

State v. Drljic/Suttles

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STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF RAMSEY

SECOND JUDICIAL DISTRICT

File No. 62-CR-10-1464

State of Minnesota,

and 62-CR-10-1465

Plaintiff,

vs.

JURY TRIAL - DAY 5

Pages 1 - 125

Daniel Drljic and
Tamika Latoi Suttles,

Defendants.

TRANSCRIPT OF PROCEEDINGS

The above-entitled matter came on for Jury Trial before the Honorable Gail Chang Bohr, Judge of said Court, on the 30th day of November, 2010, at the Ramsey County Courthouse, 15 W. Kellogg Boulevard, St. Paul, Minnesota.

APPEARANCES:

Elizabeth Lamin, Assistant Ramsey County Attorney, appeared on behalf of the Plaintiff;

Jill Clark, Attorney at Law, appeared on behalf of the Defendants;

Thomas Handley, Assistant Ramsey County Public Defender, appeared on behalf of Jermaine English; and

Susan D. Montpetit, Court Reporter.

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11
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15
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17
18
19
20
21
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23
24
25

INDEX

WITNESS:

Thomas Nolan (Continuing)
 Cross-Examination by Ms. Clark..... 26
 Redirect Examination by Ms. Lamin.... 54

Jermaine English
 Direct Examination by Ms. Lamin..... 58
 Cross-Examination by Ms. Clark..... 68
 Redirect Examination by Ms. Lamin.... 105
 Recross-Examination by Ms. Clark..... 106

Patricia Y
 Direct Examination by Ms. Lamin..... 108
 Cross-Examination by Ms. Clark..... 114
 Redirect Examination by Ms. Lamin.... 123

EXHIBITS

No. 91 - Disc - Video
 Offered..... 105
 Received..... 106

No. 92 - Diagram (Nolan)
 Marked, Offered & Received..... 27

No. 93, 94, 95 - Photos
 Marked, Offered & Received..... 50

No. 96 - Diagram (Y)
 Offered & Received..... 115

Reporter's Certificate..... 125

State v. Drljic/Suttles

1 (In Open Court - Morning Session. The following
2 proceedings commenced outside the presence of the Jury.)

3 THE COURT: All right. Good morning. We just
4 need to get these other matters done before I call the
5 jury in at nine. And I have here two sets of State's
6 Request for Granting Jermaine English Immunity and
7 State's Motion in Limine. And I want Jermaine English --
8 and Mr. Handley is here so that there is a clear path
9 about how we are going to proceed. I suppose clear might
10 be over optimistic; but, at least we'll know what the map
11 is going to look like.

12 All right. I'm going to ask Ms. Lamin to
13 explain her request here

14 MS. LAMIN: Your Honor, the law in this area, I
15 thought, was reasonably clear statute and case law. And
16 defendant, the state concedes, is entitled to, at this
17 point, a Fifth Amendment Right in self-incrimination --
18 I'm sorry, Mr. English. Because even though he pled
19 guilty and was sentenced on November 4th, the 90 days has
20 not yet expired. However, the state is requesting,
21 formally, in writing, that the court grant Mr. English
22 immunity, pursuant to Statute 609.01, Subd. 1 and that
23 Mr. English be ordered to testify.

24 This is an appropriate request by the state.
25 Mr. English's testimony is not contrary to public

State v. Drljic/Suttles

1 interest. It's essential in the prosecution of the
2 defendants in this case. He can speak to what happened
3 to the fact that the defendants aided and abetted him and
4 each other in burglarizing these businesses and clearly
5 show intent and other elements that the state has to
6 prove. Mr. English is not subjected to prosecution in
7 another state or in federal court.

8 The state, in looking at the law, 609.09, it is
9 -- talks about use or derivative use immunity are the
10 two. And use immunity is sufficient to override Mr.
11 English's Fifth Amendment Right against
12 self-incrimination. And the court can order and should
13 order Mr. English to testify upon granting him immunity
14 pursuant to 609.09. And essentially no testimony or
15 other information directly or indirectly derived from Mr.
16 English's testimony will be used against Mr. English in
17 any criminal case. However, the granting of immunity
18 does not in any manner limit or prohibit the state from
19 prosecuting Mr. English for any perjury, false swearing
20 or contempt committed while testifying under the Court's
21 order.

22 This is appropriate use, Your Honor, of the
23 Court's discretionary power. This is an important matter
24 for both the state and the defense. Mr. English's
25 testimony is important. The state respectfully requests

State v. Drljic/Suttles

1 that you order Mr. English to testify. And if Mr.
2 English refuses, that he be found in criminal contempt.

3 But, I would like that -- I guess the second
4 part of our discussion, the most recent case dealing with
5 immunity was State v. Morales, M-O-R-A-L-E-S. It's not
6 exactly on point. That's at 788 N.W. 2d, 737. And that
7 involved a situation where even after a co-defendant took
8 the fifth, the court ordered him to testify and he still
9 refused to testify. The prosecution still called him as
10 a witness. I don't feel like we're there yet. We're
11 still at the first stage. But clearly, in that, the
12 court has the power and it's appropriate for the
13 prosecution to request it. And it is appropriate for the
14 District Court to grant Mr. English immunity and order
15 him to testify

16 THE COURT: All right. I'm going to ask Mr.
17 Handley.

18 MR. HANDLEY: Tom Handley, appearing on behalf
19 of Mr. English, who is not present at this time.

20 Your Honor, Mr. English was present in court
21 yesterday afternoon. He did assert the Fifth Amendment,
22 at that time, and then we started this discussion about
23 immunity. And on behalf of Mr. English, I am asking the
24 court to grant him transactional immunity or derivative
25 use immunity and any complete immunity from any

State v. Drljic/Suttles

1 prosecution as a result of his testimony here. I have
2 looked at the case law and I would say --

3 THE COURT: Before you go there, Mr. Handley,
4 are you saying the derivative use immunity is the same as
5 transactional immunity?

6 MR. HANDLEY: I guess I'm not certain.

7 THE COURT: Okay..

8 MR. HANDLEY: My interpretation of the
9 transactional use immunity would be a greater, more
10 protective of Mr. English's rights. So that's what I
11 would ask so that he wouldn't have to worry about any
12 prosecution for anything.

13 THE COURT: Including perjury?

14 MR. HANDLEY: Including..

15 THE COURT: Including perjury?

16 MR. HANDLEY: Right.

17 THE COURT: And is that true for derivative use
18 immunity, that --

19 MR. HANDLEY: It may not be.

20 THE COURT: Yeah. Okay. So, there is a big --
21 there is a distinction there?

22 MR. HANDLEY: Yes.

23 THE COURT: Yes.

24 MR. HANDLEY: So, I'll stand on the record I
25 made yesterday. I have, also, reviewed the Morales

State v. Drljic/Suttles

1 decision. It does have some language in there that's not
2 helpful to this request on behalf of Mr. English. It
3 talks about, basically, perjury is still in play no
4 matter what.

5 THE COURT: Right.

6 MR. HANDLEY: So, I have to tell the court and
7 counsel that that appears to be the state of law, that
8 regardless of the grant of immunity, it does not preclude
9 a perjury prosecution. However, it does say this -- and
10 I'm quoting from the Morales decision that was just cited
11 by counsel for the state, at Page 22.

12 Based on the analysis in these cases we
13 conclude that immunized testimony cannot be used to
14 convict an individual under the perjury statute when the
15 statement inconsistent with that immunized testimony was
16 made before the immunized testimony. Immunized testimony
17 may be used to support a perjury conviction only if the
18 fact finder concludes that the immunized witness made a
19 false material statement while under immunity or the
20 immunized testimony is inconsistent with statements made
21 after the immunized testimony.

22 So, it does create that caveat, which would
23 appear to say that Mr. English's prior statement, under
24 oath, could not be used in a future perjury prosecution.

25 THE COURT: Okay.

RAMSEY COUNTY DISTRICT COURT

1 MR. HANDLEY: So I just want to throw that out
2 there. It's possible for Mr. English to be prosecuted
3 for perjury, but not based on his prior statement made
4 under oath when he entered his plea.

5 THE COURT: Okay.

6 MR. HANDLEY: That's my interpretation of what
7 that means.

8 THE COURT: All right. Do you have a different
9 interpretation?

10 MS. LAMIN: Yes, Your Honor, I guess I don't
11 agree that broadly. Two things. One, Your Honor, the
12 Constitution does not in any way, and the law, the
13 statute, there is no right to transactional immunity.
14 The state would vehemently oppose it. And I think it
15 completely undermines any point of putting Mr. English on
16 the stand. The defense counsel, of course, in this case
17 would be able to impeach Mr. English with whatever
18 immunity he receives and talk about that. So -- and use
19 immunity. Mr. English has already pled guilty in this
20 case and has been sentenced.

21 So, Your Honor, use immunity is appropriate in
22 this case. This is not a case where some sort of
23 prosecution is continuing. And I think even in case law
24 , it seems like they're blurring use and derivative use.
25 But, I think either way, Your Honor, the state's reading

State v. Drljic/Suttles

1 is Mr. English can still be prosecuted for perjury.

2 THE COURT: Right.

3 MS. LAMIN: I think. And --

4 THE COURT: And let me just say, talk out loud,
5 about the way I see this thing going. Even if I give him
6 use immunity, he still has a Fifth Amendment Right. He
7 could still invoke it. I see you shaking your head, but
8 I think he still has that right. And I don't think I can
9 just override that. And in that case, he can still get
10 up there no matter what I say, no matter what you say,
11 and still say I plead the Fifth. So, at that point, I
12 can order him to testify truthfully. And he might still
13 say, I'm refusing to testify. Okay. I'm playing the
14 scenario out. So, what do you do, then?

15 MS. LAMIN: Your Honor, I guess there is two
16 things. I think there is the legal and then the
17 practical.

18 THE COURT: And I'm into the practical.

19 MS. LAMIN: You're into the practical. Okay.
20 I think, legally, if he gets immunity under 609.09, he
21 does not have the Fifth Amendment privilege not to
22 testify. Now, does that mean he takes the stand and
23 agrees to talk? That's a different issue, Your Honor. I
24 think then, obviously, Your Honor, if the state knows, in
25 good faith, that Mr. English would take the stand and

State v. Drljic/Suttles

1 refuse to testify and continually say the words, I take
2 the Fifth, it's improper for the state to call him as a
3 witness. I completely agree. But, we haven't reached
4 that stage.

5 I feel like Mr. English needs to be ordered to
6 testify, needs to be ordered to testify, informed of the
7 consequences of not testifying, informed that his Fifth
8 Amendment privilege has been overridden by your granting
9 him immunity for the purposes of his testimony. And
10 explain that to him and make sure -- and then we need to
11 get a clear sense, practically, if he's going to follow
12 your direct order and testify or if he's going to fight
13 your order and face civil contempt. And then if we
14 clearly get a statement that he's going to violate your
15 order, we wouldn't call him as a witness. But, if he --
16 if he indicated that he will follow your order, Your
17 Honor, then we will call him as a witness.

18 THE COURT: Well, he could say that and still
19 do whatever he's going to do. Well, I'm just saying,
20 that you have -- I'm just thinking out loud.

21 MS. LAMIN: I hear you. And if he does that,
22 then Your Honor, I will try to ask, you know. If we're
23 given the understanding like we were earlier in the trial
24 that Mr. English was going to cooperate and then he gets
25 up there and the last minute I ask a question and he

1 refuses, I think if I'm allowed to ask one or two
2 questions and just see. You know, again, this is in the
3 context of Mr. English indicated he's going to cooperate,
4 then I think we're done. And then we might need to have
5 a curative instruction or something. But again, I don't
6 think we face the danger of Morales, because we, you
7 know, the state is operating in good faith with the
8 understanding that Mr. English is going to testify.

9 THE COURT: Well, let me ask Mr. Handley if
10 that is his understanding of how this works, practically,
11 in a practical way. He's already said he's going to
12 plead the Fifth. You say I'm granting you immunity. I'm
13 granting you use immunity, you -- here is what it
14 provides for you. He still gets up and says I plead
15 Fifth.

16 MR. HANDLEY: Well, I think if that's what
17 occurs here this morning, outside the presence of the
18 jury, then, I don't think the state should be allowed to
19 call Mr. English as a witness.

20 THE COURT: If he continues to do that, even
21 with regard to the use immunity?

22 MR. HANDLEY: Yes, that would be my position.
23 We would then know he's going to assert the Fifth in the
24 presence of the jury. And Mr. English should not be used
25 to boot strap other statements into the record. I'm

State v. Drljic/Suttles

1 encouraging the state not to call Mr. English, at all, as
2 Mr. English's attorney, just to avoid all kinds of issues
3 for all of us.

4 THE COURT: Yes.

5 MR. HANDLEY: But, that's up to the state. And
6 I can't stop them from doing that. But, Mr. English does
7 not want to be here. He made no agreement to testify
8 against anyone. He pled his case. He was sentenced.
9 So, I'm asking, on behalf of Mr. English, that the state
10 rethink this and not call Mr. English as a witness.
11 However, if the state insists we should do this --

12 THE COURT: Outside of the presence of the
13 jury. And then we'll have an answer there.

14 MR. HANDLEY: Outside the jury and see where we
15 are.

16 THE COURT: Is that --

17 MS. LAMIN: Yes, Your Honor.

18 THE COURT: Okay. All right. Just one thing.
19 I'm trying to keep us on track here.

20 MS. CLARK: I haven't said anything yet.

21 THE COURT: But, I think there is an issue here
22 that --

23 MS. CLARK: Oh, my clients have an absolute
24 right to be heard on this issue, Your Honor. They are
25 the defendants in this case.

State v. Drljic/Suttles

1 THE COURT: Well, we haven't decided if he's
2 going to be able to even testify.

3 MS. CLARK: I believe that we do not need to do
4 this outside the presence of the jury. And I'm very
5 sensitive about the jury to having to sit a lot in this
6 trial and that that could harm my case, because by the
7 time we get to my case, they could be so bored, I just
8 can't get them to pay attention.

9 My review of State v. Morales, which is the
10 most recent Minnesota Supreme Court case, is that in fact
11 it is not improper for the state to call someone under
12 immunity and then they take the Fifth. In other words,
13 they are not -- I have to agree with Ms. Lamin on that,
14 that they are not calling him for the purpose of him
15 taking the Fifth. They are calling him because they
16 expect that he will comply with a court order and have no
17 control. So, I think we should get the jury in and get
18 started.

19 THE COURT: Okay. All right. There is one
20 other matter here that I think we should deal with right
21 now, because it will come up again. And with regard to
22 the State's Motions in Limine and if you had a chance to
23 look at that.

24 MS. CLARK: I would like to be able to have
25 some time to read these cases. This was again just

1 provided to me, Your Honor.

2 THE COURT: All right. But, I believe we can
3 take a look at what's being requested. And I mean --

4 MS. LAMIN: Your Honor, and I believe --

5 THE COURT: Okay.

6 MS. CLARK: Which one?

7 MS. LAMIN: Seidel (phonetic). That one is in
8 fact -- here's Stillday (phonetic) and one for the judge.
9 That's in fact where a defense attorney, based on the
10 cross-examination, resulted in a mistrial.

11 (Brief pause)

12 MS. CLARK: Nineteen eighty-eight. I just
13 can't possibly read this case right now, Your Honor. And
14 I don't think that we're going to have a police officer
15 on the stand this morning. So, if we could defer this
16 and get the jury. I would love to be able to properly
17 respond to this motion.

18 MS. LAMIN: Your Honor, my concern is we have
19 Mr. Nolan coming up for cross. And my esteemed
20 colleague, you know, the defense counsel who has many
21 years of experience, had a very robust cross-examination
22 of Officer Glisky. I think we now are about to have a
23 lay person testify. And I'm sure, just in the heat of
24 the moment and the passion, Your Honor, I think we can
25 all agree some lines were crossed. And I am concerned

State v. Drljic/Suttles

1 that that may happen again, Your Honor. And I'm even
2 more concerned in the context of a lay witness who has
3 never testified before.

