people guilty based upon evidence, and they're not
24 showing it to you. Don't blame my client for that.

1 I'm sorry. Let's talk about our
2 Defense witnesses now. The Defense witnesses. First
3 was his mom. I believe her name is Janine.

4 She testified. She explained to you
5 that she had -- she doesn't live with him, but that she
6 supports him. She does the best she can. All of these
7 people do. They do the best they can. She brings him
8 money when she can, every six months, as much as \$300
9 she gives him. It happened the week before he was
10 arrested.

11 Okay? What did the other witnesses
12 tell you? The other witnesses tell you Damica, the lady
13 in the building that gets by by making people
14 sandwiches. You heard her testify. She talked about
15 how she put the food on the oven or on the grill and how
16 the meat was going and how she was preparing all of
17 those things and that he was up there and he was talking
18 to some of the girls there. One of them testified
19 later. He was there for a few minutes, and then he went
20 downstairs, I think one of the witnesses testified, to
21 get a pop.

22 She -- both of those witnesses
23 indicate that as soon as the food looked like it was
24 going to be ready or something to that effect, they went

1 down looking for him, and they saw him arrested.

2 And where did they see him arrested?
3 On the fifth floor. They saw him handcuffed and
4 arrested.

5 His cousin who lives with him, she
6 testified that this police officer, Jones, he walked in
7 there and he looked around, okay? I said before this
8 was a raid. He was looking around in that building for
9 somebody to see if he can catch somebody. And what
10 happens when he -- when he goes in there? He can't find
11 anybody. But when he starts walking out, this young man
12 walks in, and he grabs him, grabs him by the collar and
13 takes him outside.

14 He tells his cousin to stay inside
15 so she can't see what's going on, but the two other
16 ladies, they happened to walk down and walk in on him.
17 They saw him out there.

18 So, folks, what happened there was
19 that he searched him and he found \$115 on him. So, in
20 this police officer's mind, he was selling. What is
21 this young man going to be doing with 115 bucks in his
22 pocket if not selling drugs? Right? He says he's the
23 one. This guy must be selling drugs.

24 He takes him downstairs. He sits

1 him on that, and then what do they need? Well, they
2 need the buyer, right? They need to finish off their
3 little story. And who walks in? Poor Miss Berry, okay?
4 But guess what? There's nobody else around. She was
5 it. They grab her. They handcuffed her. That police
6 officer who arrested her, that man should be ashamed of
7 himself, arresting a woman like this just for that.
8 Now, of course she has no cases pending.

9 Folks, no matter how many times the
10 state's attorneys get up here to tell you different
11 things, it's not true. Don't be fooled. Don't be
12 fooled. I can understand these police officers, their
13 frustration for not being able to catch people that way.
14 I can understand their frustration. But you know what?
15 They caught the wrong kid. He happened to have 115
16 bucks on him because his mom gave it to him. Don't be
17 fooled. Don't be fooled.

18 This is not the kind of evidence
19 that you can -- you can -- you can find this young man
20 guilty. I want you -- I beg you, think about his life.
21 Think about what this case means to this young man's
22 life.

23 Can you convict him on this
24 evidence? Search your souls. Can you convict him on

1 this evidence? We're asking you to please when you
2 deliberate, do the right thing and return the only fair
3 verdict, a verdict of not guilty. Thank you.

4 THE COURT: State?

5 REBUTTAL ARGUMENT

6 BY MS. EGAN:

7 MS. EGAN: He asks you, can you convict on this
8 evidence? Absolutely. You can and you should. As he
9 said, don't be fooled. Don't be fooled.

10 This defendant was out there that
11 night doing one thing and one thing only. He was
12 serving drugs for profit. The only thing he did wrong
13 is he got caught.

14 Did they just say that police
15 officer Jones ought to be ashamed of himself for
16 arresting Sandra Barry? Are you kidding? Sandra Barry
17 was a drug buyer. Absolutely he should have arrested
18 her, and he should have been ashamed of himself if he
19 didn't. He arrested her because she was committing a
20 crime, just like he was. He was dealing to her, and she
21 was buying.

