



ILLINOIS STATE  
BAR ASSOCIATION

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# Illinois State Bar Association High School Mock Trial Case

*People v. Norton*

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IN THE CIRCUIT COURT OF THE 7<sup>TH</sup> JUDICIAL CIRCUIT  
LINCOLN COUNTY, ILLINOIS

People of the State of Illinois,                    )  
    Prosecution,                                    )  
  )  
v.    )        No. 424 ISBA 0000  
  )  
Brize Norton,                                        )  
    Defendant.                                     )

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**INFORMATION**

Burglary, Class 2 Felony

State's Attorney Melinda Schechter, representing the People of the State of Illinois, complainant, now appears before the Circuit Court of Lincoln County and states that Brize Norton, defendant, did, on or about June 17, 2010, June 30, 2010, and July 2, 2010, in the town of Summer Hills, Lincoln County, Illinois, commit the offense of burglary when he/she without authority entered or remained within a building, the Cook house, with intent to commit therein a felony or theft.

Theft (Over \$300), Class 3 Felony

State's Attorney Melinda Schechter, representing the People of the State of Illinois, complainant, now appears before the Circuit Court of Lincoln County and states that Brize Norton, defendant, did, on or about June 17, 2010, June 30, 2010, and July 2, 2010, in the town of Summer Hills, Lincoln County, Illinois, commit the offense of theft over \$300 when he/she knowingly obtained or exerted unauthorized control over property, being six Cook photographs, belonging to the Summer Hills Historical Society and Library Association, owner, with intent to deprive the owner permanently of the use or benefit of said property, said property having a value in excess of \$300.

*Signature:* \_\_\_\_\_  
                  Melinda Schechter  
                  Lincoln County State's Attorney

I have examined the above complaint and the person presenting same and have heard evidence thereon, and am satisfied that there is probable cause for filing same. Leave is given to file said complaint.

*Signature:* \_\_\_\_\_  
                  Hon. Donna Bentley  
                  Presiding Judge  
                  Lincoln County, Illinois.



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<b>People of the State of Illinois</b>	)	
<b>Prosecution</b>	)	
	)	
<b>v.</b>	)	<b>No. 424 ISBA 0000</b>
	)	
<b>Brize Norton</b>	)	
<b>Defendant</b>	)	

Statement of the Case

Brize Norton is a historian, amateur photographer and enthusiastic volunteer archeologist at local historic sites in and around Summer Hills, Lincoln County, Illinois. Norton received both BA and MA in history from the Summer Hills College, a small private school. Norton has held many jobs in and around the Summer Hills area including teaching at the middle school level, tutoring, and has authored a series of historical pamphlets on the Summer Hills historic sites.

Summer Hills has a plethora of interesting sites including an early Native American settlement site along a river outside of town, a small grouping of log cabins from the mid to late 1800's that some say Abraham Lincoln visited, and a home that the local city registry indicates belonged to a Mrs. Sarah Cook, who rented a property in Lincoln's neighborhood in Springfield, Illinois in 1860 and 1861. Mrs. Sarah Cook had operated a photographic studio in the Springfield area.

Area oral tradition says that this same Mrs. Cook moved to a home in Summer Hills, on the corner of Castle and Marks, in the late 1860's, bringing with her all of her worldly goods, which included some of the photographic equipment and archives from the studio she ran for a time in Springfield. It has been rumored within the local historical society for years that the Cook House may contain photographs of Abraham Lincoln taken while Mrs. Cook ran her photographic studio in Springfield. Owners of the Cook Home have all descended from Mrs. Cook and the family had, through the years, declined to comment and none had accepted invitations from the Historical Society & Library Association to join or serve on their board of directors.

The donated property came with many of the original furnishings, books and papers. Ephemera included a document that proved the Mrs. Cook who owned the home in Summer Hills was, indeed, the same Mrs. Cook who lived in the Lincoln neighborhood and ran the photographic studio in Springfield. There are no living descendants of Mrs. Cook. The last surviving Cook heir, Thomas Cook, died childless in 2010 and left the entire estate to the Summer Hills community to be used as the home of the local Historical Society and Library Association.

Brize Norton, upon reading of the donation to the community, immediately applied to oversee the review and cataloging of all the items left in the home. A committee was appointed by the Summer Hills Historical Society and Library to review candidates for the job and to oversee all the work. While Brize Norton did not get the job of overseeing the work, he/she was retained as an assistant.

Brize Norton currently owns and operates a business called Wonderland Archives, a used book store specializing in historic maps, photographs, paintings and books, which is open on weekends only and does most of its business via the Internet. Norton's dream has always been to find an authentic Lincoln document. After nine months of work, Brize Norton was criminally charged with theft of historic documents.

**Witnesses for the Prosecution (You may call 2 of these witnesses)**

McKay Davis, President of the Summer Hills Historical Society and Library Assn.

Foley Roberts, State's Attorney's investigative unit

Yager Larson, Curator of the Summer Hills Historical Society and Library Assn.

**Witnesses for the Defense (You may call 2 of these witnesses)**

Brize Norton, Defendant

Hollis Burke, Co-Worker with Norton

Lennon Barringer, Barringer's Books

**Missing Photographs:**

Lincoln Home with possible Lincoln visible in upstairs window

Lincoln Home with three children on side porch, possibly Tad and Willie

Rear of Lincoln Home. Photo shows home across the street from the Lincoln home.

Photograph of fair haired girl child, marked as 1859, Rose Whipp<sup>1</sup>

Side view of Lincoln Home dated 1860. Child looking out of upstairs window. Possibly Willie.

Lincoln home with dog on front step. Dog identified as Lincoln's dog Fido.