4 And I would ask a couple things. One of which,
5 Your Honor, if I'm forced to object continually to
6 improper cross, it appears to the jury as if I'm hiding
7 or trying to keep something out. And I would ask, if,
8 you know, if Your Honor -- and I saw Your Honor would
9 step in at that point that some of the lines that went
10 down with Officer Glisky, and the innuendos and
11 allegations were beyond the pale. And if that happened
12 with Mr. Nolan, I will ask to approach or object; but,
13 Your Honor I'm also -- I'm concerned about what happened
14 in the previous cross-examination and what's coming
15 before a lay witness who has never experienced this
16 before.

17 THE COURT: All right. You can have one thing
18 to say and then I'm going to make my ruling on this. Go
19 ahead.

20 MS. CLARK: Well, what are you making a ruling
21 on?

22 THE COURT: No, I don't --

23 MS. CLARK: Well, Your Honor, I'm sorry. I
24 just have to object to process here because this is the
25 fourth time I have gotten a motion in limine with case

State v. Drljic/Suttles

1 law, cases cited and the court has ruled on it.

2 Sometimes I haven't even been allowed to --

3 THE COURT: I haven't ruled on anything yet.

4 MS. CLARK: No, I don't even know what the
5 issue is. How can I address it?

6 THE COURT: Okay. So, here's, I believe,
7 what's going on. And of course, if anything gets out of
8 line, I will intervene. Okay. I did that yesterday.
9 And I will continue to do that. But, I think, also, Ms.
10 Clark, and I'm sure you know this and the same for the
11 state, that the jurors are paying close attention so they
12 can figure things out, themselves. So, I don't think I
13 actually need to say anything because they have their own
14 way. And in the end, that's what it's going to come down
15 to.

16 MS. CLARK: Absolutely. I'm not sure exactly
17 what the court is referring to.

18 THE COURT: How today I was concerned that you
19 were moving into accusing this officer of taking money.

20 MS. CLARK: Oh, Your Honor, we have a right to
21 have a theory of the defense in this case. And any
22 attempt to block our theory of the defense is a
23 reversible error. And it is not appropriate to live in a
24 state where people like my clients have to have a year of
25 criminal prosecution and people like police officers who

State v. Drljic/Suttles

1 are sworn to uphold the law are above even asking
2 questions about it. I just -- I absolutely disagree that
3 that's appropriate. We had one of the only benefits to a
4 criminal defendant is that they have the Fifth Amendment
5 Right and that the state can't depose them before trial
6 and know everything that they know.

7 Your Honor, we have an absolute, valid, eye
8 witness evidence of what happened that day. And if we
9 are prevented from putting it on, I'm not sure exactly
10 what the remedy is because I'm not down the road that
11 far. But, it is absolutely appropriate for me to ask
12 Officer Glisky while he's on the stand. It would be
13 unfair for me not to ask him, because then the state
14 would probably have to call him back on rebuttal.

15 The other thing is, I believe it's appropriate
16 to keep the trial moving, to have the witness called
17 once. There have been a couple of rulings by the court
18 that we can call someone again later. I think the jury
19 will groan if I have to call Peter Brown again. I do
20 have him under subpoena. But, I just think it keeps it
21 moving . So --

22 THE COURT: Peter Brown hasn't been called
23 before, right?

24 MS. CLARK: Peter Brown was called by the
25 state.

State v. Drljic/Suttles

1 MS. LAMIN: He was the first witness.

2 THE COURT: Peter --

3 MS. CLARK: And Your Honor had said we could
4 call him again.

5 THE COURT: Peter Brown was the -- is the son?

6 MS. LAMIN: Yes, Your Honor.

7 THE COURT: Okay.

8 MS. CLARK: He was the first witness. And the
9 court had ruled that we could -- the cross couldn't go
10 outside the scope of direct, but that we could call him
11 later. I know you modified that ruling later; but, I do
12 -- the state should have to object. The notion that the
13 court should intervene would have the court bolstering
14 the State's theory of their case. And so we would object
15 to that. This is -- we have a right to vigorous cross.
16 This is a man who is trying to say that my clients
17 committed a crime. We have a right to vigorously cross
18 him. And an attempt to impede our vigorous cross, I
19 believe, has due process implications.

20 THE COURT: Well, as I have said before, you
21 certainly do have that right. And that we have evidence
22 that's relevant to the case and calculated to lead to
23 admissible evidence. So, you don't just get to pull in
24 everything in the kitchen sink.

25 MS. CLARK: Well --

State v. Drljic/Suttles

1 THE COURT: I'm just saying, now, seriously,
2 that it does have to be admissible evidence when we get
3 right down to it.

4 MS. CLARK: Well, of course. And as we all
5 know, that that depends on the circumstances. But, what
6 it can't be is the state gets to put in whatever they
7 want and then the defense can't defend.

8 THE COURT: The state's put in what is actually
9 evidence about --

10 MS. CLARK: Your Honor, I actually respectfully
11 disagree with that. The state has been allowed to talk
12 about what's usual practice in the police department to
13 bolster Officer Glisky's testimony. They have been
14 allowed to get him to say -- we made a motion in limine
15 that was granted that police can't say that my clients
16 committed burglary. And yet, that's exactly what Glisky
17 was allowed to do. And yet, what I tried to cross him
18 about, do you really know the legal elements of burglary?
19 I was not allowed to do that. The state is being allowed
20 to put in evidence and we are not being allowed to
21 counter. So, I just have to respectfully carve out a
22 space where I can do my job and get our theory in. We're
23 entitled to our theory of the case and the law is clear
24 on that.

25 If I had any notice of the state's motion,

State v. Drljic/Suttles

1 again, no fax, no e-mail, no telephone call. I get case
2 cites dropped on me five minutes before we start. And I
3 believe if the court, at this point, limits my cross of
4 this individual, which I have eye witness testimony, was
5 the burglar. Eye witness testimony that this guy was the
6 burglar. And if I'm not allowed to ask him about that,
7 with all due respect, I believe it's reversible error.

8 MS. LAMIN: Your Honor, we don't have that
9 testimony. Your Honor, I believe this defense has to
10 give us that testimony before they -- that evidence,
11 which we never heard and have no idea where it's coming
12 from --

13 THE COURT: All right.

14 MS. LAMIN: I'm sorry. Before they attack Mr.
15 Nolan. And I brought a Motion in Limine before that, as
16 well. There has been nothing. Nothing is out there that
17 the state knows of, that Your Honor knows of, that anyone
18 knows of, that in any way implicates -- implies that Mr.
19 Nolan is the burglar, Your Honor. That's -- if the
20 defense wants to put on a case and produce witnesses,
21 they can do that and recall Mr. Nolan. But, they can't
22 today present their case through him on facts that don't
23 exist, Your Honor.

24 And nowhere in their opening or thus far have
25 they indicated that. I think it's going to -- I'm very

State v. Drljic/Suttles

1 concerned, Your Honor. And what if the defense, more
2 likely than not, doesn't put anything on. Then we're
3 just left with innuendos, improper innuendos, like cops
4 stole money, planted evidence, that Mr. Nolan is a
5 burglar, Your Honor. There is nothing there but the
6 defense saying that without having any evidence, Your
7 Honor. It's -- both sides are entitled to a fair trial.

8 THE COURT: And let me just say, then, that we
9 would -- I would want to have an offer of proof on --
10 with regard to Mr. Nolan.

11 MS. CLARK: Your Honor, it's very clear from
12 Sergeant Strickland's police report, the audio typed
13 interview of Tamika Suttles at the LEC, December 7th,
14 2009, produced to us by the state, that she said a white
15 man came out of the building and put things in her trunk.
16 That has been the facts of this case from day one. She
17 has been consistent with that. We didn't have a picture
18 of Thomas Nolan, but we started -- once we found out his
19 middle name is Joseph, we started to think he could be
20 Joe. And I said we were doing motions in limine, if we
21 see him on the stand and Ms. Suttles can say that's the
22 guy I saw. Now we have a connection. And in fact, Ms.
23 Suttles, now that she's seen this gentlemen, says this is
24 the white man who put the items in the trunk.

25 THE COURT: So, Ms. Suttles is the eye witness

State v. Drljic/Suttles

1 that we are talking about?

2 MS. CLARK: She is.

3 THE COURT: Okay. All right.

4 MS. LAMIN: So, Your Honor --

5 THE COURT: Is that going to come in your case,
6 though? Because that's what the issue is here, then we
7 just have to bring him back.

8 MS. CLARK: I think that bringing people
9 back --

10 THE COURT: Well, I don't think this piece of
11 the -- in fact, although she could say she saw him in the
12 window. I suppose that's fine.

13 MS. CLARK: Here's the thing. I just think,
14 you know, and just like you said this morning about the
15 immunity issue. At some point, it would be great to do
16 the practical look at this. I mean, the state didn't
17 tell us that he had moved, that Nolan had moved, so we
18 couldn't locate him to subpoena him. So, if you want to
19 order him to come back in our case, maybe I can do that.
20 I don't think jurors -- I think jurors don't like that.
21 I think when they hear us calling a witness again,
22 they're going to groan, oh, we have heard from that guy.

23 THE COURT: So, are you going to put Ms.
24 Suttles on the stand now to say that she had identified
25 him? How's that going to --

State v. Drljic/Suttles

1 MS. CLARK: No. I would just ask for an offer
2 of proof.

3 MS. LAMIN: Your Honor, I would ask that the
4 defense be ordered to recall Mr. Nolan. Again, Your
5 Honor, there has been nothing but -- so, this is the
6 first time we're getting this, Your Honor. And the
7 defense -- the defense investigator met with Mr. Nolan in
8 May. And Mr. Nolan offered to let him take photos. Your
9 Honor, Ms. Suttles and Ms. Clark -- Ms. Clark is entitled
10 to put on the best defense for Ms. Suttles and Mr. Drljic
11 as possible. And the state does not want to interfere
12 with that. But, if the sole basis for any attacks on Mr.
13 Nolan are going to come from Ms. Suttles, who we haven't
14 heard that before, wasn't told to the officer on the
15 scene, wasn't told to Sergeant Strickland, and it's going
16 to come in now for the first time, the defense has to
17 actually say that and then they can call Mr. Nolan, Your
18 Honor. They just can't attack him now, without more,
19 Your Honor.

20 I'm just very -- I'm very concerned, because at
21 the end of the day, Ms. Suttles does not have to testify.
22 And she can't be ordered to testify. And then, again, we
23 would have opened this kind of, you know, Pandora's box.

24 THE COURT: And here's what -- where I'm going
25 to go with this. The jury will get the evidence. They

State v. Drljic/Suttles

1 will be asked to sift through and figure out for
2 themselves who is credible and who isn't. And I think
3 I'm going let that go on that, your cross on this.

4 MS. CLARK: I'm not sure what that means, let
5 it go.

6 THE COURT: Oh, that you can cross.

7 MS. CLARK: Okay.

8 THE COURT: You can do that and --

9 MS. CLARK: Thank you.

10 THE COURT: Okay. All right, we need the jury
11 now.

12 THE CLERK: So what are we doing here? We're
13 going to do Nolan today, right?

14 THE COURT: Okay.

15 THE CLERK: Right away. Okay. So I don't need
16 to get Mr. English?

17 MS. LAMIN: Not this morning.

18 THE CLERK: Okay.

19 MS. CLARK: I believed English was next; but --

20 MS. LAMIN: Well, I can call another witness,
21 too. And then --

22 THE CLERK: Tell me what you want to do so I
23 can tell them so we know exactly what we're doing.

24 MS. LAMIN: I guess, Your Honor, I have two
25 witnesses -- I have another witness, so we can get moving

State v. Drljic/Suttles

1 and then maybe if you want, during the morning, take an
2 early morning break and then deal with Mr. English.

3 THE COURT: Okay. Because I don't want to hold
4 up Mr. Handley.

5 MR. HANDLEY: Your Honor, I do have to be in
6 court at 1:30 today with Judge Smith. I've got a
7 pretrial.

8 THE COURT: Okay. We're not going until this
9 afternoon, I promise you.

10 MR. HANDLEY: Thank you.

11 THE COURT: All right. Okay.

12 MS. LAMIN: Mr. English will be this morning.

13 THE CLERK: Mr. English will be this morning.

14 I hate for Mr. Handley to have to come back again to --

15 THE COURT: No. No, he's not going to have to
16 go any where. He's fine.

17 MS. CLARK: Okay.

18 THE COURT: We'll take care of Mr. Handley.
19 He's been very patient.

20 MR. HANDLEY: I did bring other things to work
21 on so it's okay.

22 THE COURT: And you don't even have to listen
23 to us.

24 MR. HANDLEY: I'll be here at least until 1:30
25 today. I can still come back after.

State v. Drljic/Suttles

1 THE COURT: I have sentencings this afternoon,
2 so I am not available.

3 MS. LAMIN: Has Your Honor ruled on the
4 immunity or we'll just wait and do that?

5 THE COURT: We'll wait and do that, because I
6 want Mr. English, also, to be present.

7 MS. LAMIN: Okay.

8 THE CLERK: I'll get the jury.

9 THE COURT: Yes.

10 (The Jury returned to the Courtroom at this
11 time and the following proceedings continued.)

12 THE COURT: Good morning. Please be seated.
13 Yesterday we were just about to have defense counsel
14 start the cross-examination of Mr. Nolan. And would you
15 bring Mr. Nolan in, please.

16 (Brief pause)

17 THE COURT: Good morning, Mr. Nolan. Thanks
18 for coming back. And I just want to remind you, you are
19 still under oath.

20 THE WITNESS: All right.

21 THE COURT: Okay. Ms. Clark.

22 MS. CLARK: Thank you.

23 CROSS-EXAMINATION

24 BY MS. CLARK:

25 Q Good morning, Mr. Nolan.

Nolan - Cross

1 A Good morning.

2 Q It's a little confusing some of the angles that you were
3 talking about with the way the building is shaped.

4 MS. CLARK: So, may I approach, Your Honor?
5 I'm going to mark this Exhibit 92.

6 (Exhibit 92 marked by Attorney Clark.)

7 BY MS. CLARK:

8 Q And if you could just write your name on the top. Just
9 Nolan is fine. And draw us a picture of this place in
10 the building that goes in, where your apartment would be,
11 on this corner (indicating).

12 A Do you want the whole building or just the back of it.

13 Q Showing this portion where -- that you were talking
14 about, where it kind of goes in, and you know, where you
15 said it was odd shaped.

16 A Okay. (Drawing diagram)

17 Q Okay. And can you --

18 MS. CLARK: First of all, I offer Exhibit 92.

19 THE COURT: I'm sorry?

20 MS. CLARK: Offer Exhibit 92.

21 MS. LAMIN: What basis?

22 MS. CLARK: Show the shape of the building.

23 MS. LAMIN: No objection, Your Honor.

24 THE COURT: And 92 is accepted.

25 BY MS. CLARK:

Nolan - Cross

- 1 Q All right. So, can you describe this for us? If you
2 need to stand up, again, that's fine.
- 3 A So, like I said yesterday, my -- I would have been up
4 here on the third floor. So I could only see to about
5 here. The back of my building would be here. Back of
6 the shop would be here. And then there is, I believe,
7 this door is back here for various stores on University
8 and Raymond.
- 9 Q Great. So, up where you said your window was. Can you
10 put a "W", so we know which is the window.
- 11 A (Indicating).
- 12 Q Did you have any other windows looking out on the parking
13 lot?
- 14 A Yeah, there would have been three right here. One here
15 and one there.
- 16 Q So, all of the little boxes by "W" are windows from your
17 then apartment?
- 18 A Yes.
- 19 Q And then, were there any windows that looked out this
20 way?
- 21 A Yeah, the stairs for the apartment building, the door at
22 the end right here and then the stairs come up. There is
23 a window right here and window right here. And then the
24 stairs go back out to the hallway.
- 25 Q Okay. So, how about if you put "SW" by those little

Nolan - Cross

- 1 squares to show stairwell windows, is that what you mean,
2 stairwell windows?
- 3 A Yes, correct.
- 4 Q Okay. All right. Now, you had also put some doors; and
5 if you could put a "D" by the -- or how about a "D" by
6 the apartment doorway. And then you have another door
7 that you said was a business doorway?
- 8 A Yeah, right here.
- 9 Q Okay. Why don't you, on the other sides of that black
10 line there, put "BD" for business doorway. And is there
11 any business doorway in that little alcove there?
- 12 A Right here, there is one.
- 13 Q Is there one over in that, almost rectangular shaped
14 area?
- 15 A Yeah, I'm not sure if it's here or here; but, there is --
16 back here there is a door.
- 17 Q All right. Why don't you label that "BD", too. Is it a
18 big doorway?
- 19 A Yes.
- 20 Q All right. Why don't you label that "D" -- "BD", too.
21 All right. Thank you very much. You can take your seat.
22 So then, that evening, were you looking out any of the
23 stairwell windows?
- 24 A No.
- 25 Q You weren't?