22 Officer Jones should be ashamed of
23 himself? This defendant should be ashamed of himself.
24 He should be ashamed that he walked into a residence

1 where people live, where little kids live, and where
2 good decent families try to raise their families.
3 That's who should be ashamed in this courtroom.

4 And, ladies and gentlemen, don't be
5 fooled. Do you need fingerprints? No. This is not a
6 whodunit. Those police officers saw those drugs. They
7 saw them in this defendant's hands, and they saw them in
8 Sandra's hands. And surprise, surprise. They looked
9 just like the ones that came out of this defendant's
10 hands right before he served them to her.

11 You'll see those drugs. You'll be
12 able to see it for yourself and use the common sense
13 that my partner talked to you about.

14 And what about this raid, this
15 supposed raid that we just heard of? Did anybody hear
16 anything about a raid coming from this witness stand?
17 Did anyone hear anything about frustrated police
18 officers coming from that witness stand? No. I don't
19 know where that came from, but it didn't come from the
20 evidence in this case, and my partner talked to you
21 about that.

22 It's the evidence in this case that
23 you'll consider, and it's the law that His Honor will
24 instruct you on. That's what you consider. And if they

1 were planning some big raid, why didn't they bring a ton
2 of officers in? How come they didn't make arrests of
3 Valencia in her apartment in 506 if that's where they
4 say all of this happened? That makes no sense, and
5 don't be fooled by it.

6 And Sandra and the defendant
7 according to them must just be the unluckiest people in
8 that building. Why of all of the people that those good
9 hard working police officers could have arrested, why go
10 for them? Have you heard anything that those officers
11 had any axe to grind against this defendant or against
12 Sandra? No.

13 They walked in on a drug deal. They
14 were undercover, trying to fit in, because that's how
15 they do their job, their job of protecting that building
16 and of ridding it of drug dealers and getting the buyers
17 out of there. That's the evidence that you heard in
18 this case.

19 Members of the jury, like my partner
20 said, the best police work can be done when the
21 criminals don't know that the police are coming.
22 There's nothing that you have to look into in this case,
23 that you have to try to figure out. These police
24 officers were eyewitnesses to a crime. And when they

1 saw that crime, they did their job. They placed this
2 defendant under arrest.

3 And we're not -- he's saying, did
4 Sandra look like a drug buyer? Maybe, she does have a
5 problem. Maybe, she doesn't. It doesn't matter. Sure,
6 she said she doesn't have a case. She doesn't have a
7 case pending now.

8 And the chemist. They attack the
9 chemist and the weighing and they are saying that
10 somehow with this big police mistake that somehow
11 there's a conspiracy.

12 Well, if the police are going to
13 make this big conspiracy, why are they going to put less
14 drugs? Why didn't didn't they put more drugs? If they
15 have all of these drugs to plant on people, how come
16 only 17 packets? How about 700 packets? There's
17 nothing wrong about what the police did? They looked in
18 that baggie. Those 17 packets were altogether in that
19 baggie.

20 No, they didn't take it out and
21 separate them and count them like the chemist does. And
22 you know why because Officer Jones told you why. I
23 don't contaminate my skin, the work area. I put it
24 altogether. I heat seal it. It goes to that lab where

1 it stays heat sealed until that chemist deals with it.

2 Officer Jones knows the chemist is
3 going to count the drugs. So, what benefit does he have
4 for lying? And why make it less? That makes no sense.

5 And the weight class? That's just
6 what the chemist does. He weighs it. If it's a certain
7 weight, it becomes this class. If it's another weight,
8 it becomes this class. There's nothing that's improper
9 about what the chemist did.

10 The person on trial in this
11 courtroom isn't Sandra or the police or the chemist.
12 It's this defendant sitting right here, and he's here
13 because of what he did. We're all here because of what
14 he did. We're asking that you find this defendant
15 guilty. Yes, it is our burden of proof. We accept it
16 without question and without hesitation. And in this
17 case, we have met it.

1 THE COURT: Members of the jury, the evidence
2 and arguments in this case have been completed, and I
3 now will instruct you as to the law.