**Timeline:**

- Brize Norton entered the Cook House alone, after hours on the evenings of June 17, June 30 and July 2, 2010.
- Briefcase incident occurred on July 1, 2010
- Photographs discovered as missing on morning of July 5, 2010

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<sup>1</sup> None of these are actual known Lincoln era photographs but would be considered rare and valuable if they existed. Rose Whipp was a Springfield child from Mr. Lincoln's neighborhood who sat on Lincoln's knee many times. She was nicknamed "Silverhair" by Mr. Lincoln. Rose Whipp Northrup was the Great Grandmother of ISBA General Counsel Charles J. Northrup. [http://www.mchistory.org/popups/CemWalk%20Bios/Northrup\\_Rose%20Whipp.html](http://www.mchistory.org/popups/CemWalk%20Bios/Northrup_Rose%20Whipp.html)

## **McKay Davis Witness Affidavit, Prosecution**

1. My name is McKay Davis; I am currently serving as President of the Summer Hills Historical Society and Library Association (SHHSLA) and was appointed by the Board of Directors to serve as Supervisor of the Cook Collection Review and Cataloguing initiative. I was appointed to that position in large part due to my reputation for attention to detail and organizational skills. I am currently on a one year leave of absence from D'Arcy & Davis, an accounting firm where I've worked as a CPA for over 6 years, with the full support of the firm. In fact, D'Arcy & Davis is helping to fund the Cook Collection preservation through a grant to the SHHSLA.

2. Cataloging a collection this size is a remarkable undertaking demanding hours of painstaking work handling delicate photographic prints and plates from the 1800's. The collection consisted of glass plates, tintypes, daguerreotypes, prints pasted onto cardboard called carte-de vues or CDVs. These are all quite fragile items and if they are mishandled, they could be lost forever. The full ephemera collection was housed in six separate trunks of some considerable size. Some of the items were in an advanced stage of deterioration but most had been packed with such care that they survived remarkably intact. The remainder of the collection was in the form of the Cook House, a building originally built in 1890, furnishings, clothing, books and personal items from Sarah Cook, who had been a neighbor of Abraham Lincoln's in the early 1860's right about when Lincoln was running for President and had been elected. She lived across Edwards Street to the South, down a few homes from the Lincoln's.

3. Everyone was hoping that there may be a Lincoln-related photograph in the collection. What a find that would be. We were absolutely thrilled when we did find some. To be more specific, most of the photographs in the collection are of individuals and they were all in folders or envelopes with the client name clearly marked and each had been dated. That part of this endeavor was virtually effortless. We were able to catalog two entire trunks that had been marked in this manner. They had obviously been untouched for years and may not have been opened since Mrs. Cook had originally packed them away. All were in excellent to very good condition. The only notable photograph in that collection was one of the Lincoln home. No one from the Lincoln family was in that photograph.

4. In two of the other trunks, we found old and very well used photographic equipment. Glass plates, mostly. Some were unused and were of no archival value but may be of some historical value to a photographer who collects old plates. It was decided by the oversight committee that we would retain all the unused plates because of the threat of forgery. A serious forger may have been able to use a plate to duplicate a photograph and sell it. We wanted no part of that.

5. The remaining two trunks were another matter. They were, again, remarkably well-preserved materials and had been packed very carefully, but these consisted of files that contained appointment books, correspondence, ledgers from Mrs. Cook's photographic studio in Springfield and some photographs; evidently ones in which that Mrs. Cook took special pride.

6. Unfortunately Mrs. Cook's appointment book shows no appointment made with Abraham Lincoln or any member of his family; nor does the ledger list payment from Abraham Lincoln or any member of his family for photographs taken. It's evident that the photos taken were done so by Mrs. Cook because of her personal interest and friendships with the Lincolns.

7. By far Mrs. Cook's most popular subject in this particular trunk was the Lincoln home. There were shots of the home, taken from both the front and the back. And there was one photo in particular taken from the street in front of the Lincoln home, and must have been taken in winter as the trees and shrubs are bare, and the curtains are open so you can see inside the windows. Obviously taken during daylight hours, the photograph shows an image in the upstairs northwest corner, which is where Mr. Lincoln's bedroom is located, and the image looks remarkably like Mr. Lincoln. If it is authenticated, and I believe it will be, this would be a phenomenal discovery not only for us, but for all the Lincoln scholars out there who dream of finding another image of this great man.

8. The collection also includes photographs of the Lincoln children as well, outside of the home, posed with other children. One child is a small girl identified as Rose Whipp. She is standing next to a child we have identified as Willie Lincoln. I only wish there had been a photograph of Eddie Lincoln. There is no known photo of Edward Baker Lincoln that is definitively identified as Lincoln's second son. It is these six very important photographs from the collection that went missing.

9. We realized the photographs were missing at a meeting of the staff who were reviewing and working to preserve the collection. That meeting was between Yager Larson, Brize Norton and me over lunch one day. I said, "Let's pull out those six photos and see if we can get a better look at the person who could be Lincoln in the upstairs window." I remember that Yager Larson walked to the case that should have contained the photos but Brize Norton interrupted and said, "Can we do lunch first? I'm absolutely famished today for some reason." I thought that sounded a bit odd as it was only a little after 11:00 a.m. at the time, but I agreed. Norton exited the building very quickly and didn't return that afternoon. He/She called and said that something hadn't agreed with him/her during lunch and he/she was feeling ill. Norton asked us to wait to look at the photos so he/she could be a part of the work. I agreed and told Yager that we'd wait.

10. That's when Yager told me that the photos weren't where they were supposed to be. We spent the entire afternoon looking through the files to see if they could have been misfiled. They simply were not on the premises. They had vanished. I remember looking at Yager and asking right out, "Could someone have taken them?" Yager said he/she couldn't imagine how, unless it was an inside job. That's when we looked at each other and said at the same time, with questioning tone, "Brize Norton?" We wondered if that might be why Brize had rushed out to lunch and hadn't returned. It did look suspicious.

11. Yager and I spent the rest of the evening that day talking about what to do. We were angry, hurt, confused and more than a little afraid. The entire collection had been entrusted to us and we had somehow failed. That's when I remembered that we hadn't done a background check on Brize Norton before accepting him/her on the project. Yager and I decided between us not to mention the missing photos to Brize Norton and to act like nothing had happened. What we did

decide to do was call Foley Roberts, a mutual friend of ours who worked in the State's Attorney's office. Foley came over that same evening and we told him/her our suspicions. Foley had years of experience as an investigator for the State's Attorney's Investigations Unit. Foley called his/her boss, explained the situation, and we got approval that same evening to have Foley go under cover and work with us to see what we could find out.