Nolan - Cross

- 1 A No.
- 2 Q At any point?
- 3 A No.
- 4 Q Did you go up and down those stairs that you have put on
5 this diagram at any point that night?
- 6 A Not until after the incident, not until after the police
7 were there.
- 8 Q Not until after they arrived?
- 9 A Yes.
- 10 Q Okay. And then how many times did you go up and down
11 those stairs?
- 12 A I would have gone down once and back up once.
- 13 Q And you indicated, yesterday, that you met with the
14 prosecutor to prepare for your testimony. What day was
15 that?
- 16 A It would have been last Wednesday.
- 17 Q Did you review any documents?
- 18 A Documents, as in what?
- 19 Q Well, anything. Any -- did you review any police
20 reports?
- 21 A We -- I mean, there were documents there. I don't
22 believe I read a police report, though.
- 23 Q Well, did you review information from a police report?
- 24 A I reviewed information from the private detective and
25 that was it.

Nolan - Cross

1 Q All right. You reviewed a memorandum of the defense
2 private investigator interviewing you?

3 A Yes.

4 Q Have you ever seen a document created by one of the
5 prosecutors, Rich Dusterhoft?

6 A A document, as in?

7 Q Have you ever seen a memorandum dated July 27, 2010,
8 signed by Prosecutor Richard Dusterhoft, copy to Thomas
9 Nolan, that indicates --

10 MS. LAMIN: Objection, Your Honor. That's a
11 misstatement, copy to Sergeant Strickland.

12 THE COURT: Yes.

13 MS. LAMIN: May we approach?

14 THE COURT: Yes.

15 (Counsel approached the bench and an
16 off-the-record discussion was held at this time.)

17 BY MS. CLARK:

18 Q So, have you ever reviewed a memorandum dated July 27,
19 2010, signed by Prosecutor Richard Dusterhoft, copy to
20 Thomas Nolan?

21 A I'm not sure what document that is, so --

22 Q Well, did you ever get a document from the prosecutor?

23 A If it was addressed to me, I would assume I did; but, I
24 don't remember having read it -- anything.

25 Q Well, did you meet with one of the prosecutors on July

Nolan - Cross

1 27, 2010, at any time?

2 A I met with him. I'm not sure if that was the exact day;
3 but, yeah, I did.

4 Q Some time mid summer?

5 A Yes.

6 Q And Sergeant Strickland of the St. Paul Police Department
7 was there, as well?

8 A Yes.

9 Q And how long was that meeting?

10 A I would say about half an hour.

11 Q And at that point, did you learn any information from
12 either the police officer or the prosecutor?

13 A No.

14 Q Did you learn that there were allegations that a white
15 man came and put some items into the trunk of the large
16 American automobile?

17 A No.

18 Q You never heard that before today?

19 A Nope.

20 Q So what did you talk about for half an hour?

21 A Just talked about that there was -- there may or may not
22 be a trial and I may or may not have to show up as a
23 witness.

24 Q And what did you tell them about what had occurred on the
25 night in question?

Nolan - Cross

1 A Basically, I told them everything I have already said.

2 Q Well, did you tell them everything you had said to the
3 defense private investigator?

4 A I believe so.

5 Q Well, you told the defense private investigator that you
6 were sure no one was carrying out any computer equipment;
7 correct?

8 A I don't think I told him I knew exactly what was being
9 carried, so I don't think I would have said that I didn't
10 see exactly what they were carrying.

11 MS. CLARK: A document that might refresh his
12 recollection. May I approach?

13 THE COURT: Yes.

14 BY MS. CLARK:

15 Q (Pause) Does that refresh your recollection of what you
16 told the defense private investigator?

17 A I mean, yeah, sure. What was your question?

18 Q The question is, isn't it true you told the defense
19 private investigator that when you saw people carrying
20 some things, they were not carrying any computer
21 equipment?

22 A That's not what it said on there.

23 Q Did you tell him that they were not carrying computer
24 stuff, that's for sure?

25 A Yeah.

Nolan - Cross

1 Q All right. Thank you. Now, at any time, isn't it true,
2 sir, that you have told a couple of different versions of
3 what you said you saw that night?

4 A I would say if there is any discrepancy at all, it's
5 because it was about a year ago and my memory is, you
6 know, not too great anymore.

7 Q So, would you agree that the most contemporaneous version
8 is the closest to what occurred?

9 A Can you rephrase that question?

10 Q Sure. Do you know the word contemporaneous?

11 A No.

12 Q Closest in time.

13 A So, the one closest to the incident?

14 Q Yeah?

15 A I would say that even the first time I talked to anyone
16 it was still a while after it had happened.

17 Q Didn't you say something, right as you saw a police
18 officer down in the parking lot?

19 A Yeah.

20 Q And then the police officer had a radio; right?

21 A Yep.

22 Q Would you agree that what the police told dispatch that
23 you had said, right in that moment, would probably be the
24 most accurate?

25 A Yes.

Nolan - Cross

1 Q Did you say, at 4:26 that morning that you saw someone
2 run back into the building?

3 A Yes.

4 Q Now, yesterday you were asked whether the name of the
5 officer you spoke to was Officer Glisky. Do you remember
6 the name of the officer you spoke to that night?

7 A That sounds right.

8 Q Could it have been Officer Menton?

9 MS. LAMIN: Your Honor, objection, asked and
10 answered.

11 THE COURT: And I'll sustain that.

12 BY MS. CLARK:

13 Q Let me ask you a different way, sir. Did you speak with
14 Officer Menton that night?

15 A I don't recall speaking to someone by that name.

16 Q Did you speak with one -- more than one police officer?

17 A By speak, you mean, exchange a few words or actually have
18 a conversation or --

19 Q Well, how about for now, both; any conversations with
20 more than one police officer?

21 A Yes.

22 Q How many?

23 A Two.

24 Q And one was this one you told us about yesterday. Who
25 was the other one?

Nolan - Cross

1 A The other one was one that I -- it was the female officer
2 that came up and took photographs from my apartment.

3 Q And did you speak with her in your apartment?

4 A No.

5 Q Where did you speak with her?

6 A It was down at the stairwell.

7 Q What do you mean at the stairwell?

8 A Can I point it out?

9 Q Sure.

10 A It was just down here, when officer Glisky was taking my
11 statement, that I talked to her and she went upstairs to
12 take those photographs.

13 Q So, she was there when Glisky was taking the statement?

14 A For a second. And then she went upstairs.

15 Q And the three of you were standing inside the stairwell?

16 A Yes.

17 Q Did someone tell you to say, anywhere sir, to make sure
18 not to say you were out in the parking lot?

19 MS. LAMIN: Your Honor, objection. Improper.

20 MS. CLARK: I can rephrase it.

21 THE COURT: Okay.

22 BY MS. CLARK:

23 Q Is it your testimony you were never out in the parking
24 lot that night?

25 A No. No, I was.

Nolan - Cross

- 1 Q You were?
- 2 A Yes.
- 3 Q Okay. Were you there before the police arrived?
- 4 A No.
- 5 Q Isn't it true you were there after the police arrived?
- 6 A Yes.
- 7 Q And you were trying to point out some people that you
8 thought were guilty of a crime; right? Correct?
- 9 A What do you mean?
- 10 Q Did you see Ms. Suttles in the parking lot?
- 11 A No, I couldn't identify her.
- 12 Q Where were you standing?
- 13 A In the parking lot?
- 14 Q Yes.
- 15 A After the police arrived?
- 16 Q Okay. Could you show us on your map where you were
17 standing?
- 18 A Well, like I said, after the police arrived I walked
19 around back, I walked back inside. And later on, when
20 they needed to talk to me, I came down these stairs and
21 was out the back. (Indicating.)
- 22 Q Now, did you tell that to Sergeant Strickland and the
23 prosecutor in July of this year?
- 24 A It's possible. I can't recall the exact conversation.
- 25 Q So, were you ever in --

Nolan - Cross

1 MS. CLARK: May I approach, Your Honor?

2 THE COURT: Yes.

3 BY MS. CLARK:

4 Q Were you ever in this area after the police arrived?

5 A Yeah, it's possible that I was a little further out, but
6 it was definitely in this back corner.

7 Q All right. Did some police tell you to get back, stand
8 back?

9 A After, at that point, no.

10 Q Did you ever look inside this trunk of this car?

11 A No.

12 Q Now did you tell Officer Glisky that just before he
13 arrived you saw two people dressed in black carry a large
14 duffel bag and a long metal object?

15 A Yes.

16 Q And where did those people go -- were they carrying both
17 at once?

18 A Yeah, they each had objects in their hands.

19 Q They each had a different object?

20 A Yes.

21 Q One had a duffel bag?

22 MS. LAMIN: Your Honor, may we approach?

23 THE COURT: Yes.

24 (Counsel approached the bench and an

25 off-the-record discussion was held.)

Nolan - Cross

1 THE COURT: You may proceed.

2 BY MS. CLARK:

3 Q So, what was -- what did the bag look like?

4 A It was dark. It looked dark and large enough to carry
5 with two hands.

6 Q Was there any light in this area?

7 A There was light, but it wasn't a whole lot of light. I
8 could see; but again, I was on the 3rd story still.

9 Q All right. And you said one person was carrying that
10 bag?

11 A Yes.

12 Q And then one person was carrying a long metal object?

13 A I mean, this is taken from when I had talked to the
14 private -- what I had talked to the private investigator
15 about.

16 Q The way I started this conversation was, do you remember
17 saying that to Officer Glisky?

18 A No, I don't remember saying that to Officer Glisky.

19 Q Well, you already testified that you did. Now I'm just
20 asking you questions about it.

21 A Okay.

22 Q Did you see that that night or not?

23 A Yes.

24 MS. LAMIN: Your Honor, objection, he said he
25 didn't remember saying that to Officer Glisky.

Nolan - Cross

1 MS. CLARK: Object to speaking objections.

2 THE COURT: I am going to overrule that

3 objection.

4 BY MS. CLARK:

5 Q Did you see a person carrying a bag and a person carrying
6 a long metal object? Did you actually see it? So, I'm
7 not asking you if you said it to someone. Did you see it
8 happen?

9 A Yes.

10 Q All right. Who were the people?

11 A It was a male and a female that I saw get out of the car.

12 Q And which was carrying the bag -- oh, they got out of the
13 car?

14 A Yes.

15 Q Where did they carry the bag to?

16 A They got -- I'm just framing reference. The people I
17 have been talking about who got out of the car and went
18 into the building and came back.

19 Q Right. I'm just focusing on this carrying of a bag and a
20 carrying of a long metal object.

21 A Right. And it was from the back of the car.

22 Q And what was their gender?

23 A There was a male and there was a female.

24 Q And what was their race?

25 A They were African American.

Nolan - Cross

- 1 Q Both of them?
- 2 A As far as I could tell, yes.
- 3 Q You could see that clearly?
- 4 A Yes.
- 5 Q Didn't you tell the defense private investigator that you
6 weren't sure if there was a woman?
- 7 A I believe what I told him was that from the stature and
8 the height and from what I could see and from what I saw,
9 that yeah, I thought it was a woman.
- 10 Q But later, you came to that conclusion; right?
- 11 A No, I came to that conclusion that night.
- 12 Q Who was carrying the long metal object?
- 13 A I'm not sure which one.
- 14 Q Did you talk to a Sergeant Cain that night?
- 15 A I don't recall talking to Sergeant Cain.
- 16 Q Did you tell police that night that you saw two people
17 carrying a large duffel bag, together?
- 18 A No.
- 19 Q Never said that?
- 20 A No.
- 21 Q Did you talk to a Sergeant Strickland about what happened
22 that night?
- 23 A I believe I talked to him with Rick Dusterhoft.
- 24 Q Well, did you talk to him on the telephone January 15,
25 2010?

Nolan - Cross .

1 A Yeah, that seems right.

2 Q And did you tell him you saw the female walk toward the
3 building?

4 A I can't recall what I talked to him about.

5 Q Did you tell Sergeant Strickland January 15, 2010, that
6 you saw a black male coming out of the building carrying
7 items and putting them into the car?

8 A I mean, I don't recall the conversation, so I can't
9 really comment on that.

10 Q Did you see that happen that night?

11 MS. LAMIN: Your Honor, may we approach?

12 THE COURT: Yes.

13 (Counsel approached the bench and an
14 off-the-record discussion was had.)

15 THE COURT: Okay. And I think I said if you
16 can't recall, there are ways to refresh recollection. So
17 you may rephrase that.

18 MS. CLARK: Thank you.

19 BY MS. CLARK:

20 Q Did you see a black male come out of the building, at
21 least once, carrying items and putting them in the car?

22 A Yes.

23 Q Where in the car?

24 A In the trunk and the back seat.

25 Q The trunk and the back seat?

Nolan - Cross

1 A Yes.

2 Q Well, what did he carry to the back seat?

3 A I believe the -- they put a bag in the trunk and other
4 items in the back seat that I couldn't tell what they
5 were.

6 Q Well, I'm sorry, how do you know that a black male was
7 putting an item in the back seat if you couldn't see it?

8 A I couldn't see what he was holding, but he put it in the
9 back seat. I could tell the door was open and things in
10 his arms were placed into the back seat of the car.

11 Q And do you know a gentlemen by the name of Hood?

12 A No, I do not.

13 Q And did you smoke crack with Hood?

14 A No.

15 Q Did you tell the defense private investigator that 5 to
16 10 minutes after you saw some people go towards the
17 building, in towards the corner, they came out carrying
18 something like metal poles or rods?

19 A Yes.

20 Q And what did those look like, sir?

21 A It looked like metal objects of some sort.

22 Q How long were they?

23 A Two, three feet long, enough to stick out from both arms.

24 Q And, it's your testimony -- I'm sorry -- and at that
25 point, the trunk was popped; is that correct?

Nolan - Cross

1 A Yes.

2 Q By these people?

3 A Yes.

4 Q And you saw somebody place those long metal poles into
5 the trunk?

6 A Yes.

7 Q And you told the defense investigator that you watched
8 for 15 minutes; is that right?

9 A You mean for the entire time period of what happened.

10 Q Well, these people arriving in a car and then going back
11 and forth to the building, carrying things, you watched
12 that for 15 minutes you told the defense investigator;
13 correct?

14 A Yes.

15 Q So you watched for 15 minutes and then you decided, on
16 your own, to call 911; correct?

17 A No.

18 Q Well, didn't you tell the defense investigator that you
19 decided to call 911 before police arrived?

20 A If that's what it says, then yes.

21 Q Do you need to refresh your recollection?

22 A Sure. (Brief pause)

23 Q Does that refresh your recollection?

24 A Yes.

25 Q So you told the defense investigator you called 911 and

Nolan - Cross

1 then the police arrived; right?