4 The law that applies to this case is
5 stated in these instructions, and it is your duty to
6 follow all of them.

7 You -- excuse me. You must not
8 single out certain instructions and disregard others.

9 When I use the word he in these
10 instructions, I mean a male or female.

11 It is your duty to determine the
12 facts and to determine them only from the evidence in
13 this case.

14 You are to apply the law to the
15 facts and in this way decide the case.

16 Neither sympathy nor prejudice
17 should influence you.

18 You should not be influenced by any
19 person's race, color, religion or national ancestry.

20 From time to time, it has been the
21 duty of the Court to rule on the admissibility of
22 evidence.

23 You should not concern yourselves
24 with the reasons for these rulings.

1 You should disregard questions and
2 exhibits which were withdrawn or to which objections
3 were sustained.

4 Any evidence that was received for a
5 limited purpose should not be considered by you for any
6 other purpose.

7 You should disregard testimony and
8 exhibits which the Court has refused or stricken.

9 The evidence which you should
10 consider consists only of the testimony of the
11 witnesses, the exhibits and stipulations which the Court
12 has received.

13 You should consider all of the
14 evidence in the light of your own observations and
15 experience in life.

16 Neither by these instructions nor by
17 any ruling or remark which I have made do I mean to
18 indicate any opinion as to the facts or -- I'm sorry --
19 as to the facts or as to what your verdict should be.

20 Faithful performance by you of your
21 duties as jurors is vital to the administration of
22 justice.

1 Only you are the judges of the
2 believability of the witnesses and of the weight to be
3 given to the testimony of each of them.

4 In considering the testimony of any
5 witness, you may take into account his ability and
6 opportunity to observe, his memory, his manner while
7 testifying, any interest, bias or prejudice he may have
8 and the reasonableness of his testimony considered in
9 the light of all of the evidence in the case.

1
2 Opening statements are made by the
3 attorneys to acquaint you with the facts they expect to
4 prove. Closing arguments are made by the attorneys to
5 discuss the facts and circumstances in the case and
6 should be confined -- and should be confined to the
7 evidence and to reasonable inferences to be drawn from
8 the evidence.

9 Neither opening statements nor
10 closing arguments are evidence and any statement or
11 argument made by the attorneys which is not based on the
12 evidence should be disregarded.
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2 Those of you who took notes during
3 trial may use your notes to refresh your memory during
4 jury deliberations. Each juror should rely on his or
5 her recollection of the evidence. Just because a juror
6 has taken notes does not necessarily mean that his or
7 her recollection of the evidence is any better or more
8 accurate than the recollection of a juror who did not
9 take notes.

10 When you are discharged from further
11 service in this case, your notes will be collected by
12 the deputy and destroyed. Throughout that process, your
13 notes will remain confidential and no one will be
14 allowed to see them.

1 The defendant is charged with the
2 offense of possession of a controlled substance with
3 intent to deliver. The defendant has pleaded not
4 guilty.

1 The charge against the defendant in
2 this case is contained in a document called the
3 information. This document is the formal method of
4 charge the defendant and placing the defendant on trial.
5 It is not any evidence against the defendant.

1 The defendant is presumed to be
2 innocent of the charges against him. This presumption
3 remains with him throughout every stage of the trial and
4 during your deliberations on the verdict. And is not
5 overcome unless from all of the evidence in this case
6 you are convinced beyond a reasonable doubt that he is
7 guilty.

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

1 The fact that the defendant did not
2 testify must not be considered by you in anyway in
3 arriving at your verdict.

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Circumstantial evidence is the proof of facts or circumstances which give rise to a reasonable inference of other facts which tend to show the guilt or innocence of the defendant.

Circumstantial evidence should be considered by you together with all of the other evidence in the case in arriving at your verdict.