12. Rather than openly confront Brize Norton, we decided to keep this amongst the three of us and monitor Brize Norton's activities. One of the missing photographs could have been immensely valuable as it was of the outside front of the Lincoln home and showed in an upstairs bedroom, which was Lincoln's bedroom on the second floor, northwest corner of the house, an image that is quite probably Lincoln's head and shoulders in the window. A Lincoln photo that hasn't been seen or published for years would be utterly fantastic and to have found it in the Cook collection at Summer Hills is quite simply breathtaking. We thought that it was very possible that Brize Norton had caved in to temptation and might try to sell that particular photograph.

13. Foley Roberts was from a community about 20 miles away and worked in the State's Attorney's office in a neighboring county. We were relatively sure that neither Brize Norton nor Hollis Burke would recognize Roberts so we "retained" Foley to become another "researcher," under the auspices of completing the program in time for Lincoln's birthday in 2011. Roberts was to ingratiate him/herself with the others and to watch. Roberts stepped into the role quite well and began assisting Brize Norton in cataloging the items from the Cook collection.

14. We had at the initiation of the project established that either Yager Larson or I would undertake the initial review of each document, would do whatever preservation work needed to be done, and then insert the item into its protective sleeve. After this was accomplished we would dictate our findings and give a brief description of the item to Brize Norton to catalog. Norton was also assigned the task of fleshing out our description of the item, setting it into an appropriate historical context and noting suggestions for display themes. For instance, all the photographs of Lincoln's neighbors could be displayed in one feature showing at the Society and Library, or all the photographs of the Lincoln neighborhood could be shown as a featured display. Norton was good at suggesting themes and even listed speakers we could invite to discuss some of the items.

15. We were able to review security code entries and found that Brize Norton had been in the building alone on at least three occasions, and this was confirmed when we checked the outdoor security camera tapes. Each time Norton had his/her briefcase with him/her so could easily have concealed the photographs. This was enough to obtain the search warrant from the State's Attorney. They found all six photographs at Norton's apartment. They were, thankfully, still in good condition and had not been harmed. Norton had, evidently, been preparing them for sale via an auction site. The search warrant allowed a search of Norton's computer and they found a note to someone identified as K.G. I believe the police are aware of who K.G. is.

16. It's a tremendous pity that Norton caved in to temptation. We went public with this because we wanted our experience to serve as a warning to other historians. You cannot be too careful.

*McKay Davis*

## **JURY INSTRUCTIONS**

### **2.02 - Information—Indictment—Complaint Not Evidence**

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

### **3.13 - Impeachment—Defendant—Offenses**

Evidence of a defendant's previous conviction of an offense may be considered by you only as it may affect his/her believability as a witness and must not be considered by you as evidence of his/her guilt of the offense with which he/she is charged.

### **3.16 - Evidence Of Defendant's Reputation**

The defendant has introduced evidence of his/her reputation for truth and veracity, morality, or honesty and integrity. This evidence may be sufficient when considered with the other evidence in the case to raise a reasonable doubt of the defendant's guilt. However, if from all the evidence in the case you are satisfied beyond a reasonable doubt of the defendant's guilt, then it is your duty to find him guilty, even though he/she may have a good reputation for truth and veracity, morality, or honesty and integrity.

### **5.01A - Intent**

A person acts with intent to accomplish a result or engage in conduct his/her conscious objective or purpose is to accomplish that result or engage in that conduct.

### **13.03 – Theft By Unauthorized Control Of Property Exceeding \$300 In Value**

A person commits the offense of theft of property exceeding \$300 in value when that person obtains or exerts unauthorized control over property exceeding \$300 in value and

[1] intends to deprive the owner permanently of the use or benefit of the property; [or]

[2] knowingly uses or conceals the property in such manner as to deprive the owner permanently of its use or benefit; [or]

[3] uses or conceals the property knowing that such use or concealment probably will deprive the owner permanently of such use or benefit.

### **13.04 – Issues In Theft By Unauthorized Control Of Property Exceeding \$300 In Value**

To sustain the charge of theft of property exceeding \$300 in value, the State must prove the following propositions:

First Proposition: That Summer Hills Historical Society and Library Association was the owner of the property in question; and

Second Proposition: That the defendant knowingly obtained or exerted unauthorized control over the property in question; and

Third Proposition: That the defendant intended to deprive the owner thereof permanently of the use or benefit of that property; [or]

That the defendant knowingly used or concealed the property in question in such manner as to deprive the owner thereof permanently of the use or benefit of that property; [or]

That the defendant used or concealed the property in question knowing that such use or concealment probably will deprive the owner thereof permanently of the use or benefit of that property; And

Fourth Proposition: That the property in question exceeded \$300 in value.

### **13.33 – Definition Of Property**

The word “property” means anything of value. Property includes photographs.

### **13.33A – Definition Of Owner**

The word “owner” means a person, other than the defendant, who has possession of or any other interest in the property involved, and without whose consent the defendant has no authority to exert control over the property.

### **13.33D – Definition Of Obtains Or Exerts Control**

The phrase “obtains or exerts control” includes, but is not limited to, the taking of, carrying away of, or possession of property.

#### **14.09 - Burglary—Authorized Entry But Unauthorized Remaining Within**

A person commits the offense of burglary when he/she knowingly enters with authority a building or any part thereof and thereafter without authority remains within that building or any part thereof with intent to commit therein the offense of theft.

#### **14.10 - Issues In Burglary—Authorized Entry But Unauthorized Remaining Within**

To sustain the charge of burglary by remaining within a building, the State must prove the following propositions:

First Proposition: That the defendant knowingly entered a building or any part thereof; and

Second Proposition: That the defendant did so with authority; and

Third Proposition: That the defendant thereafter, without authority, knowingly remained within that building; and

Fourth Proposition: That the defendant remained within that building with the intent to commit therein the offense of theft.

#### **Rule of Evidence 404. Character Evidence not Admissible to Prove Conduct; Exception; Character Evidence Generally.**

Evidence of a person's character or a trait of character is not admissible for the purpose of proving action in conformity therewith on a particular occasion, except the Character of the Accused. In a criminal case, evidence of a pertinent trait of character offered by an accused, or by the prosecution to rebut the same.