2 A Yes.

3 Q Now, you said yesterday that you may have called 911 on
4 your girlfriend's cell phone. Was she also up?

5 A She was asleep for most of this.

6 Q Well, was she up at some point?

7 A Yes.

8 Q And what's her name?

9 MS. LAMIN: Your Honor, objection, relevance.

10 THE COURT: I'll sustain that objection.

11 BY MS. CLARK:

12 Q Well, is she still your girlfriend?

13 MS. LAMIN: Your Honor, objection. May we
14 approach?

15 THE COURT: I'm going to sustain that.

16 BY MS. CLARK:

17 Q To the best of your knowledge, have the police ever
18 interviewed your girlfriend?

19 A No.

20 Q Have you and your girlfriend ever talked about what
21 happened that night?

22 A Yes.

23 Q Did the police ever look at your cell phone?

24 A No.

25 Q Or your girlfriend's cell phone?

Nolan - Cross

- 1 A No.
- 2 Q Obtain your cell phone records?
- 3 A No.
- 4 Q Were you on the phone with Jermaine -- excuse me -- with
5 a gentlemen by the name of Hood or Jermaine, with you
6 that evening?
- 7 A No.
- 8 Q And was he making a telephone call to get some people to
9 come pick up some items?
- 10 A Who?
- 11 Q Were you on the phone -- was anyone with you at your
12 apartment that night, making arrangements, calling
13 someone to come pick up some items?
- 14 A No.
- 15 Q Is there a storage facility in the basement of the
16 building?
- 17 A Not that I know of or that I have access to.
- 18 Q And how do you get into the basement of the business part
19 of the building?
- 20 A I have never been in the basement.
- 21 Q Never?
- 22 A Never.
- 23 Q Were you present when police searched the large American
24 vehicle?
- 25 A No.

Nolan - Cross

1 Q You don't know anything about what was found in there?

2 A No, I do not.

3 Q Did you go down to have a smoke later?

4 A Yes.

5 Q And talk to police?

6 A Yes.

7 Q And did police give you information at that time?

8 A No.

9 Q Well, isn't it true you told the defense investigator
10 that police told you that three people were involved in
11 the burglary?

12 A Yes.

13 Q Which police officer said that to you?

14 A I believe it was the officer that I talked to earlier
15 that evening.

16 Q And that officer also said they were still looking for
17 the third person?

18 A Yes.

19 Q And police also told you that people had gotten in
20 through a back door into the building; is that right?

21 A Yes.

22 Q And that police had been alerted by an alarm?

23 A I don't believe I learned it on the night of -- I think
24 that's something I heard later.

25 Q Isn't it true you told the defense investigator that

Nolan - Cross

1 that's what police told you that night?

2 A Yes.

3 MS. LAMIN: Objection, Your Honor, improper.

4 MS. CLARK: The --

5 MS. LAMIN: I ask that that be stricken, Your
6 Honor.

7 THE COURT: Overruled.

8 BY MS. CLARK:

9 Q When you were talking to this officer that you think was
10 named Glisky, he was taking notes about what you said;
11 correct?

12 A At the end of the night, yeah.

13 Q And then you indicated that an officer came into your
14 apartment and took some pictures; right?

15 A Yes.

16 Q Can you tell us which window, Exhibits 68 and 69 are
17 taken out of, which window on your diagram?

18 A I believe that's the -- from the right of these three and
19 those in the middle (indicating).

20 Q All right. How long was that officer in your apartment?

21 A I would say no more than 10 minutes.

22 Q I'm going to hand you 68. Can you tell what's in the
23 background in 68?

24 A In the background, you mean what exactly?

25 MS. CLARK: I'm sorry. May I approach, Your

Nolan - Cross

1 Honor?

2 THE COURT: Yes.

3 BY MS. CLARK:

4 Q The background of the picture. Do you see a lighted area
5 here?

6 A Yes.

7 Q Do you know what that is?

8 A It looks like headlights from a car, possibly.

9 Q And you testified on direct that there was a car here
10 that was the large American vehicle you saw, but are you
11 sure this is that vehicle?

12 A I mean, I'm not positive, but it would have been in this
13 area right here (indicating).

14 Q Now, doesn't it also look like there is -- there are some
15 headlights facing toward you in this picture?

16 A Yeah, those are cars that are parked there. They are
17 either owned or worked on by the auto body shop that's
18 right here. And those cars are always there.

19 Q It was later on that this picture was taken, after police
20 had been there awhile?

21 A Yes.

22 Q And do you know if it was taken before or after the large
23 American vehicle was moved?

24 A It was before it was moved.

25 Q How do you know that?

Nolan - Cross

1 A I mean, I was still up and they boxed the car in. It
2 wasn't until a lot later in the night that they had towed
3 the vehicle.

4 Q I'm not talking about towing it. I'm talking about
5 police moving it before it was eventually towed. Did you
6 see that occur?

7 A No.

8 Q Okay. So you don't know when that occurred?

9 A No.

10 Q I have marked some pictures that are Exhibits 93, 94 and
11 95. And if you could just take a moment to view those,
12 silently, just to see if you recognize what's in the
13 picture. Do you recognize what's in those pictures?

14 A Yes.

15 Q And without regard to the date or the weather or anything
16 like that, is this an accurate representation of this
17 part of the building that we have been talking about in
18 Exhibit 92?

19 A Yes.

20 MS. CLARK: Offer 92, 93 and 94.

21 THE COURT: Counsel?

22 MS. LAMIN: Your Honor, may I have a moment?

23 (Brief pause)

24 COURT REPORTER: You offered 92, 93 and 94?

25 MS. CLARK: Ninety-two is already in. It's 93

Nolan - Cross

1 and 94 and 95.

2 MS. LAMIN: No objection, Your Honor.

3 THE COURT: And Exhibits 92, 93, 94 and 95 are
4 admitted.

5 BY MS. CLARK:

6 Q I'm going to hand these back to you. And on 93, this is
7 just to give us a frame of reference here. This is 93.
8 If you could just circle -- can you see the windows of
9 your apartment in 93?

10 A Yes.

11 Q All right. If you could circle those for us?

12 A (Witness indicating)

13 Q All right. So, for the record, with a ball point pen,
14 you have circled one circle around three windows; is that
15 right?

16 A That's -- yes, three windows.

17 Q All right. And then Exhibit 94, does this show, looking
18 back towards this indented area of 92?

19 A Yes.

20 Q And can you see the stairwell window in that picture or
21 not; the one that you put up here?

22 A No, this is looking in from that angle, so you can't see
23 it.

24 Q All right. Let's look at 95. Can you see the stairwell
25 window in that picture?

Nolan - Cross

1 A Yes. You want me to circle them?

2 Q Why don't you do that.

3 A All right. It's these two right here.

4 Q All right. And in the diagram, these would be the ones
5 that are up, of the stairway windows, are the
6 southeasterly ones?

7 A Yes.

8 Q Okay. Thank you. Now, when the defense investigator
9 visited with you, you initially told him that you allowed
10 him to take some pictures in your apartment; correct?

11 A Yes.

12 Q And then you did not let him, in fact, come back and take
13 pictures; correct?

14 A Yes.

15 Q Am I correct?

16 A Yes.

17 Q Well, were you concerned if he was able to get a picture
18 of you, sir? Did that concern you?

19 A No, I was just busy at the time and I didn't feel the
20 need to do that.

21 Q When you talked with Sergeant Strickland, any of the
22 times, did he give you a Miranda warning?

23 A The phone conversation, I really don't recall with him,
24 so --

25 Q Did he ever indicate to you that things you say to him

Nolan - Cross

1 could be held against you?

2 MS. LAMIN: Your Honor, objection, relevance.

3 THE COURT: Overruled. You can answer that
4 question.

5 THE WITNESS: Can you restate that?

6 BY MS. CLARK:

7 Q Sure, did Sergeant Strickland, at any point, tell you
8 that what you said to him could be held against you?

9 A I don't believe so.

10 Q Mr. Nolan, your middle name is Joseph?

11 A I have two.

12 Q Well, let's focus on the Joseph one. Is that one of your
13 middle names?

14 A Correct.

15 Q And has anyone ever called you Joe?

16 A No.

17 Q No one has ever called you Joe?

18 A No.

19 Q Do you know what the large metal poles look like because
20 you, yourself, carried them and put them in the trunk,
21 sir?

22 A No, I do not.

23 MS. CLARK: Nothing further.

24 THE COURT: All right. Let's do the redirect.

25 REDIRECT EXAMINATION

Nolan - Redirect

1 BY MS. LAMIN:

2 Q Mr. Nolan, just to clarify. The stairwell, that's not
3 inside your individual apartment?

4 A No.

5 Q How do you get to the stairwell?

6 A From my apartment here you can walk through the corridor
7 down here, past the laundry room to the stairs.

8 MS. LAMIN: Your Honor, no further questions.

9 THE COURT: All right. Okay. Thank you, Mr.
10 Nolan, you may step down.

11 THE WITNESS: Thank you.

12 THE COURT: Would the attorneys approach.

13 (Counsel approached the bench and an
14 off-the-record discussion was held.)

15 THE COURT: Okay. We're going to take -- this
16 will be your morning break, so we'll do a 10-minute --

17 COURT REPORTER: Fifteen, please.

18 THE COURT: Fifteen minute break. And then
19 we'll be back.

20 (Recess taken)

21 THE COURT: All right.

22 (Court reconvened and the following proceedings
23 commenced outside the presence of the Jury.)

24 THE COURT: Before we get started, there is
25 somebody in the -- here that -- could you tell us your

Nolan - Redirect

1 name, ma'am?

2 UNIDENTIFIED PERSON: Lisa McLaughlin
3 (phonetic).

4 THE COURT: Okay. And I just want to remind
5 everybody in the courtroom that we need to maintain some
6 decorum and there will be no outburst. Okay. All right.

7 Good morning, Mr. English.

8 THE WITNESS: Good morning.

9 THE COURT: And we continued the discussions
10 from yesterday for today, to have a ruling on the issue
11 of granting you immunity. And let's just go over again
12 now, that you have a Fifth Amendment Right and you
13 understand what that right is, do you? And that is that
14 you do not have to provide any kind of testimony that
15 could incriminate and create any kind of prosecution.
16 You understand that?

17 THE WITNESS: Yes.

18 THE COURT: Okay. And Mr. Handley, would you
19 come closer in case he needs your advice. And let's just
20 go over the --

21 MR. HANDLEY: Mr. English, as -- Your Honor, if
22 I could?

23 (Off-the-record discussion had.)

24 THE COURT: All right. And I want you to
25 understand that the state is asking me to grant you

State v. Drljic/Suttles

1 immunity so that the statements you make here cannot be
2 used later for any kind of prosecution. The only
3 exception is, of course, for perjury, so use of immunity
4 goes to with that testimony that if it is false statement
5 that you give, then that could lead to greater -- use
6 immunity would not cause that. Did you understand that?

7 THE WITNESS: Yeah.

8 THE COURT: Okay. And so we -- if I -- and I
9 will grant the use immunity. And I do order you to
10 testify truthfully. All right. That's where I would go
11 with that. Now, I got to know --

12 MR. HANDLEY: I --

13 THE COURT: Do you want to ask him any further
14 questions?

15 MR. HANDLEY: Your Honor, I stand on the record
16 previously made. Mr. English has asserted Fifth
17 Amendment. Immunity has been granted. We have asked for
18 complete immunity or transactional immunity. The court
19 has declined that request. I made a record earlier today
20 that I don't believe Mr. English could be prosecuted for
21 prior statements he may have made. The only way he can
22 be prosecuted for perjury is from this point forward,
23 from the granting of immunity forward. That's based on
24 that Morales case that the court now has that counsel for
25 the state cited earlier today. But, again, I have asked

State v. Drljic/Suttles

1 the state to reconsider not calling -- or calling Mr.
2 English as a witness. Of course, that's their decision.

3 But, on behalf of Mr. English, I will urge the
4 state not to call him. He made no promise to testify.
5 He settled his case. He's now serving his sentence and
6 he wants no part of this. Just so that's clear. From
7 this point forward the court has ruled and Mr. English
8 needs to make up his mind what to do at this point.

9 THE COURT: All right.

10 MR. HANDLEY: Thank you, Your Honor. I have
11 nothing further.

12 THE COURT: Okay. I'm going to tell you, Mr.
13 English, you understand what we just did; right?

14 THE WITNESS: Yes.

15 THE COURT: And you are going to testify
16 truthfully as you're ordered to do?

17 THE WITNESS: Right.

18 THE COURT: Okay. All right. Let's get the
19 jury in.

20 (The Jury returned to the courtroom and the
21 following proceedings continued.)

22 THE COURT: Okay. Please be seated and please
23 swear in the witness.

24 THE CLERK: Please stand and raise your right
25 hand.

State v. Drljic/Suttles

1 Thereupon,

2 JERMAINE GUY ENGLISH,

3 A witness, first having been duly sworn, was examined and
4 testified as follows:

5 THE CLERK: Please state and spell your full
6 name, for the record.

7 THE WITNESS: Jermaine Guy English,
8 J-E-R-M-A-I-N-E, G-U-Y, E-N-G-L-I-S-H.

9 THE CLERK: Okay. You can have a seat.

10 THE COURT: All right. Ms. Lamin.

11 DIRECT EXAMINATION

12 BY MS. LAMIN:

13 Q Good morning, Mr. English?

14 A Good morning.

15 Q Do you know Daniel Drljic?

16 A Yes, I to.

17 Q How long have you known him?

18 A About owe, two and a half years, somewhere around there.

19 Q And how do you know him?

20 A A friend in the neighborhood.

21 Q Did you hang out regularly together, or --

22 A Yeah, often we hang out.

23 Q Do you know Tamika Suttles?

24 A Yeah.

25 Q How long have you known her?

English - Direct

1 A Like a month or two, three. I don't know. Not that
2 long.

3 Q This is a month or two from last December, 2009?

4 A Before that, yeah.

5 Q And did you hang out with her, as well?

6 A Not that much.

7 Q But, you would consider Mr. Drljic a friend?

8 A Yeah.

9 Q Did you hang out with both of them together?

10 A Sometimes.

11 Q Now, taking you back to December 6th, 2009, do you
12 remember going to a building at University and Raymond in
13 St. Paul, Minnesota?

14 A Well, yeah.

15 Q How did you get to that building?

16 A Tamika and Daniels gave me a ride there.

17 Q You said Tamika Daniels. Is that Tamika --

18 A Tamika and Daniels.

19 Q Okay. They gave you a ride there. Where were you at the
20 time?

21 A South Minneapolis.

22 Q Was that your home?

23 A Yeah.

24 Q Okay. So, you were at home and they picked you up?

25 A Yes.

English - Direct

1 Q Did you go there during the day or was it late at night?

2 A It was late at night.

3 Q Could you tell, were most of the businesses closed?

4 A Yes.

5 MS. LAMIN: Your Honor, may I approach?

6 THE COURT: Yes.

7 BY MS. LAMIN:

8 Q Mr. English, I'm showing you Exhibit 18. Is this the
9 vehicle that Tamika and Daniel picked you up in on
10 December 6th, 2009?

11 A Correct.

12 MS. CLARK: Objection, leading.

13 THE COURT: Overruled. You may answer.

14 THE WITNESS: Yes.

15 BY MS. LAMIN:

16 Q Do you remember who was driving?

17 A No.

18 Q So, what happened when you arrived at the Raymond and
19 University Avenue area with Tamika and Daniel in the
20 middle of the night on December 6th, 2009?

21 A We sat and discussed little simple stuff.

22 Q What happened after you sat and discussed simple stuff?

23 Do you recall, at one point, getting out of the vehicle?

24 A Yeah. At one point, yes.

25 Q Okay. You got out of the vehicle. Did you, at the time,

English - Direct

1 get out by yourself or with someone else?

2 A With all three of us got out, yeah.

3 Q All three of you got out. And when you got out, where
4 did you go?

5 A Stayed and looked around, I believe. I don't know. I
6 guess it's kind of hard to remember. It's been so long,
7 you know.