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2 The believability of a witness may
3 be challenged by evidence that on some former occasion
4 he made a statement that was not consistent with his
5 testimony in this case. Evidence of this kind
6 ordinarily may be considered by you only for the limited
7 purpose of deciding the weight to be given the testimony
8 you heard from the witness in this courtroom. However,
9 you may consider a witness's earlier inconsistent
10 statement as evidence without this limitation when, one:
11 The statement was made under oath at a trial or two:
12 The statement narrates, describes or explains an event
13 or condition the witness had personal knowledge of and
14 A: The statement was written or signed by the witness,
15 or B: The witness acknowledged under oath that he made
16 the statement, or C: The statement was accurately
17 recorded by a tape recorder or videotape recording or
18 similar electronic means of sound recording.

19 It is for you to determine whether
20 the witness made the earlier statement and if so what
21 weight should be given to that statement.

22 In determining the weight to be
23 given to an earlier statement you should consider all of
24 the circumstances under which it was made.

1 A person commits the possession with
2 intent to deliver a controlled substance when he
3 knowingly possesses with intent to deliver a substance
4 containing a controlled substance, and the substance
5 containing the controlled substance weighs one gram or
6 more but less than 15 grams while in a residential
7 property owned, operated, and managed by a public
8 housing agency.

1 To sustain the charge of possession
2 with intent to deliver a controlled substance when the
3 substance containing the controlled substance weighed
4 one gram or more but less than 15 grams while in a
5 residential property owned, operated, and managed by a
6 public housing agency, the State must prove the
7 following propositions.

8 First: That the defendant knowingly
9 possessed with intent to deliver a substance containing
10 cocaine a controlled substance, and second: That the
11 possession with intent to deliver took place in a
12 residential -- in a residential property owned,
13 operated, and managed by public housing agency, and
14 third: That the weight of the substance containing the
15 controlled substance was one gram or more but less than
16 15 grams.

17 If you find from your consideration
18 of all of the evidence that each one of these
19 propositions has has been proved beyond a reasonable
20 doubt, you should find the defendant guilty.

21 If you find from your consideration
22 of all of the evidence that anyone of these propositions
23 has not been proved beyond a reasonable doubt, you
24 should find the defendant not guilty.

1 When you retire to the jury room,
2 you first will elect one of your members as your
3 foreperson. He or she will preside during your
4 deliberations on your verdicts. Your agreement on a
5 verdict must be unanimous. Your verdicts must be in
6 writing and signed by all of you, including your
7 foreperson.

8 The defendant is charged with the
9 offense of possession of a controlled substance with
10 intent to deliver.

11 You will receive two forms of
12 verdict. You will be provided with both, a not guilty
13 and guilty form of verdict. From these two verdict
14 forms, you should select the one verdict form that
15 reflects your verdict and sign it as I have stated.

16 Do not write on the other verdict
17 form. Sign only one verdict form.

1 The verdict forms read: We, the
2 jury, find the defendant, William Carter, not guilty of
3 possession of a controlled substance with intent to
4 deliver.

1 We, the jury, find the defendant,
2 William Carter, guilty of possession of a controlled
3 substance with intent to deliver.

1 THE COURT: At this time, I would ask the
2 deputies to please stand.

3 THE CLERK: You and each of you do solemnly swear
4 that you will take this jury to a safe and convenient
5 place provided by the Sheriff of the County of Cook and
6 there keep them together and permit no person to speak
7 to them nor speak to them yourselves about this cause
8 and when they have agreed upon their verdict you will
9 return them to open court? You do.

10 THE SHERIFFS: I do.

11 THE COURT: Okay.

12 Ladies and gentlemen, I'm going to
13 ask you to step back into the jury room. Hold on.

14 What I'm going to do is in a few
15 minutes, you'll hear a knock on the door. At that time,
16 my deputy will tender to you the evidence and exhibits
17 -- I'm sorry.

18 Will the two alternates please
19 stand? At this time, would you please step in the back
20 and get your belongings and step back out?

21 And going back to the jurors that
22 will deliberate, you will receive a knock on the door.
23 My deputy is going to give you the exhibits and the
24 evidence.

1 In regards to the narcotics, I would
2 like you to look at those first. You may take them out
3 of the evidence pack. Do not attempt to open them.
4 When you're done observing them and using them, knock on
5 the door, and my deputy will then remove them, and you
6 can continue on with your deliberations. Okay? All
7 right.

