

Example Opening Statement

This example is about 8 minutes when presented.

Theme

(OFF CENTER, POINT TO DEFENSE TABLE) He wasn't there. When these crimes were committed, Justice Jackson wasn't there. The State jumped to conclusions about who was involved without properly completing an investigation, and because of this, Mr. Jackson stands accused of a crime he didn't commit, a crime he couldn't commit, because he wasn't there.

Introduce

My name is Leon Walter, and along with my co-counsel Ms. Cassandra Molivigny, we represent the Defendant, Justice Jackson. Let me introduce our client. Mr. Jackson is a father. 2 kids. He and their **mother/other parent**, Angel Nguyen are divorced. But they still get along. They co-parent together. Mr. Jackson even helps around the house.

(CENTER) The evening of January 5th, 2022, was just an ordinary Wednesday night for Mr. Jackson. At 9:00 pm, he arrived at Mr./Ms. Nguyen's house to watch an episode of the show, the Bachelor. For the next 3 hours, Mr. Jackson was lounging on the couch, inches away from Mr./Ms. Nguyen, watching reality TV with no idea that events unfolding across town were the opening scenes to his own real-life drama.

Element and Burden

The State has charged Mr. Jackson with burglary and theft, based on a break-in at the Fox and Cat Vintage Clothing Store on January 5, 2022. Let's be clear, we do not dispute that a break-in occurred at the Fox and Cat Vintage store. The issue is WHO committed the break in... because Mr. Jackson wasn't there. As the state, they **(POINT TO PROSECUTION)** have the burden to prove, **beyond** a reasonable doubt, that Mr. Jackson was involved. Today, the State will **fail** to meet its burden.

The State will fail to meet its burden for three reasons:

1. An incomplete investigation.
2. Imperfect evidence.
3. And an inconsistent witness.

So let's first talk about the State's incomplete investigation. (MOVE TOWARD STATE'S TABLE)

Sergeant Hernandez was the lead investigator assigned to this case. Listen closely to how Sergeant Hernandez failed to properly preserve evidence and failed to follow-up as additional evidence came to light. Listen to how Sergeant Hernandez jumped to conclusions about who was involved in the break-in before the investigation was even complete.

More importantly, pay attention to what Sergeant Hernandez did NOT do:

- He did not search for the stolen items.
- He did not interview a key witness.

- He did not even bother to ask his witness if she could identify Mr. Jackson.

So what imperfect evidence did he rely on?

A single partial pinky fingerprint. That the State will claim belongs to Mr. Jackson. But Sergeant Hernandez's sloppy investigation will be highlighted by Dr. Cameron Varnah, who holds a PH.D. in Criminal Justice and is an expert in fingerprint analysis. Dr. Varnah will walk you through all the problems with the state's evidence. You'll learn there are 6 fingerprints on that pipe, but the state will not be able to tell you who at least 5 of them belong to. Dr. Varnah will tell you that's because Sergeant Hernandez made mistakes when dusting for those prints. But even if that is Mr. Jackson's partial pinky fingerprint, Dr. Varnah will explain how a fingerprint can end up on any object through incidental contact. And you will see evidence today of just how Mr. Jackson could have made incidental contact with the pipe, just days before the crime.

Finally, besides the incomplete investigation and imperfect evidence, the state will fail to meet its burden because of an inconsistent witness. (MOVE STEP TOWARDS WITNESS STAND)

Today, you will hear from Lynn Brantley, who we expect will tell you what s/he THINKS s/he heard...what s/he thinks s/he saw... across 2 traffic lanes...on that night 2 years ago. But pay attention to the details surrounding her involvement. Mr./Ms. Brantley will tell you that she was standing at least 50 feet away across not one, but two traffic lanes, and a parking lot... in the dark when she saw and heard individuals break into the store. In fact, when she was on the phone with 911, she told the operator "I can't really see anything. It's so dark."

And pay attention to the inconsistencies in what Mr./Ms. Brantley told that 911 operator that night, and what she says today.

While the state will bring you a witness who was over 50 feet away, the defense will introduce you to the person who was inches away from Mr. Jackson at the time of this incident. That witness, Mr./Ms. Nguyen, the same witness Sergeant Hernandez failed to interview, will tell you Mr. Jackson was on the couch with him/her watching reality tv.

Conclusion

(RE-CENTER) Today, the evidence will show the only reason we are here is because the State relied on an incomplete investigation, imperfect evidence, and an inconsistent "witness" to jump to conclusions about who was involved, even though Mr. Jackson could not have committed the burglary across town because... He. Wasn't. There.

That is why, Members of the jury, at the end of trial, my co-counsel Cassandra Molivigny will have a chance to speak with you again. She will ask you to do a thorough deliberation, to review the evidence completely, to not jump to conclusions. And based on the evidence, Ms. Molivigny will ask you to find Justice Jackson,...is **NOT GUILTY**.