8 Q So, do you recall all three of you got out of the vehicle
9 and someone go into this building?

10 MS. CLARK: Objection, leading.

11 THE COURT: Overruled. You may answer.

12 THE WITNESS: Yes.

13 BY MS. LAMIN:

14 Q Do you recall who went in first?

15 MS. CLARK: Objection, leading.

16 THE COURT: Overruled. You may answer.

17 THE WITNESS: No, I don't recall.

18 BY MS. LAMIN:

19 Q Did you go into the building?

20 A Yeah, I was in there.

21 Q Who else was in there with you?

22 A Daniels.

23 Q Did Tamika go in?

24 A I don't believe she did.

25 Q Was Daniel Drljic going inside the building?

English - Direct

1 A I can't recall. I didn't go as far as he did.

2 Q So you're saying he went in farther than you did?

3 A Yeah.

4 Q Why did you go inside the building?

5 A To commit a burglary.

6 Q And what was Daniel doing inside the building?

7 MS. CLARK: Objection, foundation.

8 THE WITNESS: I don't recall. I can't recall.

9 MS. CLARK: Objection, foundation. I'm sorry?

10 I didn't hear that.

11 THE COURT: Wait. You're objecting to it. So,

12 it's overruled. You may answer.

13 THE WITNESS: I can't recall.

14 BY MS. LAMIN:

15 Q Do you recall if Daniel Drljic was making any noise?

16 A Yeah.

17 Q Do you recall what kind of noise that was?

18 A Banging. A little banging here and there.

19 Q Did you carry anything out of the building?

20 A No.

21 Q Did Daniel take anything out of the building?

22 A No.

23 Q When you went inside the building and Daniel was making

24 banging noises, what did you tell him?

25 A That he was making too much noise.

English - Direct

- 1 Q And why were you concerned about that?
- 2 A Because I knew what he was doing.
- 3 Q What was he doing?
- 4 A Committing a burglary.
- 5 Q Why do you say that?
- 6 A Because the stores was closed and we didn't have the
7 consent of the owner to be there.
- 8 Q Now, when you say we, who's the we. Who were you doing
9 this with?
- 10 A Me and Daniels?
- 11 Q Was Tamika part of this?
- 12 A I believe she was outside, in her vehicle?
- 13 Q Did she know what was going on?
- 14 A We discussed it in the car.
- 15 Q And it is in the car with Tamika, Daniel and you, when
16 you pulled up to the building?
- 17 A Yes.
- 18 Q It was all three of you?
- 19 A All three of us.
- 20 Q I'm sorry. All three of you discussed it together?
- 21 A Yes.
- 22 Q Okay. What happened after you went into the building to
23 tell Daniel he was making too much noise?
- 24 A Then I seen the police car ride by a window.
- 25 Q After you saw the police car drive by the window, what

English - Direct

- 1 did you do next?
- 2 A I went out the back door to see if there was more than
3 one car.
- 4 Q And what happened when you went out the back door?
- 5 A There was an officer standing there.
- 6 Q What happened when you saw the officer standing there?
- 7 A I went back in and locked him out.
- 8 Q I'm sorry. You went back in and --
- 9 A And locked the door.
- 10 Q What happened after you ran back in and closed the door.
- 11 A Then I told Daniel that that the police was outside.
- 12 Q What happened after you told Daniel the police were
13 outside?
- 14 A We went -- went back through the store and we ended up in
15 the liquor store, dead end. Gave up.
- 16 Q And now, Mr. English, you pled guilty to this burglary;
17 is that correct?
- 18 A Yes, I did.
- 19 Q You were charged, along with Ms. Suttles and Mr. Drljic;
20 is that correct, for this burglary?
- 21 A Yes.
- 22 Q And I believe you pled guilty back on June 30th, 2010; is
23 that correct?
- 24 A Yes.
- 25 Q And the state didn't promise you anything for your guilty

English - Direct

1 plea to testify today?

2 A That wasn't a part of nothing, to testify. It was just
3 do my time and that was it.

4 Q Are you doing your time now?

5 A Yes, I am.

6 Q And today you're sitting here with something called use
7 immunity and we just discussed that before the jury came
8 in; is that correct?

9 A Yes.

10 Q Okay. And that means what you say today, that the state
11 can't bring additional charges against you. Is that your
12 understanding, just based on what you say?

13 A Yeah.

14 Q And Mr. English, was it just the three of you
15 burglarizing this building?

16 A Yes.

17 Q Mr. English; you have a couple of prior criminal felony
18 convictions; is that correct?

19 A Yes.

20 Q You have a conviction for a couple convictions for Fifth
21 Degree drug possession, does that sound right?

22 A Yes.

23 Q It looks like you have one from 2002 and another from
24 2004, another from 2009; does that sound correct to you?

25 A Yes.

English - Direct

1 Q Okay. You also have a conviction for what looks like
2 accomplice after the fact; does that sound correct?

3 A Yes.

4 Q That's from 2001?

5 A Yes.

6 Q Now, Mr. English, you were arrested that night?

7 A Yes.

8 Q This is back on December 6th, 2009?

9 A Yes.

10 Q And you were initially released, not charged immediately;
11 is that correct?

12 A Yes.

13 Q You went back to the police department, looks like on
14 December 15th, 2009?

15 A Yes.

16 Q And at that time, you spoke to Sergeant Strickland?

17 A Yes.

18 Q How did you get to the police department on December
19 15th, 2009?

20 A Tamika and Daniels drove me there.

21 Q Why did they drive you there?

22 MS. CLARK: Objection, foundation.

23 THE COURT: Overruled. You may answer.

24 THE WITNESS: Because they wanted to pick up
25 their property, but I didn't want to give the police a

English - Direct

1 statement, so they drove me there and I hopped out of the
2 car and left because they wanted me to give the officer a
3 statement and I left. And he sent squad cars to pick me
4 up.

5 BY MS. LAMIN:

6 Q Did you then give the officer a statement?

7 A Yes..

8 Q And in that statement, you said something about someone
9 named Joe?

10 A Yes.

11 Q Okay. Was it true?

12 A No.

13 Q Where did that come from?

14 A Shatters (phonetic), Tamika Shatters -- Suttles.

15 Q Oh, okay. Do you mean Ms. Suttles; Tamika Suttles?

16 A Yes.

17 Q Do you want to identify who you are talking about and
18 just describe what she's wearing and where she is
19 sitting?

20 A She's sitting between Daniels and his attorney.

21 MS. LAMIN: And let the record reflect that the
22 witness identified the defendant.

23 THE COURT: The record will so reflect.

24 BY MS. LAMIN:

25 Q So Ms. Suttles told you to say this to the police?

English - Direct

1 A Yes.

2 MS. LAMIN: No further questions, Your Honor.

3 Thank you.

4 THE COURT: All right. Ms. Clark.

5 CROSS-EXAMINATION

6 BY MS. CLARK:

7 Q You testified just a moment ago that the state didn't
8 give you any deal when you pled guilty June 30th; do you
9 recall saying that?

10 A Yes.

11 Q But there was a benefit to you, wasn't there?

12 A No, there wasn't.

13 Q Well; isn't it true that the benefit to you was that the
14 state agreed not to file any additional charges against
15 you?

16 A There wasn't no deal to testify.

17 Q I'm not asking about a deal to testify. But there was a
18 benefit to you to plead guilty at that time; wasn't
19 there?

20 A No additional charges and I do my time and that was it.

21 Q Okay. If you pled guilty that day, then the state agreed
22 not to file any additional criminal charges against you;
23 right?

24 A Right.

25 Q And also the state agreed that you could plead guilty to

English - Cross

1 Third Degree Burglary and they wouldn't increase the
2 charge; right?

3 A Right.

4 Q All right. And that when you pled guilty, you had to
5 take a oath and testify in front of a judge; right?

6 A Correct.

7 Q And say some things on the record; right?

8 A Right.

9 Q And then a transcript was made of that; right?

10 A Right.

11 Q Recently, when you were brought down here, someone gave
12 you a copy of at that transcript; right?

13 A On my way down here?

14 Q And once you got down here to St. Paul, were you given a
15 copy of that transcript?

16 A I can't recall.

17 Q Once you got down here to St. Paul, did anyone give you a
18 copy of Sergeant Strickland's police report about your
19 statement to him?

20 A No.

21 Q Now, when you testified in front of the judge on June
22 30th, the way it worked was that the prosecutor asked you
23 questions and then you basically said yes; right?

24 A Yes.

25 Q So, the prosecutor, Mr. Dusterhoft, was the one who was

English - Cross

1 talking about the facts of what happened and then you
2 would say, yes; correct?

3 A I can't recall, but -- I can't recall that.

4 MS. CLARK: I have a document that might
5 refresh his recollection. May I approach?

6 THE COURT: Yes.

7 THE WITNESS: Yes.

8 BY MS. CLARK:

9 Q Does that refresh your recollection?

10 A Yes, it does.

11 Q So, is it accurate to say that the prosecutor was the one
12 who had the facts in the question and then you said yes
13 afterwards?

14 A Yes.

15 Q Was it your understanding, sir, that in order to be able
16 to proceed at this time, to have it limited to Third
17 Degree Burglary, and that there would be no further
18 charges against you, that you needed to say yes to
19 whatever the prosecutor said?

20 A No, it was yes or no.

21 Q Yes or no. Did you ever once say no?

22 A I can't recall.

23 Q Do you -- did you -- strike that. Did you have any fear
24 that day when you were testifying?

25 A No, I didn't.

English - Cross

1 Q Do you have any fear today?

2 A No, I don't.

3 Q None at all?

4 A No.

5 Q Isn't it true that even though you have been given use
6 immunity, the state can prosecute you for perjury?

7 A Yes.

8 Q So, if the state decided to say you had changed your
9 testimony, under oath, then they could prosecute you for
10 perjury; right?

11 A Yes, but my understanding is, before the jury came in
12 here, my lawyer asked if the testimony I give today, if
13 there would -- there was no other charges -- I mean, it's
14 under oath today. The testimony I give today is the one
15 that I give today and they can't reflect on what answer I
16 gave in the future.

17 Q Okay.

18 A That's my understanding.

19 Q Do you -- I'm not sure exactly what you said. But, okay.
20 Let me just ask it a little bit differently. It's your
21 understanding the state could prosecute you for felony
22 perjury; right?

23 A Yes, I understand that.

24 Q Now, you said you had convictions; one felony, accomplice
25 after the fact. Accomplice to what?

English - Cross

1 MS. LAMIN: Your Honor, may we approach?

2 THE COURT: Okay.

3 (Counsel approached the bench and an
4 off-the-record discussion was had.)

5 THE COURT: Okay. I'm overruling that
6 objection. You may answer.

7 BY MS. CLARK:

8 Q Accomplice to what?

9 A A murder.

10 Q And do you recall going over to the western district of
11 St. Paul December 15th, 2009?

12 A I remember going there, but I don't remember what date it
13 is.

14 Q Okay. And you indicated that -- strike that. You said
15 the police came and picked you up and brought you back to
16 the station?

17 A Yes.

18 Q And did you talk with a Sergeant Strickland, do you
19 remember him?

20 A Yes.

21 Q African American officer?

22 A Yes.

23 Q And do you recall telling him that you wanted to clear
24 the other two suspects, Ms. Suttles and Daniel?

25 A Yes.

English - Cross

- 1 Q And do you recall telling him that you know a guy by the
2 name of Joe that you had had drinks with at the bar on
3 University, across from the liquor store?
- 4 A Yes.
- 5 Q And do you recall telling him that you and Joe had smoked
6 crack together?
- 7 A No.
- 8 Q Do you recall telling him that you had fronted Joe some
9 crack and wanted your money for the crack?
- 10 A I told that, yes.
- 11 Q Okay. So, Joe owed you some money?
- 12 A I told him that, but that's not true.
- 13 Q Is there a Joe?
- 14 A No, there is not no Joe.
- 15 Q Did you tell Sergeant Strickland that the way you had --
16 you would contact Joe, you would go into the back alley
17 and yell and Joe would look out the window and then come
18 down?
- 19 A Yes, I told him that.
- 20 Q Did you tell Sergeant Strickland Joe was larger than you
21 and would pay -- your understanding was he would pay you
22 the money?
- 23 A Huh?
- 24 Q Do you remember telling him something about Joe was going
25 to pay you some money?

English - Cross

1 A Yes, I remember saying that.

2 Q Did you tell Sergeant Strickland that you were going to
3 be going to jail and you wanted money for your canteen
4 while you were in jail.

5 A Yes.

6 Q And did you tell Sergeant Strickland that you decided to
7 call Daniel, because he was bigger and could carry some
8 things?

9 A Yes.

10 Q And do you recall telling Sergeant Strickland that you
11 knew Daniel because he had done some tattoos for you?

12 A Yes.

13 Q And did you tell Sergeant Strickland that you were the
14 one who told Daniel to go over to Raymond and University?

15 A No, I don't recall that.

16 Q Do you recall telling Sergeant Strickland that you met
17 with Joe about the money?

18 A No, I can't recall that, either.

19 Q Do you recall telling Sergeant Strickland that Joe then
20 told you he didn't have any money; that he would give you
21 some items that he had in his storage locker in the
22 basement?

23 A Yes.

24 Q And do you recall telling Sergeant Strickland that when
25 Daniel saw the liquor and other items, that he said --

English - Cross

1 I'm sorry. Strike that. Do you recall telling Sergeant
2 Strickland that when you saw the liquor and other items
3 and that you said you could party before you went to
4 jail.

5 A Yes.

6 Q And do you recall telling Sergeant Strickland that you
7 then called Suttles because there was too much to carry
8 and you needed a ride?

9 A I don't know even Suttles' number. I don't know her
10 number. I know Daniels number.

11 Q The question is do you recall telling that to Sergeant
12 Strickland?

13 A Yeah.

14 Q Okay.

15 A But, he got some of that wrong. I didn't call Suttles.
16 I called Daniels.

17 Q Okay.

18 A And I didn't never once say I smoked any crack. I want
19 that to be straight, for the record, I never smoked
20 crack.

21 Q Are you concerned you could be prosecuted for smoking
22 crack?

23 A No. I'm just -- I want that to be straight for the
24 record.

25 Q All right. But, you did call Mr. Drljic?

English - Cross

1 A No, Dado (phonetic) called me that night. But, I told
2 him that he -- I called him, because that's what Suttles
3 and Daniels told me to tell him so that they could get
4 their money back out of property that Sergeant Strickland
5 had. When they took me to him to give him an
6 investigation -- or to give him an interview or
7 statement, that's what they told me to tell him on my way
8 there.

9 Q They told you to say all of these things?

10 A Yeah, so that they could get their money back from him.

11 Q All right. Now, didn't you say a moment ago that you
12 called Drljic?

13 A No, I didn't call Drljic. That's what I told Sergeant
14 Strickland. I called him so that he could help me so
15 that they can get their money back to finish doing
16 Christmas shopping. But that is -- ain't the truth. The
17 truth is, they called me December 6th and my phone should
18 be here in property, not back here in the property, but
19 at the station, where Sergeant Strickland is, you can
20 pull my phone record and it will show that they called me
21 in Hennepin County.

22 Q What was your phone number at the time?

23 A 701-7514.

24 Q All right. Now, you're saying that Mr. Drljic called you
25 that night?

English - Cross

- 1 A Yes, he did.
- 2 Q Well, you're aware, aren't you, that the police already
3 ran a subpoena on your phone and they were unable to find
4 any phone records associated with your phone?
- 5 A No, that ain't even my phone number. That's my baby
6 mom's number. My number is 701-4917, 612, area code. It
7 ain't been that number for a long time, though.
- 8 Q It hasn't been that number for a long time?
- 9 A Yeah.
- 10 Q How long?
- 11 A Since that day.
- 12 Q Since that phone was confiscated?
- 13 A Yeah.
- 14 Q Was that a pre-paid phone?
- 15 A It was. Yes, it was T-Mobile.
- 16 Q Did you learn the police had a case against you, that the
17 police had tried to get phone records for your phone and
18 there were no records?
- 19 A No, I didn't.
- 20 Q Mr. English, you said that it was dark when you went into
21 the building?
- 22 A Yes, it was.
- 23 Q Who said that --
- 24 A I can't tell you who said what.
- 25 Q Were you wearing gloves when you got in that building

English - Cross

- 1 that night?
- 2 A Yes, I was.
- 3 Q What did they look like?
- 4 A Cloth, black.
- 5 Q Did they have any kind of -- were they rubberized at all?
- 6 A No.
- 7 Q Do you recognize this glove, Exhibit 8; this?
- 8 A That ain't mine.
- 9 Q Have you ever seen that before?
- 10 A Nope.
- 11 Q What about this glove, Exhibit 79?
- 12 A Nope.
- 13 Q What about this glove, Exhibit 81?
- 14 A Nope.
- 15 Q What about those gloves, Exhibit 21?
- 16 A Nope. The gloves I had were released with me after 48
- 17 hours. They were small little black ones.
- 18 Q What's your height?
- 19 A Five six.
- 20 Q Okay. So you have a pretty small hand?
- 21 A Yes.
- 22 Q And the gloves you had on with you in the building went
- 23 with you over to the jail?
- 24 A Yeah.
- 25 Q And then no one took them from you?