***Foley Roberts, Investigator, State's Attorney's Investigative Unit, Prosecution Witness***

1. My name is Foley Roberts; I have twelve years of experience with the State's Attorney's Investigative Unit. My primary responsibilities include background checks, and investigating people who are involved in crimes for the State's Attorney's Office. I have a degree in law enforcement and have undergone police training at the Officers Training Academy. I'm a licensed private investigator. I've helped apprehend a broad range of criminals while working with the State's Attorney's Investigative Unit and I'm particularly good at fitting in as an under cover agent.
2. I got a call early one evening from my friend, McKay Davis, whom I've known for a number of years. McKay was very upset and that's unusual. McKay is one of the calmest, most professional people I know. Davis asked that I come directly to the Historical Society in Summer Hills.
3. I went to Summer Hills and met with McKay Davis and Yager Larson, who has been working with McKay on the Cook legacy that was left to the Summer Hills historical society. They indicated to me that six photographs from the Cook collection were missing and they were confident that they had not been misplaced. They felt that one of their co-workers, Brize Norton, may have been responsible for the removal of the photographs, which were, according to both Davis and Larson, virtually priceless if authenticated.
4. I met informally with McKay Davis and Yager Larson, got their background stories and agreed to speak with the State's Attorney to seek permission to investigate. I then explained the routine procedures any under cover investigation would follow. This would include a full background check on Brize Norton. Davis and Larson were concerned that it had not been done because all were known to each other and had excellent reputations within the community.
5. The whole area knows about this tremendous historical find and has been reading periodic reports about the progress being made in the local newspaper. I was happy to accept this investigation because I love history and admire Abraham Lincoln. I agree that our history needs to be preserved and displayed so the public can learn from our past.
6. Davis and Larson didn't want to think it was possible that someone on the inside was responsible for the possible theft of these documents, but I noted a few interesting facts and they agreed that Brize Norton was a very good candidate for prime suspect.
7. First, there was absolutely no sign that any of the documents either in the files or waiting to be filed had been rifled or disturbed in any way. This really indicated to me that someone on the inside had undertaken the removal of the documents.
8. Second, there was no sign of a break in. There is an alarm system on the building that had never been tripped.
9. Third, no background checks had been done and I told them I was going to run checks on everyone who had any involvement in the project and both Davis and Larson agreed without

question. I wasn't surprised when one of my resources came up with an interesting record from way back...Brize Norton had a conviction for petty theft on his/her record. Background checks on McKay Davis, Yager Larson and Hollis Burke all came back clean.

10. I was a little surprised that someone like Brize Norton had not bothered to expunge this from his/her record, though he/she could have done so. The record showed an allegation that Norton had in a college file that he/she had plagiarized a paper, copying extensively from a thesis in the college's archives. These were red flags that made me start to think that the job really could have been internal.

11. I noted that there were security cameras outside of the building that show all the doors and windows. I was told that they had been installed for when the building opened to the public. The tapes from these cameras show Brize Norton entering the building on three separate evenings, after hours, when all others had left the building. The alarm system reports confirm this. Everyone had a key to the building and everyone knew the security codes to disarm the alarm system. This concerned me but then McKay Davis said that each person with security access had their own security code so could easily be able to determine when everyone entered or left the building, which is what led to suspecting Brize Norton.

12. Norton was the only person who was routinely in the Cook house alone. Norton had opportunity when no one else did. Given the significance of the missing items, that was enough to sway the judge. I got the search warrant and was able to search Brize Norton's car, home, computer, cell phone records and briefcase. I was accompanied by two police officers from Summer Hill. When we found the evidence that should convict Brize Norton, the police officers immediately arrested Norton and read the Miranda warning. Norton never uttered a single word during the entire arrest and booking.

13. We were able to identify the recipient of the e-mail note from Brize Norton mentioning the six historically significant documents. K. G. is Kasten Green, a well known dealer in historical documents and photographs. Kasten Green has responded to a defense witness stating that Brize Norton sent six valueless photographs to her for review. What better way to try to prove one's innocence? That note is telling and Brize Norton knew we'd find it so he/she covered his/her tracks by sending Kasten Green those worthless photos. It's an obvious ploy to discredit the evidence we have that there was intent to sell those Lincoln photos.

14. I was in contact with museums, Lincoln scholars, private Lincoln collectors, auction houses, and I'd monitored the on-line auction sites often to ensure that none of the photos that had gone missing from the collection had been offered for sale or discussed. There was no "chatter" relating to the photos. Brize Norton was keeping things very quiet. But, any good thief knows to let things cool down before trying to fence an item or items. Norton was waiting, and we were able to find the documents in good condition. They are safely returned to the collection.

15. Some people may ask what the harm is if someone "borrows" and intends to return a valuable item. No one was physically hurt, but people like this are messing with our historical documents, the items that were touched by or written by or that capture the essence of our national heroes. That's the harm, and it's tremendous. And, where's the proof that Brize Norton

ever really intended to return those photographs? There is none. All we have is an e-mail note to a known seller of historical documents that Norton had something of tremendous value and wanted to meet in secret to discuss a way to sell them!

*Foley Roberts*

*Yager Larson*, Curator of the Summer Hills Historical Society and Library Association.

1. My name is Yager Larson and I am the Curator of the Summer Hills Historical Society and Library Association. In my position, I am in charge of locating, authenticating, cataloging, purchasing and/or selling appropriate materials for the Historical Society arm of the Society. We had a small museum that was located in a wing of the city's library that was full of items donated from local families. Our city was founded in the early 1800's and because we are a river town, we've had quite a few notable visitors including Samuel Clemons, Abraham Lincoln, Carl Sandburg, Vachel Lindsay and many others important to Illinois history. Our collection was relatively small compared to some other locations, but our citizens are enthusiastic supporters and everyone was thrilled when the Cook Collection came our way.

2. I worked along side McKay Davis and the others in organizing the Cook donations. I shared the duty of cleaning and preserving the documents in the Cook collection with McKay Davis. I've had a close working relationship with McKay Davis for over 10 years. We share the same love of history and respect for archive materials. We have in common our firmly held belief in preserving items for future generations and believe that important historical documents should remain in the public domain rather than in private hands. Our history is something in which we should have immense pride and it should be on public display rather than secreted in vaults whenever and wherever possible.

