

**Group assignment, Descamps Seminar**  
**August 22, 2014**

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18 U.S.C.A. § 924 (ACCA)

§ 924. Penalties

Effective: October 6, 2006

Currentness

(a) . . . >>>

(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for a violent felony or a serious drug offense, or both, committed on occasions different from one another, such person shall be fined under this title and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g).

(2) As used in this subsection-->>>

(B) the term "violent felony" means any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult, that--

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another; and

(C) the term "conviction" includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.

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110 S.Ct. 2143

Supreme Court of the United States

Arthur Lajuane TAYLOR, Petitioner

v.

UNITED STATES.

No. 88–7194. | Argued Feb. 28, 1990. | Decided May 29, 1990.

Defendant conditionally pleaded guilty to possession of firearm by convicted felon. The United States District Court enhanced defendant's sentence on basis of his previous felony convictions, including second-degree burglary. Defendant appealed. The Court of Appeals for the Eighth Circuit, 864 F.2d 625, affirmed. Defendant petitioned for writ of certiorari. The Supreme Court, Justice Blackmun, held that: (1) "burglary," within meaning of sentence enhancement statute [ACCA], refers to conviction of any crime, regardless of its exact definition or label, having basic elements of unlawful or unprivileged entry into, or remaining in, a building or structure, with intent to commit a crime; (2) sentencing court may find that defendant was convicted of "burglary" if charging papers and jury instructions actually required jury to find all elements of generic burglary in order to convict defendant; and (3) remand was necessary to determine whether defendant's prior Missouri conviction for second-degree burglary constituted "burglary," for sentence enhancement purposes.

Court of Appeals vacated and remanded.

Justice Scalia filed opinion concurring in part and concurring in the judgment.

I.C. § 18-1401

## Idaho Code § 18-1401. Burglary defined

Every person who enters any house, room, apartment, tenement, shop, warehouse, store, mill, barn, stable, outhouse, or other building, tent, vessel, vehicle, trailer, airplane or railroad car, with intent to commit any theft or any felony, is guilty of burglary.

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### Idaho Decision Notes:

For burglary to occur, **entry need not be forcible**, and a larceny or any felony need not actually result. I.C. § 18-1401. [State v. Williams, 1982, 103 Idaho 635, 651 P.2d 569.Burglary 🔑2](#)

Statute, which provided that anyone who entered any building with intent to commit theft or any felony was guilty of burglary and which **did not require “breaking” or trespass as elements**, was fully applicable to defendant's shoplifting of two packages of meat at supermarket so long as defendant conceived of crime before entering premises. I.C. § 18-1401. [Matthews v. State, 1987, 113 Idaho 83, 741 P.2d 370.Burglary 🔑9\(3\)](#)

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ICJI 511 BURGLARY, INSTRUCTION NO. \_\_\_\_

In order for the defendant to be guilty of Burglary, the state must prove each of the following:

1. On or about [date]
2. in the state of Idaho
3. the defendant [name] entered [place entered], [and]

4. at the time entry was made, the defendant had the specific intent to commit [theft] [name of other felony].

If any of the above has not been proven beyond a reasonable doubt, you must find the defendant not guilty. If each of the above has been proven beyond a reasonable doubt, then you must find the defendant guilty.

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PROSECUTING ATTORNEY  
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Attorneys for State of Idaho

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

STATE OF IDAHO,

Case No. CR-09-00553 D

Plaintiff,

vs.

INFORMATION FOR THE  
CRIME OF: Burglary

DAVID JARED JONES,

Defendant.

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STATE PROSECUTOR, Prosecuting Attorney in and for the County of Cassia, State of Idaho, who in the name and by the authority of said State, prosecutes in its behalf, in proper person comes into said District Court in the County of Cassia, State of Idaho, on June 7, 2009, and gives the Court to understand and be informed that the defendant is accused by this Information of the crime of Burglary, which said crime was committed as follows, to-wit:

That the defendant, DAVID JARED JONES, in concert with Christopher Scott Aaron, aiding and abetting each other, on or about April 28, 2009, in the County of Cassia, State of Idaho did feloniously enter into a certain house to-wit: Janine Arnold residence, located at 932 South 800 West, Burley, Cassia County, Idaho, with the intent to commit the crime of kidnapping. All in violation of Idaho Code Section 18-140 I.