English - Cross

- 1 A Nope.
- 2 Q Then when you got out, the jail released the gloves with
3 you?
- 4 A Yes.
- 5 Q Do you recognize this jacket, Exhibit 55?
- 6 A That's not mine. I had a hoodie on that night.
- 7 Q Do you recognize this flashlight, Exhibit 63?
- 8 A No, I do not.
- 9 Q Do you recognize this -- I guess it's a light on a band,
10 Exhibit 72?
- 11 A No, I do not.
- 12 Q And I take it, then, none of these gloves are yours,
13 Exhibit 71?
- 14 A No.
- 15 Q Do you recognize these purple gloves, looks like Exhibit
16 51?
- 17 A No, I don't. I think I had like some blue ones
18 underneath the black ones.
- 19 Q You had on some latex gloves?
- 20 A Yeah.
- 21 Q And so they were taken off you at the jail?
- 22 A Nope. I took them off before I left out the liquor store
23 because we were caught. And I took those off and put my
24 black ones back on. Put these ones in my pocket.
- 25 Q Did they remain in your pocket?

English - Cross

- 1 A I don't recall.
- 2 Q Did any police take them from you?
- 3 A No. Maybe they were on the floor when the police
- 4 searched us, while we was laying down?
- 5 Q Blue latex gloves?
- 6 A I thought they were blue, a light blue.
- 7 Q Have you ever seen this before, Exhibit 89, a little
- 8 black pouch?
- 9 A No.
- 10 Q How about this, Exhibit 86?
- 11 A No.
- 12 Q Did you bring any screwdriver with you that night,
- 13 Exhibit 82?
- 14 A I didn't bring no tools with me that night.
- 15 Q Did anybody have any tools?
- 16 A I believe Suttles and Daniels did.
- 17 Q You believe they did?
- 18 A Yeah.
- 19 Q What do you believe that they had?
- 20 A I don't actually know what they had. They were in their
- 21 vehicle.
- 22 Q Did you see them with any tools that night?
- 23 A Huh-uh.
- 24 Q No?
- 25 A I seen them with a duffel bag.

English - Cross

1 Q You saw them with a duffel bag?

2 A Yes.

3 Q Who -- who had the duffel bag?

4 A Daniels.

5 Q When?

6 A When he got out the vehicle.

7 Q What was in there?

8 A I can't recall. I don't know. I didn't see nothing. I

9 just heard, you know, how you hear metal clicking

10 together.

11 Q Did you see any liquor stacked up that night?

12 A No, I didn't.

13 Q Did you see any computer parts?

14 A No.

15 Q Did you see any long metal poles or rods or anything like

16 that?

17 A Yeah, I did see a long metal rod when we ran down the

18 stairs after I told Daniels that the police was here. He

19 said, well, come on. Then we ran down some stairs, where

20 he was, that's when I didn't see what he was down there

21 doing because it was down in the basement. So we went

22 down there. When I got to the bottom of the stairs, I

23 did see a long pole down there.

24 Q Where was it?

25 A I don't know. I can't recall. In the basement, where it

English - Cross

- 1 was, the lights was out. All I know is I had a little
2 flashlight about this big (indicating).
- 3 Q What did it look like?
- 4 A Like red and black.
- 5 Q So, when you first got there, did you all get out of the
6 vehicle?
- 7 A I believe me and Daniels got out of the vehicle.
- 8 Q You're not sure?
- 9 A I believe me and Daniels got out the building -- I mean,
10 out the car.
- 11 Q Okay. And then went where?
- 12 A Proceeded to the back of the building?
- 13 Q To a door?
- 14 A Yeah.
- 15 Q And then went in?
- 16 A After a while, yeah.
- 17 Q How did you get in?
- 18 A I don't know how Daniels got in.
- 19 Q So that little red flashlight, was it about four inches
20 long and it's about this big (indicating)?
- 21 A I can't recall how long it is. About two, two and a
22 half, three inches. It was red and black.
- 23 Q Was it a Coleman flashlight, sir?
- 24 A I don't know the brand of it.
- 25 Q I have a document that might refresh his recollection.

English - Cross

1 A That's it.

2 Q Was it a Coleman flashlight?

3 A Yes, it was.

4 Q And it was all red; right? I mean, except for the
5 Coleman label?

6 A Yes.

7 Q And how did you carry it -- did you carry it into the
8 building?

9 A Yes, I did.

10 Q How did you carry it in?

11 A In my pocket.

12 Q And do you know where it ended up? Was it in your jacket
13 when you got out of jail?

14 A No, it wasn't.

15 Q Do you know what happened to it?

16 A Yeah, I dropped it and got it away from me.

17 Q Who got it away from you?

18 A I had got it away from me.

19 Q Okay. Do you know when you dropped it?

20 A No, I do not.

21 Q Now, did the police come before any objects were carried
22 out of the building?

23 A I can't recall if anything made it out of the building.

24 I remember everything still by the door.

25 Q Well, what's everything?

English - Cross

- 1 A Everything that was going to be taken out of there was
2 right at the door.
- 3 Q Which door?
- 4 A The door that we came in.
- 5 Q Okay. And who put it there?
- 6 A Some of the stuff I put it there; some of the stuff
7 Daniels put it there.
- 8 Q Do you remember all of the stuff that you put there?
- 9 A Like some liquor, I believe.
- 10 Q Okay.
- 11 A In a box, liquor that was in a box.
- 12 Q Okay. What else did you put there besides some liquor?
- 13 A I can't recall. I think it was like a shelf with like
14 some art supplies on it.
- 15 Q Was it a tall plastic thing with shelves?
- 16 A More like little pull out drawers, yes.
- 17 Q Okay. Did you take that outside or was it inside?
- 18 A That was outside. We put it outside for Tamika to put in
19 the car to take.
- 20 Q And that was going to fit in a car?
- 21 A Yeah, you could put it on the back seat, lay it down.
- 22 Q Okay. You're pretty sure of that?
- 23 A I don't know.
- 24 Q What else did you put by the door?
- 25 A That was it.

English - Cross

- 1 Q Did you take any computer boxes?
- 2 A No, I didn't.
- 3 Q Did you take any computer parts like printers?
- 4 A No.
- 5 Q Do you know anything about computers?
- 6 A No.
- 7 Q Did you open any tills?
- 8 A Tills?
- 9 Q Well, did you go into some kind of a cafe?
- 10 A Yes.
- 11 Q When did you go in there?
- 12 A When Dado had got the door opened.
- 13 Q Which door?
- 14 A Doors downstairs.
- 15 Q And then you went up into the cafe?
- 16 A Yes.
- 17 Q And did you look for something in there?
- 18 A Yes.
- 19 Q What did you look for up there?
- 20 A Something to take from out of there.
- 21 Q Okay. Well, what kind of things were attractive to you
- 22 in there?
- 23 A It wasn't really nothing that was attractive to me in
- 24 there.
- 25 Q Was there a cash register?

English - Cross

- 1 A Yes.
- 2 Q Did you go into it?
- 3 A It wasn't -- the cash wasn't in the drawer.
- 4 Q Did you open the drawer to see?
- 5 A I don't recall opening it up.
- 6 Q All right. And was the cash somewhere else?
- 7 A Yes, it was.
- 8 Q Did you locate it?
- 9 A Yes, I did.
- 10 Q And did you take it?
- 11 A No, I put it in a box and I didn't take it.
- 12 Q You put it in a box?
- 13 A In a little box that tissue was in.
- 14 Q Where was the little box?
- 15 A It was in the cafe. There were napkins inside of it. It
- 16 was a napkin re filler box, you know, that napkins come
- 17 in and you can refill the napkin little case.
- 18 Q Why did you put it in there?
- 19 A Because that's where the money -- it was money. It was
- 20 cash, so I put it in something small that could hold it.
- 21 Q Were you going to take it out?
- 22 A Yes, I was.
- 23 Q Did you take it out?
- 24 A No, I did not.
- 25 Q Did you, at any point, put it in your pocket?

English - Cross

- 1 A No, I did not.
- 2 Q Do you know what happened to it?
- 3 A We put it by the door for Tamika to take.
- 4 Q What do you mean we put it by the door?
- 5 A Me and Daniels.
- 6 Q When you say by the door, where?
- 7 A By the door of the building that we entered through.
- 8 Q In this little box with tissues in it?
- 9 A Yes.
- 10 Q Did you throw stuff around on the floor of the cafe?
- 11 A No, I didn't.
- 12 Q Did anybody?
- 13 A I can't recall.
- 14 Q And what about, did you go in any offices?
- 15 A Not in the cafe.
- 16 Q Did you open up file drawers?
- 17 A Not in the cafe.
- 18 Q Did you throw anything out on the floor?
- 19 A Not in the cafe.
- 20 Q Did you take any M & Ms?
- 21 A I can't recall that, but I do like M & Ms, so I might
- 22 have had.
- 23 Q Did you take any power tools?
- 24 A Yes.
- 25 Q What did you take?

English - Cross

1 A I don't know what they were. I just remember --
2 remembered them being in a plastic container, in a tool
3 case.

4 Q And then what did you do with those?

5 A I set those by the door.

6 Q Inside or outside?

7 A Outside.

8 Q Did you take any food?

9 A No.

10 Q Take any muffins?

11 A No.

12 Q Did you touch any muffins?

13 A No, I did not.

14 Q Showing you Exhibit 31, do you know how that stuff got on
15 the floor?

16 A No, I do not.

17 Q Showing you Exhibit 32, do you know how that stuff got on
18 the floor?

19 A Can you come closer with that?

20 MS. CLARK: Sure. May I approach, Your Honor?

21 THE COURT: Yes.

22 THE WITNESS: See that was where the money was,
23 right there. And this was receipts and I pulled the
24 money from up under there.

25 BY MS. CLARK:

English - Cross

- 1 Q Okay. Is it kind of a till drawer?
- 2 A Yeah, that's the cash register drawer.
- 3 Q Okay. And it was hidden back underneath a case?
- 4 A No. It was on the floor of this case. Of this thing
- 5 here. It was under there. So, I was on the floor and I
- 6 seen it there, like, whoa, and I pulled it out right
- 7 there.
- 8 Q Okay. Showing you Exhibit 34, do you know how this room
- 9 got like this?
- 10 A No, I do not.
- 11 Q Showing you Exhibit 35, do you know how this room got
- 12 like this?
- 13 A No.
- 14 Q Showing you Exhibit 36, did you put a flashlight there?
- 15 A No, I did not.
- 16 Q Do you know what a crow bar is?
- 17 A Yes, I do.
- 18 Q Do you know what a wonder bar is?
- 19 A No, I don't.
- 20 Q Do you know what a pry bar is?
- 21 A No.
- 22 Q Do you know what a bolt cutter is?
- 23 A Yes.
- 24 Q Have you ever owned any of those tools?
- 25 A No.

English - Cross

- 1 Q Showing you Exhibit 61, what's that?
- 2 A That's a tattōo holder. I don't remember the name. But
- 3 that's for tattoos.
- 4 Q For making tattoos?
- 5 A For doing tattoos, yes.
- 6 Q Okay. Steal any stereo equipment that night?
- 7 A No.
- 8 Q Or get ready to steal?
- 9 A I don't recall.
- 10 Q Do you know what a car stereo face plate is?
- 11 A Yes.
- 12 Q Did you locate that inside the building?
- 13 A I don't recall. I don't think I did.
- 14 Q How long did it take you to stack up the liquor to go
- 15 into the cafe to find the money in the cafe and put a
- 16 bunch of things by the door. How long do you think you
- 17 were in the building?
- 18 A I don't know.
- 19 Q Well, what's your best estimate?
- 20 A To do what, again?
- 21 Q Well, to do the things that you have described to us. To
- 22 stack liquor by the door. You went into the cafe. You
- 23 took the plastic thing with the drawers out, found money
- 24 in the cafe and got some things ready by the door. How
- 25 long do you think that took you?

English - Cross

1 A That plastic thing didn't come out of the cafe. That
2 plastic came out of the place that we entered, the big
3 plastic thing, because it was like an art thing or
4 something.

5 Q Okay. But, to do all these things, how long do you think
6 that took?

7 A I don't know. After or before Daniels got into there --
8 before, after Daniels got in there, are you talking
9 about?

10 Q So you were in there before him?

11 A No.

12 Q Well, why did you ask that question?

13 A Because I'm asking you, before or after, because some of
14 the things that you asked me that were stacked by the
15 door have to wait until he can get into the cafe. Did
16 you understand that or should I put it in a different
17 way?

18 Q I'm trying to get there.

19 A Okay. Some of the things that you asked me --

20 Q Hang on one second. First, just answer this question and
21 then we'll do this. How long did it take to do all those
22 things that you have described to us, when I was showing
23 you the pictures?

24 A Like about an hour, after I was -- after Daniels got into
25 the cafe, let me know we can go into the cafe. It took

English - Cross

1 about an hour to locate everything that was going to come
2 up out of there.

3 Q And how did you get into the cafe from the outside, tell
4 me the route?

5 A The first place we went in, I stood by the window to keep
6 looking out. Daniels went downstairs into a basement
7 area and he got in through some doors, tarp down in the
8 basement area, a wall or something that was blocked off,
9 barricaded. He got in. Told me he was in. So that's
10 when I went down in there with him to search for this --
11 things by the door for Tamika to take back.

12 Q How did you get in the cafe from where you started from?

13 A I went down the stairs. Daniels said it was -- you can
14 go in there now. That's when we went in, through the
15 basement, the basement wall that was barricaded.

16 Q And then up into the cafe?

17 A Yeah.

18 Q When did you go -- when did you go to the upstairs liquor
19 store?

20 A After I went outside. After I came back to stand in my
21 position at the window, in the place that we went in, I
22 went back to the window and I seen the police car come up
23 the wrong way of the streets. Now that's unusual. So,
24 then I went outside there to see if they were out in the
25 back of the place, and if you can see, it's like you got

English - Cross

1 to walk all the way out there. And I walked all the way
2 out there and that's when I seen the police right there.
3 And he flashed the light. And then I turned around and
4 ran back in there.

5 Q Now, let me just stop you there for a second.

6 MS. CLARK: May I approach, Your Honor?

7 THE COURT: Yes.

8 BY MS. CLARK:

9 Q You pointed towards Exhibit 92. If this is the parking
10 lot, then this is the kind of inner kind of -- of the
11 building. Where did you first see the police officer or
12 the police car or the police officer?

13 A Over here. You got -- when I came out, we was over here,
14 so I had to walk out this way. And then I seen the
15 police right here. He flashed a light on me and then I
16 ran back in this way.

17 Q Okay. So, when you say flashed a light on you, he must
18 have been in his squad still?

19 A No, I believe it was a flashlight. I don't know what it
20 was, but all I heard him say was freeze.

21 Q Okay. So, I just want to first clarify that you first
22 saw a police officer standing kind of at the corner of
23 this building here (indicating)?

24 A I don't know if he was standing there or he was in his
25 vehicle. I just know that he was over this way. And I

English - Cross

1 had came walking out this way to see if I seen anymore
2 patrol cars around there.

3 Q Now, when you say walking out of this way, I just have to
4 put it in words, for the record, so you mean walking out
5 of this tiniest, narrow part here on the right side of
6 the picture; right?