3. Even with the precaution of giving each of us our own security codes, there were probably numerous other ways documents could have been taken without anyone realizing they were missing until it was too late. For instance, we all were aware when Brize Norton joined the staff that he/she was well known for his/her affection for his/her briefcase. It was like it was an extension of him/her. It carried lunch, reading materials, cell phone, and a plethora of flotsam no sane person would keep, but it was all important to Norton. Norton was positively weird about anyone touching the briefcase. I tried to move it off a chair so an invited guest could sit down once and Norton jumped out of his/her chair and grabbed it, checked to see if it was securely closed and made a big deal about gently placing it under his/her chair. It was almost like it was Norton's pet.

4. I remember that day specifically, it was July 1, 2010. I remember that because we had been commenting that it was Canada Day on the calendar and we were chatting about historical documents that might be found in Canada that would be comparable to what we have here. Our invited guest was the Mayor of Summer Hill, DeJong Eves, who had been invited to the Cook house to see how we were progressing. Mayor Eves would be presiding over the unveiling of the collection when our work was complete. Maybe that was about when the documents went missing. Maybe they were in the briefcase when Norton made such a big deal about me touching it. I know Mayor Eves had no direct access to any of the documents and was only told about our procedures and was given an estimate of when the work would be completed.

5. We realized the photographs were missing at a routine staff meeting. I was meeting with Brize Norton and McKay Davis over lunch that day. That's when McKay asked us to pull out the six Lincoln-related photos. Davis wanted to get a better look at the photo of the Lincoln home that showed a person who might be Mr. Lincoln in the upstairs bedroom window. When

McKay said those were the photos he/she wanted specifically to review, Norton interrupted and said, "Can we do lunch first? I'm absolutely famished today for some reason." It was only a little after 11:00 a.m. at the time, but everyone agreed. Norton left pretty abruptly and didn't come back after the lunch hour. McKay said that Norton had called saying that something hadn't agreed with him/her during lunch and he/she was feeling ill. McKay said that Norton had pretty much begged us to wait to look at the photos so he/she could be a part of the work. So I thought we'd wait.

6. That's when I decided to check the files where the photos were supposed to be...and they weren't there. I immediately notified McKay Davis and we spent the entire afternoon looking through the files to see if they could have been misfiled. We didn't find them. I remember McKay looking at me and asking right out, "Could someone have taken them?" I said that I couldn't imagine how, but then I paused and said, "Unless it was an inside job." That's when we said almost in unison, "Brize Norton?" Norton leaving so abruptly and not returning after lunch when he/she knew we were going to be looking at those specific files looked pretty suspicious.

7. McKay Davis and I spent a lot of time that evening talking about what to do. We were both so angry, but we were also afraid, confused and really hurt that our trust could have been breached by someone we'd worked so closely with. The entire collection had been entrusted to all of us and we worried that if this went public the entire project would be questioned and we'd be seen as failures.

8. That's when McKay mentioned that we hadn't done a background check on Brize Norton before taking him/her on with us to help with the project. That's when we decided not to mention the missing photos to Brize Norton and to act like nothing had happened. We decided to call Foley Roberts, at the State's Attorney's office and get some advice on how to proceed. Foley came over that same evening and Foley listened as we related our suspicions.

9. Foley was very reassuring and we decided to ask him/her to come on staff sort of under cover to help us. It was really a pretty daring thing to do, I suppose. I remember hoping that we weren't jeopardizing anything by not going right over to Norton's to confront him/her and ask about the photos directly. But, Foley thought this was a better way. And, if Brize Norton had stolen those photographs, I guess I really wanted to see him/her punished for it. The one consoling thought we had was the knowledge that Brize Norton would take good care of the property...but we knew we had to get it back before it could be sold!

10. Normal procedures we'd follow if we noticed that an archive item was missing would have been to search the immediate area; call law enforcement and provide a photocopy of the original item to give to the authorities; interview all staff with access to the area; inventory the entire collection to determine if other items were missing; and try to accurately determine when the item was last seen. Waiting could potentially have damaged the items, especially if they were stored in an adverse climate. Because we suspected Brize Norton, we felt that the photographs would be cared for while out of our possession. Brize has a sense of history that we were relying upon. But, we knew we had to act quickly to recover them before they could be sold.

11. We kept a constant watch on all the websites that routinely offer Lincoln related items. From e-Bay to less well known on-line auction sites. We also watched for press releases that would have been generated announcing the Lincoln find. There were none. Not one Lincoln scholar that we knew of had been approached to determine authenticity; not one museum released information about a new find; not one private collector that we'd heard from had received information about the items. Foley checked everything, everywhere, everyone. We were and are absolutely confident that Brize Norton was fully and solely responsible for this theft.

*Yager Larson*

## **Witness Affidavits For the Defense: *Brize Norton***

1. My name is Brize Norton. I am the owner and operator of Wonderland Archives, a used bookstore concentrating in out-of-print, historically significant books, prints, maps and photographs. I was a history major for both my undergraduate and Master's degrees and I've a long employment history working at museums and historic properties. My reputation has never been questioned. My intent has always been to preserve history and make it come alive for the citizens of this great country.
2. My primary source for the materials for sale at Wonderland Archives is through private sales from patrons or items I have purchased from local auctions and estate sales. I admit that I love owning pieces of history, especially anything local or considered to be significant. I am the proud owner of a number of Lincoln era items, but nothing actually owned by Lincoln himself.
3. I was thrilled when my offer to assist with the Cook collection was accepted. I knew both McKay Davis and Yager Larson personally and by reputation. I couldn't say that we were good friends, but we were certainly familiar with each other's work and had respect for one another.
4. I had permission to enter the Cook house after hours; we all did. I would never breach that trust. I enjoy my work and have no spouse or significant other, so I liked coming to work on weekends and after hours. I looked at this as an opportunity to build my resume, not destroy my career. I was diligent in my work. I took great care and great pride in the tasks I was given. I wanted my name to be in the history books as one of the people who helped preserve this collection. I would never, ever, jeopardize a historical document by taking it from where it belongs and exposing it to the elements, or possible theft. I turned off lights, locked doors, set alarms, and did everything and more than I was supposed to do on that job and all I got was a big fat accusation with no opportunity to explain.
5. I thought the people I worked with were like me, serious historians who loved their work. Now I think that I'm taking the blame for this entire scenario without being heard. I feel like I explain and talk and no one listens to my side of the story. Everyone accuses me of theft, but all I did was borrow those photographs. My sole intent was to identify that person in the bedroom window of the Lincoln home. My only crime was in wanting to be the person who was able to confirm that it was, indeed, Abraham Lincoln. I didn't want to profit from it, other than to have my name in the archive along side Mr. Lincoln's.
6. I never intended to steal any items from the collection. I'm not a thief. I'm a committed worker with an avid interest in what we're doing...and I wanted to keep up with my work. To prove theft and the intent to defraud, doesn't there need to be a clear intent to permanently retain an item? Shouldn't there need to be solid proof that I intended to defraud or profit? There can't be any solid proof because that was never my intent.
7. I guess this is my only opportunity to clearly state my case so I'll try again. The police haven't listened, McKay and Yager aren't interested in listening. I think they just want me to be guilty because it will make them look like heroes. They will have "saved the collection." It was never in jeopardy, I tell you.