8 The alternates are now present in
9 the courtroom. I would ask the jury to step back into
10 the jury room, please.

11 THE SHERIFF: All rise for the jury.

12 (The following proceedings
13 were had out of the
14 hearing of the jury:)

15 THE COURT: All right.

16 Please be seated. The record will
17 reflect the time is now 5:00. The jury has begun
18 deliberations. Any motions prior to adjournment?

19 MR. SIMMONDS: No.

20 MS. EGAN: No.

21 THE COURT: Then I would ask the two alternate
22 jurors to step up. I'm going to have you come into the
23 back. You may be seated and you may bring Mr. Carter
24 back.

(Whereupon, there was a recess
had in the above-entitled
cause, after which the
following proceedings were had:)

THE COURT: Back on the record with William
Carter. The instructions are here. There's two of the
evidence bags, the photos from the State and the photos
from the Defense.

Any objections on either side to
those going back?

MR. SIMMONDS: No.

MS. EGAN: No.

THE COURT: All right.

Then I have informed you how we
handle the drugs with the jury. We will send
everything back. And leave your numbers with the
deputy. If there is any questions or when the verdict
comes back, we will call you.

MR. SIMMONDS: Thanks.

THE COURT: All right. You can take him back.

(Whereupon, there was a recess
had in the above-entitled
cause, after which the
following proceedings were had:)

1 THE COURT: William Carter. All right. Are you
2 ready?

3 THE SHERIFF: Yes.

4 THE COURT: What time did they buzz?

5 THE SHERIFF: 7:45.

6 THE COURT: Okay.

7 (The following proceedings were had in
8 the hearing and the presence of the
9 jury:)

10 THE COURT: Let the record reflect we are in open
11 court. The jury returned a verdict at 7:25. The jury
12 is now coming out.

13 (The following proceedings were had in
14 the hearing and the presence of the
15 jury:)

16 THE COURT: All right. All of the jurors are
17 present. You may be seated. Has the jury reached a
18 verdict?

19 THE FOREPERSON: Yes, your Honor.

20 THE COURT: Will the foreperson please stand?
21 Would you please hand that verdict to the deputy? You
22 may be seated. All right. I'll ask the clerk to read
23 the deputy I'm sorry read the verdict in open court.

24 THE CLERK: We, the jury, find the defendant,

1 William Carter, guilty of possession with intent to
2 deliver.

3 THE COURT: Okay.

4 The record will reflect the jury has
5 tendered a verdict. The verdict form is signed by all
6 12 jurors. Would the Defense like to poll the jury?

7 MR. SIMMONDS: Yes, Judge.

8 THE COURT: All right.

9 Ladies and gentlemen, at this time,
10 the clerk is going to ask you a question. The question
11 is was this then and is this now your verdict. When
12 your name is read out, will you please answer that
13 question in a loud voice.

14 THE CLERK:

15 Q. Marina Cabrera?

16 A. Yes.

17 Q. Was this then and is this now your
18 verdict?

19 A. Yes.

20 Q. John Carrigan, was this then and is this
21 now your verdict?

22 A. Yes.

23 Q. Diane Cox, was this then and is this now
24 your verdict?

1 A. Yes.

2 Q. Arlene Dejnowski, was this then and is
3 this now your verdict?

4 A. Yes.

5 Q. Rosemarie Dimitrov, was this then and is
6 this now your verdict?

7 A. Yes.

8 Q. Joan Elias, was this then and is this now
9 your verdict?

10 A. Yes.

11 Q. Kimberly Jones, was this then and is this
12 now your verdict?

13 A. Yes.

14 Q. Annelie Liedtke, was this then and is this
15 now your verdict?

16 A. Yes.

17 Q. Henry Muhrer, was this then and is this
18 now your verdict?

19 A. Yes.

20 Q. Lawrence Pietrzak, was this then and is
21 this now your verdict?

22 A. Yes.

23 Q. Angela Powell, was this then and is this
24 now your verdict?

1 A. Yes.

2 Q. Ashiq Virani, was this then and is this
3 now your verdict?

4 A. Yes.

5 THE COURT: Okay.

6 The jury's verdict will be accepted
7 and spread of record, and judgment of conviction on the
8 charge of possession with intent to deliver will be
9 entered.