7 A Yeah. If you were standing here it's not that tiny.
8 It's like --

9 Q Okay.

10 A Pretty wide.

11 Q Okay. But --

12 A Pretty long.

13 Q But, am I correct, it's that part of the picture?

14 A Yeah, it's that part.

15 Q All right. So you came out and saw a police officer. He
16 said freeze and then what happened?

17 A I ran back in there.

18 Q All right.

19 A And shut the door.

20 Q Why did you run back in there?

21 A Because I had to tell Daniels that the police was out
22 there.

23 Q Well, did you try to get out of the building without
24 being caught?

25 A No.

English - Cross

1 Q Isn't it true that you told Sergeant Strickland, December
2 15th, 2009, that you went back into the building so that
3 you could get out and not get caught?

4 A No, I didn't. I can't recall that.

5 Q All right. Now, you said you went back into the building
6 and you said you locked the door?

7 A I shut the door and then I put the lock on, but I didn't
8 know if they locked or not.

9 Q All right.

10 A But, then I ran down the stairs and I told Daniel the
11 police are here. And then he told me to come with him.

12 Then I -- that's when we ended had up in the liquor
13 store.

14 Q He said to come with him?

15 A Come on.

16 Q Okay. And then where did you get a mask?

17 A I got the mask a couple years ago from a local store.

18 Q Okay. Did you have more than one mask with you?

19 A Never.

20 Q Did you put a mask on?

21 A Yes, I did.

22 Q Did you tell Daniel to put a mask on?

23 A No, I did not.

24 Q Has anyone ever told you -- strike that. Why did you get
25 the mask from a local store a couple years before?

English - Cross

- 1 A For my face. It gets cold in Minnesota.
- 2 Q Okay. And what happened to the mask?
- 3 A When I got released from Ramsey County, I got to take
- 4 that home, as well.
- 5 Q So, the police didn't confiscate that from you?
- 6 A No, they didn't.
- 7 Q You went to the jail and then when you were released, you
- 8 got it back?
- 9 A I got that back, my gloves back, my hoodie back. I got
- 10 all my property back, but my cell phone.
- 11 Q Okay. Now, when you went into -- by the way, were you
- 12 worried at all about a silent alarm?
- 13 A No. I didn't know that there was a silent alarm.
- 14 Q Okay. Is that something you usually like to scout?
- 15 A To scout? That means you have to go there before. We
- 16 never we want there before.
- 17 Q You had never been to that building before?
- 18 A Never.
- 19 Q Had you been to the bar across the street?
- 20 A Never.
- 21 Q So, do you know where an alarm got tripped?
- 22 A No, I do not.
- 23 Q Did you see a broken wall at any point?
- 24 A The wall that Daniel used to get into the businesses.
- 25 Q Well, did you see him do it?

English - Cross

1 A No.

2 Q How do you know he did it, then?

3 A I heard the noise.

4 Q What was the noise?

5 A It was banging and cracking noises, you know, sounded
6 like somebody is trying to get into something. That's
7 what I heard. And I didn't see him. But I heard him
8 doing it, because it was in the basement. Ain't nobody
9 else in that basement making no noises.

10 Q Okay. So you went into the -- you were standing in the
11 like corridor by the door, what part of the liquor store
12 were you in, then?

13 A I don't know. I seen the broken wall. I went in there
14 with Daniel and he was handing me boxes. That's when I
15 took a box upstairs and set it by the door of the
16 business that we came in.

17 Q But the question for you is, what part of the liquor
18 store were you in when you were gathering liquor to
19 prepare to take out?

20 A I don't know what part it was. I believe it was in the
21 basement of it, because to get to the show room door, we
22 had to run up some stairs.

23 Q And then did you go up onto the first floor of the liquor
24 store at some point?

25 A That would be the show room floor, wouldn't it?

English - Cross

- 1 Q Oh, show room floor. I'm sorry. I didn't understand
2 what you said. All right. And then you -- you put your
3 mask on. Why did you do that?
- 4 A My mask had been on.
- 5 Q You had had your mask on the whole time?
- 6 A The whole time.
- 7 Q And did Daniel have gloves on?
- 8 A I believe he did.
- 9 Q Well, what did they look like?
- 10 A Those gloves over there (indicating).
- 11 Q Which ones?
- 12 A The ones that you try to say was mine. Those are his.
- 13 Q Which ones?
- 14 A All of them.
- 15 Q All of these were Daniels gloves?
- 16 A Yes.
- 17 Q How about these gloves, were those Daniels, too?
- 18 A Those look like mine, but I got mine when I was released.
- 19 Q How about these? Are those Daniels gloves?
- 20 A Those are mine.
- 21 Q Those are yours?
- 22 A Yes.
- 23 Q Where did you have those?
- 24 A In the car. I left those in the car.
- 25 Q These were your gloves?

English - Cross

- 1 A Yes.
- 2 Q Can you put it on for me? You sure that's not a ladies'
3 glove?
- 4 A It was my girlfriend, at the time, gloves.
- 5 Q It was your girlfriend's gloves. And you took those?
- 6 A But I put those on underneath the black ones that were
7 just like this (indicating).
- 8 Q I thought you had latex gloves on?
- 9 A Underneath them. Underneath the black ones. I didn't
10 carry these ones in at that time. I left these ones in
11 the car. When I took those ones off, I had the black
12 ones on me and the latex, because I wanted to make sure
13 that my fingerprints was covered.
- 14 Q All right. Let me take that a part a little bit. These
15 tan gloves, you said are your girlfriend's gloves?
- 16 A Yeah, I brought those and some black ones like that from
17 a corner store on 26th and Cedar.
- 18 Q And -- but, you brought them with you?
- 19 A Yes.
- 20 Q But you left them in the car?
- 21 A Yes.
- 22 Q Have you seen any pictures associated with this case?
- 23 A No. No, I did not.
- 24 Q Never?
- 25 A Never.

English - Cross

1 Q You weren't given those in discovery?

2 A No, I have not. Nothing. I didn't get nothing from
3 discovery. I was in Hennepin workhouse when this came,
4 when this case came about.

5 Q So, what about these pink gloves?

6 A I never seen them a day in my life.

7 Q And what about this -- I'm sorry. I think the pink was
8 Exhibit 87, but I have to say that one of the stickers
9 fell off in the bag. We'll have to straighten that out.
10 Exhibit 83, have you ever seen this?

11 A I believe that's one of the gloves that fell out of my
12 pocket.

13 Q That fell out of your pocket, where?

14 A In the liquor store when I was being searched.

15 Q I thought you had blue latex gloves on?

16 A Blue, I don't know. You ain't got no blue ones in there,
17 because you did -- you would have pulled them out, so
18 they had to be the purple ones. I do tattoos, myself,
19 so --

20 Q You do tattoos, yourself?

21 A Yes, I do.

22 Q So you have latex gloves for to do tattoos?

23 A Yes.

24 Q What size latex gloves do you buy?

25 A I don't even know what size they are; like medium, large.

English - Cross

1 Q So when you went into the show room part of the liquor
2 store, you didn't put a mask on, you already had a mask
3 on?

4 A No, I had the mask already on. When I seen the police
5 cars everywhere, hell, we're caught now. So I took the
6 mask off, pulled it down like this (indicating).

7 Q What did the mask look like?

8 A It was black, goes to here (indicating) and it had some
9 holes for your mouth to speak out of.

10 Q Can we put that into words, for the record?

11 A It goes over your nose and stops right up underneath your
12 eyes, right here.

13 Q So it goes around to your neck?

14 A And it straps on to the back, right here.

15 Q Okay. Now, when you were in the liquor store, did you
16 put something on the shelf?

17 A I didn't --

18 Q I mean, when you were on the show room floor?

19 A No.

20 Q Have you ever seen the video of the liquor store?

21 A Yes, he showed me that yesterday, I believe.

22 Q Who showed you?

23 A The lady back there, with the blond hair, in here, right
24 here.

25 Q The lady with the blond hair who is sitting by the

English - Cross

1 projector showed it to you?

2 A Yes.

3 Q When did she meet with you?

4 A Yesterday.

5 Q In this jail?

6 A Yes.

7 Q How long did you meet with her?

8 A I met with her and my attorney for about two, three
9 minutes, I believe.

10 Q You saw the video in two, three minutes?

11 A I don't remember. I was in a cold room and she was --
12 she pressed fast forward and wanted me to say if it was
13 me.

14 Q At certain parts of the video?

15 A Yeah, when I seen it was two people that walked up and
16 was in it, she asked if -- which one is me in that video.
17 So then I showed her that that was me in there.

18 Q And so, was she preparing you for your testimony?

19 A No. She just wanted to know which person in the video
20 was me.

21 Q Where -- did she show you any other document?

22 A No.

23 Q Did you meet with anyone else since you have been down
24 here in jail?

25 A No, just my attorney.

English - Cross

- 1 Q Well, I mean, other than your attorney, did you meet with
2 anyone else from the state?
- 3 A No.
- 4 Q And were you asked any questions by the woman with the
5 blond hair?
- 6 A No, I wasn't. Only question she asked me is, which one
7 is you.
- 8 Q All right. And were there any discussions of perjury,
9 sir?
- 10 A No.
- 11 Q Did you have a red rag on your head that night?
- 12 A No, I did not.
- 13 Q Red do rag?
- 14 A No.
- 15 Q Did you dress in black for a reason?
- 16 A Yes.
- 17 Q What's that?
- 18 A To commit a burglary.
- 19 Q It would be silly to be in white pants if you were going
20 to do a burglary; right?
- 21 A Yeah.
- 22 Q Yeah?
- 23 A Uh-huh.
- 24 Q Was that a yeah?
- 25 A Yeah.

English - Cross

- 1 Q You said something about seeing a black duffel bag. Is
2 that this, here, Exhibit 44?
- 3 A No. That's not it. That's green.
- 4 Q How many -- well, the contents next to it, the black
5 thing next to it?
- 6 A I can't get a good view of that. But, I don't know what
7 that is.
- 8 Q All right. How many black duffel bags were there?
- 9 A One.
- 10 Q And how do you know that?
- 11 A It was one. That's all I seen was one big one. To my
12 knowledge, it was just one big black duffel bag.
- 13 Q And where did you buy that?
- 14 A I didn't buy that. I didn't even come with that.
- 15 Q Well, what do you mean you didn't come with it?
- 16 A I don't own no big black duffel bag.
- 17 Q Well, I thought you said that the three of you came in a
18 car and you talked in the car before you went in the
19 building and you went in together to commit a burglary.
20 Do you remember saying that?
- 21 A Yeah, but I didn't say I had the bag. I said Daniels had
22 that bag.
- 23 Q Well, weren't you with him with the bag?
- 24 A I was with him, but he had the bag. I didn't have no
25 bag.

English - Cross

1 Q Well -- and you know that if you had burglary tools that
2 you could be prosecuted for Second Degree Burglary; don't
3 you, sir?

4 A No, I did not.

5 MS. CLARK: Nothing further.

6 THE COURT: All right.

7 MS. LAMIN: Very briefly, Your Honor.

8 THE COURT: Yes, please.

9 REDIRECT EXAMINATION

10 BY MS. LAMIN:

11 Q Mr. English, I'm showing you Exhibit 56. Does that look
12 like the duffel bag?

13 A Yes, that's Daniels.

14 Q All right: Mr. English, I'm showing you what's been
15 marked as Exhibit 91. Do you recognize it?

16 A Yeah, I signed it there.

17 Q Is that the video that you watched with Ms. Truda Hansen?

18 A Yes.

19 Q Does that video fairly and accurately depict you inside
20 that liquor store?

21 A Yes, it did.

22 Q And you, in fact, signed it after you watched it?

23 A Yes, I did.

24 MS. LAMIN: Okay. Your Honor, I move to admit
25 Exhibit 91.

English - Redirect

1 (Counsel approached the bench and an
2 off-the-record discussion was had.)

3 MS. CLARK: No objection.

4 THE COURT: Exhibit 91 is admitted.

5 MS. LAMIN: No further questions. Thank you.

6 MS. CLARK: I just have one question.

7 THE COURT: Okay.

8 RECROSS-EXAMINATION

9 BY MS. CLARK:

10 Q Mr. English, whose name is on the label for this black
11 bag?

12 A That's my name.

13 Q Is that your address there?

14 A Yes, it is.

15 Q Address at the time, 2614 Longfellow?

16 A Yes.

17 MS. CLARK: Nothing further.

18 MS. LAMIN: Nothing from the state. Thank you.

19 THE COURT: All right. Well, this is a good
20 time for us --

21 MS. LAMIN: Your Honor, can we approach,
22 please?

23 THE COURT: Yes.

24 (Counsel approached the bench and an
25 off-the-record discussion was had.)

English - Recross

1 THE COURT: All right. It's about 12:15,
2 12:20. Just so you know that, so we're going to pick up
3 the pace here.

4 MS. LAMIN: Thank you, Your Honor. The state
5 calls Patricia Y to the stand.

6 THE CLERK: Please raise your right hand.
7 Thereupon,

8 PATRICIA Y,
9 a witness, first having been duly sworn, was examined and
10 testified as follows:

11 THE CLERK: You can lower your hand. Please
12 state and spell your full name for the record.

13 THE WITNESS: Patricia, P-A-T-R-I-C-I-A, and my
14 last name, the letter "Y". It's spelled Y. No period.

15 THE COURT: Okay. Have a seat.

16 THE WITNESS: Thank you.

17 THE COURT: All right. And good morning.

18 THE WITNESS: Good morning.

19 THE COURT: Have you ever testified before?

20 THE WITNESS: No.

21 THE COURT: Okay. So, there are just certain
22 rules. You need to speak up so that everybody can hear.
23 And if there is an objection, you wait for me to rule on
24 it before you answer.

25 THE WITNESS: Okay.

Y - Direct

1 THE COURT: All right. And speak in words.

2 Okay?

3 THE WITNESS: Yes.

4 THE COURT: Okay. Ms. Lamin.

5 DIRECT EXAMINATION

6 BY MS. LAMIN:

7 Q Good morning, Ms. Y?

8 A Good morning.

9 Q Do you own a business?

10 A Yes.

11 Q Okay. What's the name of the business?

12 A The Edge Coffee House.

13 Q Okay. What's that address?

14 A 2399 University Avenue West, St. Paul.

15 MS. LAMIN: Your Honor, may I approach?

16 THE COURT: Yes.

17 BY MS. LAMIN:

18 Q Ms. Y, I'm giving you a pointer. You press the red dot
19 and it will show up.

20 A Okay.

21 Q And I'll ask you to use that pointer. Ms. Y, on Exhibit
22 1, can you point out where your business is.

23 A Right here.

24 Q Is that Sharrett's right here?

25 A Yes. I'm right here.

Y - Direct

- 1 Q Okay. And you have -- can you describe your building --
2 I mean, your Edge Coffee House physical space?
- 3 A It is a part of the building. I'm one unit on the main
4 floor and I'm surrounded by a picture frame shop. The
5 owner, Joseph Brown, has a working art gallery next door
6 to me and then Sharrett's on the corner. And I'm facing
7 University Avenue.
- 8 Q Okay. Do you have your own separate entrances and exits?
- 9 A Yes; one front door and one back door.
- 10 Q Is that shared by anyone else?
- 11 A No.
- 12 Q What about your basement, is that shared by anyone?
- 13 A No, it's completely contained under my shop.
- 14 Q Okay. Do you have your own insurance for the property?
- 15 A Yes.
- 16 Q Taking your attention to December 6th, 2009, do you
17 recall that day?
- 18 A Yes, I to.
- 19 Q Early Sunday morning, were you at some point contacted by
20 police?
- 21 A My accountant, actually, called me. I was out of town.
22 I was in northern Minnesota and my accountant called me
23 and informed me of the incident.
- 24 Q And after you were informed of the burglary, what did you
25 do?