8. I'm an avid photographer and have been for years. I own quite a bit of top-of-the-line photographic equipment which is set up at my home. It's of far better quality and can enlarge and enhance photographs much better than the stuff at the Cook house.

9. I desperately wanted to be the one to identify that person in the Lincoln home photo. It was all I could think about. Rather than let this interfere with my work, I would go back to the Cook house in the evenings, I think I went there two or three times, and I brought with me magnifying glasses in various strengths to see if I could identify the person. This just made the image larger and fuzzier. What I really needed to do was scan the photograph and digitally enhance it to clarify the features. I recently learned how to do this at a class I took in California. They are so cutting edge out there.

10. I didn't bother to ask for permission to take the Lincoln photos to my home to see if the could be digitally enhanced because I knew the answer would be no. I realize that I took a chance at being apprehended, but I honestly thought the others would thank me when I could prove that the image of Lincoln in the upstairs bedroom was really him, and not someone else. I was able to do that...and no one has offered any thanks.

11. Those photos were all in one file, all in their protective sheets, all sealed and protected. They never left my possession or sight. I took them out of the building in my briefcase and I keep my briefcase with me at all times. I was about one step from having it handcuffed to my wrist. I got the photos to my apartment and worked on the digital scan and enhancement all weekend. Before I had the chance to announce my discovery, the police were at my door with a search warrant. I was absolutely speechless. I didn't know then that McKay and Yager had discovered that the photos were missing. I can hardly believe that they waited so long to confront me. I had those photos for over two weeks because I was trying to find a way to let them know that I'd discovered that the one photo was of Lincoln and return them to the collection without being discovered. I hadn't thought that part through very well, I guess.

12. I remember that day they suggested we all look at them; I had a bit of a panic attack. I'd taken them the day before and they were in my briefcase under our feet. I said I needed lunch and then called off sick that afternoon. I guess I should have admitted what I'd done right then and there, but I thought if I could prove that the one photo was really of Lincoln, they'd thank me and think I was remarkably resourceful and almost a hero. I mean, that would really make the Cook collection more special than it already is.

13. As to that note to the buyer in New York, I was referring to six entirely different items and not to the photos I had borrowed from the Cook collection. There is absolutely nothing in that note that identifies the photographs as those from the Cook collection!

*Brize Norton*

## **Defense Witness, *Hollis Burke***

1. My name is Hollis Burke and I'm here to serve as a character witness for Brize Norton. I work part time on the Cook collection under the supervision of pretty much everyone else. I am currently a graduate student at Lincoln College in Lincoln County, Illinois. My major is history and I'm working on the Cook collection as part of a graduate internship. I got this position by applying to the Summer Hill Historical Society, but I actually applied for the internship at the Cook House because I'd heard that Brize Norton was working there. I've shopped for some time at Norton's bookstore, Wonderland Archives, and have come to be friends with Norton.

2. Brize Norton is, in my mind, a rare find in the historical and archival worlds as he/she is incredibly careful and diligent about all the documents and security, etc. And I know it is Brize Norton's dream to find a Lincoln document and be part of the discovery because Brize talked about it all of the time. This job is Norton's dream come true, and mine too.

3. I am absolutely confident that Norton would never do anything to jeopardize an important document or item, especially if it related in any way to Abraham Lincoln, one of Norton's heroes. Norton spoke almost every day I was there about the significance of this collection and how it may impact history on the local and national level, especially as it has the photo of the person who could be Lincoln sitting at his desk in his bedroom. It could be a photograph taken of Lincoln as he crafted one of his more notable speeches. We'll never know that but Norton and I had fun speculating. What could Lincoln have been reading; a book, a telegram, a letter; what could he have been writing, was it a speech or a letter, political or personal? We knew it was impossible to tell, but it was fun speculating. Sort of a personal challenge between us...who could think of the most historically significant possibility.

4. Brize Norton never once mentioned to me anything about taking those photos. All Brize spoke about was the collection and authenticating the documents, papers and photos so the public could enjoy the work.

5. At least once every time I worked there Brize Norton would mention that one photograph, the Lincoln home with the possible Lincoln in the bedroom window. I wouldn't say Norton was obsessed with that picture, but he/she sure was anxious to enlarge it and see who that image represented. He was always reaching into his briefcase and pulling out magnifying glasses to examine the photographs.

6. Brize was one of the most careful people I know. Proud of his/her work. Norton would check everything once, twice, even three times for accuracy. And could he/she write! Each item we catalogued had a description of the item, where it had been found, it was dated and labeled, and Norton's specific duties included suggesting ways to present the item in a coordinated museum presentation. Norton would have the most fantastic ideas about how to bring the collection alive.

7. The one thing that was a true disappointment in the collection was that there was no photograph of Mrs. Sarah Cook. She was a mystery to us. We would all have loved to have

discovered a self portrait of her in the collection, but if she's in there, she failed to identify herself.

We know that she was about 10 days older than Abraham Lincoln and we'd often sit and wonder if they had talked, traded neighborhood stories, shared stories about their children, etc. I guess this has nothing to do with the case at hand, but it shows how serious a student of history Brize Norton was. Everything in his/her life seemed to revolve around preserving history for the future.