All of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the State of Idaho.

That the said defendant, DAVID JARED JONES, was advised of his statutory rights, to a Preliminary Hearing in the premises, and that thereafter, and on May 16th, 2009, said defendant waived preliminary examination.

Thereupon the said defendant was held to answer said charge in the District Court of the Fifth Judicial District, State of Idaho, in and for the County of Cassia.

STATE PROSECUTOR  
Prosecuting Attorney

By *State Prosecutor*

The Defendant is advised that discovery is available pursuant to Idaho Criminal Rule 16.

**DEMAND FOR NOTICE OF ALIBI DEFENSE**

Pursuant to Idaho Code, Section 19-519, the Prosecuting Attorney of Cassia County, State of Idaho, or his Deputy, does hereby make written demand upon the defendant named in the above Information that the defendant shall serve within ten (10) days, or at such different times as the Court may direct, upon the Prosecuting Attorney of Cassia County, State of Idaho, at P.O. Box 1088, Burley, Idaho 83318, a written notice of his intention to offer a defense of alibi. Such notice shall state the specific place or places at which the defendant claims to have been at the time of the alleged offense and the names and addresses of the witnesses upon whom he intends to rely to establish such alibi.

By  
Prosecuting Attorney's Office

STATE OF IDAHO, IN AND FOR THE COUNTY OF CASSIA

STATE OF IDAHO,

Case No. CR-09-00553 D

Plaintiff,

vs.

JUDGMENT OF CONVICTION,  
ORDER OF COMMITMENT:  
Burglary

DAVID JARED JONES,

DOB: 07-05-1983

SS#:

Defendant.

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On the 22nd day of June, 2009, the defendant came into Court with his attorney, Public Defender, along with State Prosecutor, Prosecuting Attorney, to be arraigned upon the information filed against him by the State of Idaho, charging the defendant with Burglary, which said crime was committed on or about April 28, 2009.

The Court, after conducting the arraignment, asked the defendant if he pleaded "Guilty" or "Not Guilty" to the offense charged in the Information, and, thereupon, pursuant to a plea agreement between the State and the defendant, the defendant pleaded that he was "Guilty of Burglary" as charged in the Information.

On the 28th day of July, 2009, the defendant again came into Court with his attorney, Public Defender, along with the State's attorney, State Prosecutor, and was informed by the Court that this was the time and place set for sentencing, and was reminded of earlier Court proceedings.

(g) Pursuant to Idaho Code Section 19-5304(2), under the Victim's Rights Statute, the Court will issue a separate Order of Restitution to the victim herein, to which reference is hereby made.

(h) That, defendant shall reimburse Cassia County for the services of the Public Defender, pursuant to Section 19-4705, Idaho Code in the sum of Six Hundred Dollars (\$600.00).

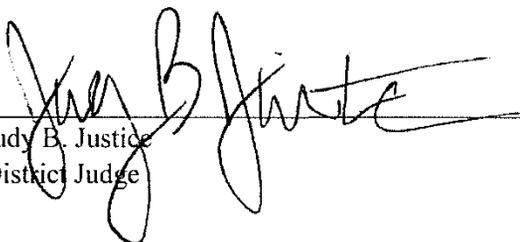
(i) That, defendant shall receive credit for Ninety-Five (95) days previously served in the Mini-Cassia Jail through July 28, 2009.

IT IS FURTHER ORDERED that the bond heretofore posted, if any, in the above-entitled action be, and the same is hereby, exonerated.

IT IS FURTHER ORDERED that the defendant be committed to the custody of the Sheriff of Cassia County, Idaho, for delivery forthwith to the custody of the Idaho State Board of Corrections.

IT IS FINALLY ORDERED that the Clerk deliver a certified copy of this Judgment of Conviction and Order of Commitment to the Cassia County Sheriff, which shall serve as the commitment of this defendant.

DATED this 28th day of July, 2009.

  
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Judy B. Justice  
District Judge

