



# **Kilpatrick Townsend 1L Mock Trial Competition**

*United States of America v. Luke Clark*

Friday, January 20, 2023 — Sunday, January 22, 2023

*Hosted by the Broun National Trial Team at the University of  
North Carolina School of Law*

## COMPETITION FACT PATTERN

*This fact pattern is entirely fictional and any resemblance to a real person or event is coincidental.*

## CASE SUMMARY

The case for this competition is *United States of America v. Luke Clark*. This is a criminal case in which the defendant is accused of arson. The alleged arson took place in Wilson, North Carolina. The Government witnesses are Madison McCorvey, a United States Marshal, and Kate Francois, a Federal Fire Investigator for the United States Fire Administration. The Defense's witnesses are the Defendant, Luke Clark, and Billy von Nyssen, the president of the business club that the defendant belongs to. Clark asserts an alibi, claiming to have been at the Dewitte Business Club party the night of the arson.

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## STIPULATIONS

The Anna Meekins Federal Courthouse was vacant for routine repairs during the month of September, 2021. The United States Marshals, who normally are responsible for the security of federal courthouses across the country, were also responsible for the security of the courthouse during the period of the repairs. They installed an eight-foot chain-link fence on the outer perimeter of the grounds for added security during the duration of repairs. Regular security measures already in place included:

- Video cameras
- Camera recording equipment
- Camera monitors—two high definition, split-screen televisions; ten camera views available on each monitor—two large views and eight smaller views
- Perimeter infrared beams system
- Fire alarms
- Smoke alarms
- Smoke detectors
- Concrete and wrought-iron fence
- Eight foot chain-link fence covered with a green tarp so that it wasn't possible to see inside the mansion grounds from the outside.

Federal Fire Investigators are the chief investigators in for cases of arson occurring on federal property. By statutory authority, the Federal Fire Investigators spearhead Federal arson investigations with the assistance of the FBI. Videos taken by security cameras show a figure going over a barricade wall and entering the mansion grounds. Later, someone is shown throwing something at the front porch, and then a burst of flames can be seen on the video. An anonymous tip pointed the U.S. Marshals and the FBI towards the Dewitte Business Club at McGee University. After investigating the crime, Luke Clark was arrested for the crime of arson.

Additional stipulations:

1. All exhibits are authentic and accurate. Proper foundation must be laid, but no material dispute as to authenticity will be permitted. All photographs are proper duplicates or representatives of the physical versions of each piece of evidence.
2. All signatures are authentic and belong to the person named below the signature. Any witness must attest to the authenticity of any signature bearing their name when asked.
3. The FBI, United States Marshal McCorvey, and Federal Fire Investigator Francois have had continuous and proper custody of all physical and documentary evidence from the date indicated on the chain of custody.
4. The arson of Anna Meekins Federal Courthouse occurred within the special maritime and territorial jurisdiction of the United States. Venue is proper within the Eastern District of North Carolina.
5. No evidence in this case was obtained in violation of the Constitution or the laws of the United States. No evidence is suppressible as violative of the Fourth Amendment, the Defendant's *Miranda* rights, or the Defendant's rights under the Confrontation Clause.

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

No. 8:22-CR-00667-1

UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 LUKE CLARK, )  
 Defendant. )  
 )

**INDICTMENT**

The Grand Jury charges that:

COUNT ONE

That Luke Clark did, within the special maritime and territorial jurisdiction of the United States, unlawfully damage or destroy, by means of fire or an explosive, a building leased, occupied, or owned by an agency or department of the United States government, on or about September 22, 2021, in violation of section 81 of Title 18, United States Code.

\_\_\_\_\_*Kayla Kenney*\_\_\_\_\_

Kayla Kenney

Assistant United States Attorney  
Wilson, North Carolina

A TRUE BILL

\_\_\_\_\_*Sharis Pearson*\_\_\_\_\_

Sharis Pearson  
Foreperson  
October 2, 2021

**UNITED STATES CODE  
TITLE XVIII**

[ ... ]

**§ 81. Arson**

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, or attempts or conspires to do such an act, shall be imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined under this title or imprisoned for any term of years or for life, or both.

[ ... ]

## **JURY INSTRUCTIONS**

### **THE CHARGE OF THE COURT:**

Ladies and gentlemen, now that you have heard the evidence and arguments of counsel, it is my duty to instruct you as to the law applicable to this case. It is your duty as jurors to follow the law as I now instruct you and to apply that law to the facts as you find them from the evidence you have heard. When I say “facts as you find them,” I mean that you, as jurors are charged with the duty to be the fact-finders in this case. You must consider the evidence, weigh and sift it, and reach a decision as to what the facts of this case are from among the versions of the evidence presented by the parties.