8. I know that Brize Norton was also a bit proud and was looking forward to the formal announcements regarding the collection and the "grand opening" of the museum displays because his/her name would be in print. I think Norton enjoyed the proximity to fame; I think we all do. I know I'm tremendously proud of being part of the Cook project. Being this close to anything having to do with Abraham Lincoln can make things go to your head a bit. Lincoln is such an American icon. I'm glad I got to be a part of the Cook project but I'm sure sorry that there's this awful misunderstanding about what Brize Norton says he/she was trying to do.

9. I firmly believe and would swear that there isn't a larcenous bone in Brize Norton's body and that every action taken by him/her was to advance the collection and benefit the Summer Hills Historical Society and Library Association.

10. Isn't there a difference between borrowing and theft? I actually looked that up in the dictionary.

Borrowing is when you take something with the promise or intent to return the item...stealing or theft is the wrongful taking away of a person's goods or property. I guess taking the photographs was "wrongful" but there was also the intent to return the item. This is all so confusing. I'm disappointed that Brize Norton is being so misunderstood. I can't imagine how this all got so out of hand.

11. It's a terrible thing to ruin someone's reputation and that's what's happening to Brize Norton. There was no permanent harm. There was no intent to steal...I'm sure of it.

*Hollis Burke*

**Defense Witness *Quinn Barringer*, Owner Operator of Barringer's Books**

1. My name is Quinn Barringer. I am the principal owner and operator of Barringer's Books in Summer Hill, Illinois. My shop specializes in historical documents, books, maps and photographs. I've been in business for over 12 years. I have a Ph.D. in History, with a concentration in archiving and preservation.

2. I have in the past few years purchased numerous items from Brize Norton and Norton always provides credible and reliable authentication on the provenance of items he/she sells. Norton has always documented sales with extremely accurate and specific lines of ownership, with tremendous background information on every item available in his/her shop, Wonderland Archives. I firmly believe that Norton's respect for history and preservation would never be compromised by temptation to own an item that was of historical significance.

3. My question to those who are accusing Brize Norton would be why would someone of Norton's reputation want to own something that he/she had stolen? Part of the pride of ownership is being able to share your item with others, display it, revel in the fact that you have preserved a part of history and are willing to share it. You can't do that with a stolen item. It must remain hidden for years, generations even. It makes no sense. I have heard of stolen paintings that languish in private vaults for generations and then the owners try to sell and the family faces allegations of fraud and deception.

4. There's the lesson learned during World War II when the Nazi personnel confiscated countless works of art worth millions from the citizens of the countries they conquered. We're still seeing those items returned to their rightful owners and it's always the thieves, and the people who ended up buying the items from the thieves, who end up paying with their reputations. I don't see Brize Norton becoming a part of something like that.

5. I am a firm believer in logic and there is no logic in this case. In this day and age, there is extensive interest and competition in the Lincoln field, and Internet auction sites are carefully monitored. Serious buyers are always willing to pay exorbitant sums when items are appropriately documented and authenticated, but they would not touch an item so blatantly stolen. The minute the media gets hold of a story, the property has to go underground for generations. There's no profit in this kind of theft.

6. My "silent partner" is the mysterious KG referred to in Brize Norton's confiscated e-mail. KG is Kasten Green, who is not available to testify; however, I have a note from Ms. Green, who is currently working at the University of London. She is appalled that Norton's actions have called into question her reputation and mine. We run a clean business and will continue to do so.

7. Ms. Green is unavailable to testify so I will read from her letter, which has been stipulated to be authentic by both parties, having been read by all involved.

*Dear Quinn: Yes, I did receive an e-mail message from Brize Norton on July 4 regarding six "mysterious" photos. These photographs were worthless as they turned out to be*

*copies. Norton forwarded them to my attention in London via courier in early July after I phoned in response to the e-mail. I have since returned them to Norton. They were worthless. The paper was all wrong. Far too modern to be of interest to any serious buyer. It was my belief, and I communicated this to Brize, that someone had used antique camera equipment and old paper to make copies, but it didn't work very well. The paper was old, but not old enough to match the subjects in the prints. I was surprised that Norton had bothered to ship them to my attention. Norton is amply qualified and should have realized that the items were virtually unsellable. Yours, KG.*

8. The photographs mentioned in Brize Norton's e-mail were not the Lincoln photos; that is evident. They were relatively modern reproductions of relatively unremarkable photographs of Summer Hills locations that would, perhaps, interest a novice collector, but would not be of interest to a serious collector or buyer. I agree with Ms. Green. Norton should have known better, but it's always good in this profession to get a second opinion and Norton and Ms. Green have helped each other for years in assessing and authenticating documents. I know this because Brize Norton has been in my shop numerous times to meet with Ms. Green and I am fully aware of their mutual respect and admiration for each other's works.

9. If Brize Norton succumbed to temptation and borrowed the purported Lincoln photograph to enhance it and prove its authenticity, the Cook project staff should be delighted that the work was done and should certainly not be accusing Brize Norton of thievery.

10. If the authorities are relying on a simple e-mail message between two professionals regarding items that are obviously not those in question, then this case falls within the frivolous category, does it not? Why would you not believe a co-worker who has been so loyal and diligent in his or her work?

11. McKay Davis and Yager Larson should be questioned about their intentions. Are they trying to get Brize Norton out of the picture and take credit for the Lincoln discoveries for themselves? It was, after all Brize Norton who was able to positively identify Lincoln in the one photograph that had everyone so excited. They owe Norton something for that, I would think.