Y - Direct

- 1 A I immediately returned to the city and went to the shop.
- 2 Q And again, this is the outside of your store?
- 3 A Correct.
- 4 Q Okay. And do you recall about what time you would have
5 gotten there?
- 6 A Approximately 10 in the morning.
- 7 Q Okay. And is this -- this is another --
- 8 A That's the menu on the inside, above the counter.
- 9 Q Okay. Now, what are we looking at here?
- 10 A In the basement there is an office and that is the office
11 from outside the doorway.
- 12 Q What is here?
- 13 A That's inside the office. That was pictured earlier.
- 14 Q Okay. Were those items scattered there when you arrived?
- 15 A Yes.
- 16 Q When you had left, did you lock up the building?
- 17 A Yes, I always make sure the back door and front door are
18 locked securely.
- 19 Q Did anyone have permission to be inside?
- 20 A Only the people who work for me who have keys and myself.
- 21 Q Did -- do you recognize Ms. Suttles sitting across from
22 me with the gray suit on?
- 23 A I don't know if we have ever met.
- 24 Q Did you give her permission to be inside during that
25 night?

Y - Direct

1 A No.

2 Q You recognize the gentlemen with the goatee sitting next
3 to her.

4 A No, I don't.

5 Q Mr. Drljic. Did he have permission to be inside that
6 night?

7 A No.

8 Q Do you know a Jermaine English?

9 A No.

10 Q Did he have permission to be inside that night?

11 A Nowhere.

12 Q And this is the condition you found your -- the coffee
13 house in when you came back at 10 a.m.?

14 A Correct.

15 Q Okay. So, what are we looking at here?

16 A The office. There were storage and things in drawers
17 that were just torn and left scattered.

18 Q What about there?

19 A Also, the office basement.

20 Q Can you use the pointer to identify what was done, what
21 happened during the burglary?

22 A Well, these drawers, the file cabinets were just ripped
23 open, if they were locked. Most things were empty in
24 this area. I don't use this office a lot so things were
25 just pretty much looked through.

Y - Direct

1 Q What about that computer? Was that in the condition you
2 left it?

3 A Yes, that was like that.

4 Q What are we looking at here?

5 A This is the counter space area and the working area on
6 the first floor. Here's my cash register. Here's my
7 coffee making area, refrigeration. And they had pretty
8 much just looked under all these counters and pulled
9 things out, looking for, you know -- actually, our cash
10 register drawer, that particular day, was hidden under
11 this area. And that was discovered and removed.

12 Q Was it inside that cash register?

13 A Yes, our daily -- what we start our day with, the cash
14 and change for the next working day. But --

15 Q About how much was that, do you recall?

16 A One hundred and fifty in bills. And changes is always --
17 I don't really count the change, so, as far as in
18 addition to any paper money.

19 Q What are we looking at in this photo?

20 A This is the cash register and the door being open.

21 Q What about in this photo?

22 A It is the back area and where I make coffee. And it was
23 right under here that the cash drawer had been hidden for
24 that particular day. And things were just removed and
25 left on the floor.

Y - Direct

- 1 Q Is this item the cash register drawer?
- 2 A I don't have a clear view of this. It looks like it
3 could be. It could be.
- 4 Q But, that's the area that you had hidden the cash
5 register drawer?
- 6 A Yes.
- 7 Q What are we looking at here, Ms. Y?
- 8 A Another view of the same area.
- 9 Q And what about that? What is that?
- 10 A To my surprise, that is a tray of muffins. I wasn't
11 aware that had been taken until I saw this photo. So
12 that's a tray of muffins outside the back door.
- 13 Q Was there any damage to your building?
- 14 A Above the back door, there is an air conditioning unit
15 and it appeared that some force had been attempted to
16 push the air conditioner out, but was unsuccessful. And
17 I had to have that remounted. But, other than the mess,
18 there wasn't any physical damage.
- 19 Q What about in the basement?
- 20 A And actually, before this day, I didn't realize, but
21 there is a tunnel that connects all the offices on that
22 building, on the main floor. And that is, I guess, how
23 they even made it into my shop. So, that wall was
24 destroyed in order to get in.
- 25 Q So there was a wall destroyed?

Y - Direct

1 A Like plywood or something over a doorway.

2 Q And that was your wall between your building and the art
3 studio?

4 A Yes.

5 MS. LAMIN: No further questions.

6 THE COURT: Okay.

7 MS. CLARK: May I approach, Your Honor?

8 THE COURT: Yes.

9 CROSS-EXAMINATION

10 BY MS. CLARK:

11 Q I'm going to label this Exhibit 96. And then if you
12 would be so kind as to draw us a diagram of what you're
13 talking about. Can you show us where the liquor store is
14 in relationship to the art studio and in relationship to
15 the cafe.

16 A Okay. (Drawing diagram).

17 Q And I guess we have to pick the floor you're drawing.
18 Why don't you draw the -- are you able to draw the
19 basement area?

20 A Sure.

21 Q Okay.

22 A First of all, this is Raymond and this is University.
23 This is Sharrett's Liquor. This is the working studio,
24 where an artist who owns this building. And here's the
25 Edge Coffee House. And this is the picture framing

Y - Cross

1 place. Okay. And then, inside the shop, this is where
2 the cash register is. This is where the bakery goods is.
3 This is where the drawer was found on the floor. This is
4 my working kitchen area, back door, front door, stairway
5 to the basement.

6 Q Okay. Can you stand back just a moment?

7 A Sure.

8 Q Okay. So, you just did your shop there?

9 A Yes.

10 Q Okay. It is --

11 A This is the stairway to the basement.

12 Q Right.

13 A And when you get down into the basement, here is my
14 refrigerator. The office that we looked at in the
15 pictures, is in this corner. If you come around this
16 way, under the stairway, is the doorway with the plywood.
17 And it was here that my store was entered.

18 Q So, can you --

19 MS. CLARK: First of all, offer Exhibit 96.

20 MS. LAMIN: No objection, Your Honor.

21 THE COURT: Ninety-six is entered.

22 BY MS. CLARK:

23 Q So, can you explain to us, is the art studio on the other
24 side of this wall?

25 A Yes, it is.

Y - Cross

- 1 Q Okay. And is it a -- you said --
- 2 A Actually, the picture frame shop is on this side and the
3 art studio is over here.
- 4 Q So, I'm trying to get a perspective on, was this actually
5 a hole in the wall or was there -- you said there was a
6 tunnel?
- 7 A Down here in the basement. Okay. If you're in the
8 basement and the stairs are coming down this way and you
9 come down, there is an opening under the stairs and it's
10 rather wide, I think about five feet wide, and it was
11 just covered by plywood, I believe. Actually, there was
12 a lot of boxes and things. I never looked too closely at
13 that wall until this incident.
- 14 Q So, it was like plywood nailed up there?
- 15 A It is now. I don't know what it was prior to the event.
16 It never drew my attention to that before.
- 17 Q When you say around 10 a.m. Sunday morning, December 6th,
18 did you go down to the basement and look in this area?
- 19 A Yes, I did.
- 20 Q What did it look like then?
- 21 A There was things moved around in order to get through
22 that area.
- 23 Q Okay.
- 24 A Boxes had been moved and there were things on either side
25 of the wall.

Y - Cross

- 1 Q And what about the opening, what did that look like?
- 2 A I don't recall to be exact.
- 3 Q Was it covered or uncovered?
- 4 A I think it was still open, at that time.
- 5 Q Is it a doorway opening?
- 6 A Not exactly for a particular door. Like I said, the
- 7 opening is larger and wider.
- 8 Q Does it reach the floor?
- 9 A Yes.
- 10 Q And where is the air condition unit that was attempted to
- 11 be pushed out?
- 12 A Over the back door. The back door is like this. There
- 13 is an area up here which had the air condition unit by
- 14 the door with a couple stairs into the working area. And
- 15 this door, it has a screen door on the outside with a
- 16 latch. And then on the inside, there is also a wooden
- 17 bar that goes across, as well as the lock for the door.
- 18 Q So you're showing us, looking at the door now?
- 19 A At the door.
- 20 Q Not an aerial view?
- 21 A Right.
- 22 Q And then, so the box at the top?
- 23 A Is the air conditioner, yes.
- 24 Q All right. And as far as the diagram, it's the box up in
- 25 the northeast corner of the pad. And you got a number of

Y - Cross

1 rectangles there. I'm just trying to say, for the
2 record, which one it is?

3 A Okay. This is the door.

4 Q Why don't you put a "D" by the door?

5 A Okay. This is the door. This is actually a wood
6 protector to help lock the door.

7 Q And then, tell us what you think -- you said they tried
8 to push the air conditioning unit out?

9 A The air conditioner is, you know, sitting up in there.
10 And it had -- it was visually obvious that they tried to
11 push it in it or push it out. And --

12 Q What brought your attention to that, when you say it was
13 obvious?

14 A It wasn't securely in place, as usual.

15 Q Could you tell if someone had tried to push it in from
16 the outside versus out from the inside?

17 A Off hand, I don't know, exactly.

18 Q Were there any pry marks?

19 A I'm trying to recollect. And to the best of my
20 knowledge, it was from the inside, but I don't recall.

21 Q Okay. And it -- did you ever walk through the building
22 with police?

23 A Not with the police.

24 Q Who did you walk through the building with?

25 A That I recall -- this has been a while now -- I don't

Y - Cross

1 know, probably my accountant who got onto the scene
2 before I did. But, I'm having a hard time recalling,
3 exactly. It's been a while.

4 Q Did you ever walk through the building with the
5 prosecutor?

6 A I don't believe so. There was an investigating officer
7 who came out and I walked through with him.

8 Q Okay. Sergeant Strickland?

9 A Yes.

10 Q Okay. Now, you can have your seat again. Thank you.

11 A Thank you.

12 Q You said that you didn't know that muffins had been taken
13 until you saw a picture?

14 A Yes.

15 Q When did you see the picture?

16 A A week ago or so, when I met with the prosecutor.

17 Q Okay. And where did you meet with the prosecutor?

18 A At the liquor store. They came to have a meeting with
19 Dana. And I was at my coffee house at the time, so I
20 went over.

21 Q And did you go down into the basement at all for that
22 meeting?

23 A No.

24 Q Were you present for the whole meeting?

25 A Actually, it wasn't a big meeting or anything, but I was

Y - Cross

1 there, briefly, in preparation for the case, yeah.

2 Q Oh, so you met with the prosecutor to prepare for your
3 testimony?

4 A Well, just to say when it was going to happen and what to
5 expect, and you know.

6 Q Now, with regard to the muffins, did you ever get them
7 back?

8 A No. No.

9 Q Do you have any idea what happened to them?

10 A I have no idea what happened to them.

11 Q Did you -- strike that. Do you know whether there was
12 any kind of alarm hooked up to the air conditioning unit
13 or your door?

14 A No alarms were working at that time. Nothing was hooked
15 up at that time. I do have three obvious cameras mounted
16 and they are not connected to anything or functioning.
17 But, they had been spray painted black during this
18 incident.

19 Q Did you tell that to the police?

20 A Probably. Yes, to Strickland, Officer Strickland, yes.

21 Q And tell us, again, where they were, the cameras?

22 A One is in the corner here (indicating) up high. Okay.
23 Looking out. Okay. Above the counter area.

24 Q So --

25 A One here.

Y - Cross

1 Q Inside?

2 A Yes, inside. One is downstairs at the bottom of the
3 stairs on the wall. And the other one is actually in the
4 kitchen area, facing the back door area. And they were
5 all spray painted.

6 Q Now, I think you went through this on direct, but it
7 sounds like the money for the next day, the \$150 and some
8 change was tucked underneath a, like a cooler unit?

9 A The bakery facility, which is just a little box with some
10 storage underneath.

11 Q And tucked in the back?

12 A Underneath and the back, yes.

13 Q So, on the floor, underneath the unit in the back?

14 A Yes. Not on the floor, but under the bakery case.

15 Q And did you ever get your \$150 back?

16 A No.

17 Q Did the police ever tell you whether or not your \$150 had
18 been located on anyone?

19 A No.

20 Q Or that it had been removed from the building?

21 A No.

22 Q Do you know what denominations you had?

23 A It's usually fives and ones.

24 Q Did you tell police that?

25 A I don't recall.

Y - Cross

1 Q Did you -- you were a little bit in front of the picture
2 when you were drawing it, the relationship of the three
3 things. Where, again, is the liquor store? Is it the
4 "S"?

5 A It is Sharrett's, yes.

6 Q Okay.

7 A This is the front of my store and Sharrett's would be
8 this way from the front door of my store.

9 Q Okay.

10 A Here -- I am here and Sharrett's right there.

11 Q Okay. And in between your cafe and Sharrett's, the "WS"
12 stands for?

13 A A working artist studio, a working studio.

14 Q So, he is not a business?

15 A No.

16 Q It's not open to public?

17 A No, it's a --

18 Q It's a commercial business?

19 A Correct.

20 Q And you said this Joseph Brown works there?

21 A Yes.. He creates sculptures.

22 Q Then on the other side of your store is?

23 A The picture frames supply store.

24 MS. CLARK: All right. Nothing further.

25 THE COURT: Redirect.

Y - Cross

1 MS. LAMIN: Very quickly.

2 REDIRECT EXAMINATION

3 BY MS. LAMIN:

4 Q Ms. Y, just to clarify. The burglars, they broke a wall.

5 This was a sealed wall?

6 A Yes, some -- there was a doorway that had been sealed.

7 Q Okay.

8 A Correct.

9 Q Prior to this, there was no opening there?

10 A Correct.

11 Q Okay.

12 A Correct.

13 Q So, when you were down there, did you see signs of the
14 damage they had done to get in?

15 A Yes. They had broken open the sealed wall and then
16 disheveled the boxes that are around that area to get
17 through.

18 Q From your -- strike that. Now, you mentioned cameras
19 inside your store?

20 A There are mounted cameras.

21 Q Were they operational at the time?

22 A No, but they were still there, yeah.

23 Q Okay. So at the time you had no surveillance cameras in
24 your store?

25 A Correct.

Y - Redirect

1 Q And no alarm system?

2 A Correct.

3 MS. LAMIN: No further questions.

4 MS. CLARK: I have nothing further.

5 THE COURT: All right. Well, thank you. You
6 may step down. And we're going to break. I have a
7 sentencing calendar this afternoon. I can't move that.
8 It's set for months. So, you come back again tomorrow, 9
9 o'clock. And if we need to do -- figure, we'll do this
10 before we tell the jury to come back. Again, no talking
11 about the case, no doing any research. The same things I
12 tell you every time. Okay. And leave your notes here,
13 please. And have a good afternoon.

14 (Jurors were excused for the day. The
15 following proceedings continued outside the Jury's
16 presence.)

17 THE COURT: We have some issues about Thursday
18 morning, so I just need to have a sense about when I
19 can --

20 COURT REPORTER: Do you want this on the
21 record?

22 THE COURT: No. I'm just --

23 (Proceedings recessed at this time)

24

25

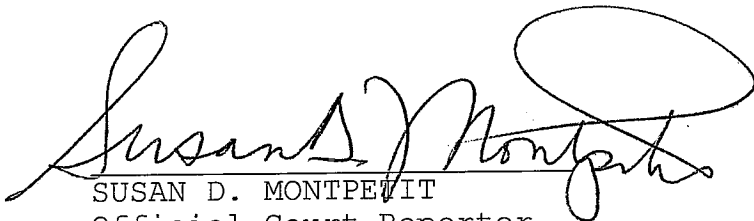
State v. Drljic/Suttles

1 STATE OF MINNESOTA

2 COUNTY OF RAMSEY

3 I, Susan D. Montpetit, do hereby certify that a jury
 4 trial was had in the cause styled in the caption hereto on
 5 Page One hereof; that I was authorized to and did attend said
 6 trial and reported the proceedings had therein fully and
 7 accurately in shorthand and that the foregoing computer-aided
 8 transcription numbered 1 through 125, inclusive, constitute a
 9 true and correct transcript from my shorthand report of the
 10 proceedings taken at said trial.

11 Dated: 6-14, 2011.

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 15 SUSAN D. MONTPETIT
 Official Court Reporter

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