10 Ladies and gentlemen of the jury,
11 this Court wants to thank you for your service as jurors
12 in this case.

13 Jury service is a great connecting
14 link between the courts and the people and is a great
15 public trust. The process of arriving at a unanimous
16 decision provides a valuable lesson on how different
17 minds and divergent viewpoints can be brought together.
18 As this Court said earlier, a verdict based solely on
19 the law and evidence without regard to sympathy, bias or
20 prejudice is a true verdict and one that brings justice
21 to each of the parties in this courtroom.

22 It has given you, I hope, a valuable
23 insight into the workings of our judicial system. I
24 trust that you have had an experience that you will

1 always remember as a time in your life when you have
2 performed one of the highest duties of certain
3 citizenship.

4 I will now discharge you from
5 further service in this case. Please know that your
6 jury service is greatly appreciated. You are now
7 discharged.

8 When you step in the back, I'll ask
9 you to wait a few minutes. I'm going to step back and
10 tender to you a certificate of jury service. I'll also
11 answer any questions concerning the court system or how
12 the Court is run or our schedule, but I will not answer
13 any questions concerning the facts of this case. If you
14 would step back please, I'll be right with you.

15 (The following proceedings
16 were had out of the
17 hearing of the jury:)

18 THE COURT: The jury has returned to the jury
19 room. Any motions at this time?

20 MS. EGAN: None.

21 MR. SIMMONDS: None.

22 MS. EGAN: I'm sorry, Judge, to revoke bond.
23 Excuse me. I'm sorry.

24 MS. FIALKOWSKI: There is a prior Class 1

1 delivery and a prior Class 4.

2 THE COURT: Okay.

3 The motion to revoke bond will be
4 granted. I'll set this down for a PSI and post trial
5 motion motions. Give me an agreeable date within
6 30 days. We are now on February 1st. March 1st will be
7 the 30th day. Anytime before that.

8 MR. SIMMONDS: Judge, how long, maybe a month
9 date then.

10 THE COURT: All right.

11 All right. Well, post trial motions
12 must be filed within 30 days. So I'll give it a date on
13 February 27th.

14 MR. SIMMONDS: Okay.

15 THE COURT: Okay. I'll sign the PSI. By
16 agreement to February 27th for post trial motion and
17 sentencing.

18 MS. EGAN: Judge, we will have an impound order
19 tomorrow. If your Honor can sign that.

20 THE COURT: Sure.

21 MR. SIMMONDS: That was the 27th?

22 THE COURT: Yes.

23 MR. SIMMONDS: Thank you.

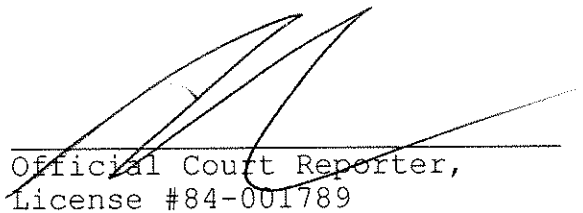
24 THE COURT: Okay. That's it.

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(A continuance
was taken to 2-27-07)

1 STATE OF ILLINOIS.)
2) SS.
3 COUNTY OF C O O K)
4

5 I, PAUL P. MARZANO, CSR, RPR, Official Court
6 Reporter for the Circuit Court of Cook County, Illinois
7 Judicial Circuit of Illinois, do hereby certify that I
8 reported in shorthand the proceedings had in the
9 above-entitled cause; that I thereafter caused the
10 foregoing to be transcribed, which I hereby certify to
11 be a true and accurate transcript of the report of
12 proceedings had before the Honorable JOHN KIRBY, Judge
13 of said court.

14
15 
16 Official Court Reporter,
17 License #84-001789

18 Dated this 2nd day
19 of SEPTEMBER, 2007.
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