*Quinn Barringer*

## Stipulations

- **The e-mail message found on Brize Norton’s computer is authentic and not in dispute.**
- **Brize Norton entered the building after regular work hours but had permission to do so. There is no “breaking and entering” issue.**
- **The message from K.G. as read in Quinn Barringer’s witness affidavit is authentic.**
- **Tapes from the security cameras were reviewed and show Brize Norton entering the Cook property after hours, alone, with the briefcase. Security codes match the dates and times of the security cameras and are not in dispute.**
- **Each of the six Cook photographs has a value in excess of \$300.00.**
- **Defendant was previously convicted of the crime of petty theft.**
- **As applied to this case, the Illinois statute defining the criminal offense of “theft” is not unconstitutionally void for vagueness.**
- **If the defendant elects to testify in his/her own defense, the defendant would have been given the proper admonishments by the court out of the presence of the jury that the defendant has a right to testify or to not testify and should the defendant elect not to testify the jury would have been instructed that the failure of the defendant to testify is not to be considered by the jury in any way in arriving at its verdict.**

**EXHIBIT A**

**Note discovered on Brize Norton's computer:**

*To: KG*

*From: BN*

*Re: Important Photos*

*I have in my possession six historically significant photographs I would like for you to review, value and assume responsibility for auctioning in New York without me being credited as seller or owner. I would like to remain anonymous. At this time, I am still working on establishing credible provenance but will keep you informed. Would prefer doing this in person as I don't want these particular items out of my possession but will messenger if you deem appropriate. Contact me in the usual manner. Thank you. BN  
e-mail dated July 4, 2010*

## **EXHIBIT B**

The historically significant photographs from the Lincoln series in the Cook Collection:

- *Lincoln Home with possible Lincoln visible in upstairs window.*
- *Undated Lincoln Home with three children seated on bench on side porch, identified as Tad and Willie with an unidentified male child.*
- *Rear of Lincoln Home. Photo shows home across the street from the Lincoln home. Mary Lincoln seated on back porch with hired girl.*
- *Fair haired girl child with child identified as Willie Lincoln, marked as "1859, Rose Whipp." Children are seated on the Lincoln home front steps.*
- *Side view of Lincoln Home dated 1860. Child looking out of upstairs window. Possibly Willie.*
- *Front view of Lincoln home with dog on front step. Dog identified as Lincoln's dog Fido.*

## Exhibit C

*Dear Quinn: Yes, I did receive an e-mail message from BN on July 4 regarding six "mysterious" photos. These photographs were worthless as they turned out to be ill made copies. Norton forwarded them to my attention in London via courier in early July after I phoned in response to the e-mail. I have since returned them to Norton. Again, they were utterly worthless. The paper was all wrong. Far too modern to be of interest to any serious buyer. It was my belief, and I communicated this to Brize, that someone had used antique camera equipment and old paper to make copies, but it didn't work very well. The paper was old, but not old enough to match the subjects in the prints. I was surprised that Norton had bothered to ship them to my attention. Norton is amply qualified and should have realized that the items were virtually unsellable. Yours, KG.*

*None of the photographs described in this mock trial scenario are known to exist. If you have a photograph of the Lincoln Home neighborhood taken prior to the 1950's, the National Park Service might be interested in receiving a copy for their archives. Do not send original photographs. Have a copy made and write a note including donor name, name or names of those pictured, date the photograph was taken. Send to the Lincoln Home National Historic Site, Curatorial Staff, 413 South 8<sup>th</sup> Street, Springfield, Illinois 6270; or e-mail to [liho\\_superintendent@nps.gov](mailto:liho_superintendent@nps.gov)*

***Special Thank You to Susan Haake, Curator at the Lincoln Home National Historic Site in Springfield, Illinois, for her assistance in proofing the document to make sure all the curatorial references are as accurate as possible. Any errors are the Committee's and not Susan's.***

**Bibliography:**

*Care and Identification of 19<sup>th</sup> Century Photographic Prints*, by James M. Reilly. Eastman Kodak Company, 1986.

*Conservation of Photographs*, Eastman Kodak Company, 1985.



**Historical Note:** *While Mrs. Sarah Cook did exist, the remainder of this fact pattern is a work of fiction.*

*Mrs. Sarah Cook (Born February 2, 1809, died August 4, 1893) was a widow. She lived in Lincoln's neighborhood in 1860-61. She did run a photographic studio in Springfield, probably from her home. She is buried at Oak Ridge Cemetery in Springfield, Illinois (Block 14, Lot 94). There is no known record of Lincoln photographs taken by Mrs. Cook. There is no known photograph of Mrs. Sarah Cook.*

*In an 1855 edition of a Springfield newspaper, an advertisement ran for Mrs. Cook's photographic studio with its "splendid Camera, beautiful stock, and the best light in the city."*

*Mrs. Cook's son was said to have helped Robert Lincoln with the Lincoln's horse and buggy so Mrs. Cook could use them when needed.*

*The Cook house in Lincoln's neighborhood was full. There were five Cook family members and two boarders living there in the early 1860's.*

*View Mrs. Cook's home in Lincoln's neighborhood*  
<http://www.springfield.il.us/commissions/histsites/CookHouse.asp>

### Classroom Discussion Questions:

- Discuss the differences between “borrowing” and “stealing” an item. Can an item be “stolen” if it is ultimately returned? Can an item be “borrowed” if there is no intent to return?
- Were the photographs appropriated for a good reason, to try to identify if one of the images was of Abraham Lincoln?
- Does the fact that Brize Norton was able to confirm that the image was of Abraham Lincoln make the taking the photographs without permission any less serious?
- There is no *Miranda* issue in this case; nor is there any allegation of entrapment. Given the information in the witness affidavits, could Brize Norton have effectively argued that he/she had been set up to take the fall for the theft of the photographs because Foley Roberts went under cover and “spied” on the suspect?
- How should Brize Norton be punished if found guilty of theft and intent to defraud?
- Would the fact that none of the six valuable Lincoln-related photographs were harmed in any way affect the punishment Norton may receive?
- This case scenario depicts Mrs. Cook taking photographs of the Lincoln home and Lincoln’s children presumably without permission. At the time the photos were taken, Mr. Lincoln was an elected official and may have been running for President or already elected. Should Mrs. Cook have sought Mr. or Mrs. Lincoln’s permission prior to taking photographs of the Lincoln children and Lincoln home? Why or why not?
- If you located or inherited an important item of historic value, such as a document or photograph, would you want to keep it? Would you sell it? Would you donate it to a library or museum collection? Would it depend on the monetary value of the item or the historic value? Would it depend on who had left the item to you? Does sentimental value outweigh monetary value?
- Should either McKay Davis or Yager Larson accept any responsibility for the missing photos as they had indicated that staff was not prohibited from entering the Cook property after hours or alone?
- Are McKay Davis and Yager Larson at all responsible for the theft because they neglected to perform background checks on those they hired for the project?
- If a background check had been done and Brize Norton’s petty theft and plagiarism records had been found, should Norton have been hired? Why or why not?