When I say my instructions are the law you must follow, I caution you not to isolate any single instruction alone as stating the whole of “the law.” Rather, you must consider all of my instructions together as stating the law that you must apply. It is not your responsibility to be concerned with the wisdom or correctness of any rule of law about which I charge you. Regardless of any personal opinion you may have as to what you think the law ought to be, it is your sworn duty to consider the law as it is. It is further your sworn duty to consider in an impartial and unbiased manner all the evidence presented in order to find facts from the evidence and then apply the law as I have charged you.

Your decision in this case is to be based only on the evidence which you have heard and seen presented during this trial. I will now explain to you what “evidence” means. The evidence in the case consists of the sworn testimony of the witnesses that has been presented and the exhibits that have been received into evidence. You are free to judge the credibility of each witness as he or she testified and to weight that testimony accordingly.

You, members of the jury, are the sole judge of any witness’s credibility and of the weight of his or her testimony. By that I mean you may choose to believe or disbelieve a witness’s testimony. You may be guided in your determination of believability by your everyday experience or by the relation of that testimony to other evidence. You may consider the conduct of the witness, the manner in which they testified, the nature of the testimony given, or the weight of any evidence contrary to that witness’s testimony.

You should pay careful attention to all the testimony given, the manner in which it was given, and the circumstances under which it was given. You may consider a witness’s intelligence, experience, motivations, state of mind, and demeanor. You may also consider the witness’s ability to actually observe the matter to which they testified and the quality of their recollection. When considering contrary testimony, you should consider whether it pertains to an important matter or an insignificant detail. You should evaluate whether this was an innocent error or a deliberate falsehood.

If a witness is discredited or impeached by contrary evidence, you may attach whatever weight, including no weight at all, to their testimony you find appropriate. Evidence in and of itself is also assessed for credibility. Even if you find a witness credible, but you have reason to think the

evidence they have offered is not itself credible, you may attach whatever weight to that evidence you find appropriate.

During your deliberations, as you consider evidence you have seen and heard during the trial, you are permitted to draw reasonable inferences from the facts you find. An inference is a deduction or conclusion which your reason and common-sense leads you to draw from the facts which have been provided to you. This does not mean, however, that you may consider something which has not been presented as evidence. It does not mean that you may simply speculate. Anything you may have seen or heard outside the courtroom is not evidence and must be entirely disregarded.

Furthermore, as I have instructed you throughout the trial, any information to which an objection was made and sustained or which I ordered stricken from the record, must, likewise, be entirely disregarded. It is not evidence in this case, and it would violate your sworn duty as a juror to consider such information as evidence. Also, you should keep in mind that during the course of the trial, I may have instructed you that some evidence is admitted for a limited purpose only. When I have done so, you must consider it only for that limited purpose and no other purpose.

You should understand that the statements and arguments made by the attorneys during the trial are also not evidence. The attorneys are not witnesses. Any statements made by them when questioning a witness suggesting the existence of a fact is not itself evidence. Similarly, the opening and closing statements which each attorney made is not itself evidence.

The matter before you for your deliberation and verdict is a criminal matter. Under the laws of the United States, the defendant, Luke Clark, is presumed to be innocent unless and until the Government has proven his guilt "beyond a reasonable doubt." This burden of proof rests entirely with the Government and the defendant has no duty to prove anything at all. Unless the Government has proven beyond a reasonable doubt each and every element of the crime charged, this defendant is entitled to a verdict of "not guilty."

"Reasonable doubt" is an honest and reasonable uncertainty as to the guilt of this defendant existing in your minds after you have given full, fair, and impartial consideration to all of the evidence.

The Indictment charges the defendant with one count of arson, in violation of Section 81 of Title 18, United States Code. This statute, in relevant part reads:

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, or attempts or conspires to do such an act, shall be imprisoned for not more than 25 years, fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined under this title or imprisoned for any term of years or for life, or both.

The parties in this case have conceded the building, the Anna Meekins Federal Courthouse, is located within the special territorial and maritime jurisdiction of the United States. This element of the crime does not need to be considered or decided by you. In order to find the defendant guilty of arson you must find the following elements of the crime charged:

- 1) The Anna Meekins Federal Courthouse was damaged or destroyed by fire
- 2) The damage and destruction to the Anna Meekins Federal Courthouse was a result of the actions of the defendant.
- 3) The defendant either acted willfully and maliciously; or acted recklessly in setting a fire or setting off an explosion without regard for the safety of other people or property.

If you find, after consideration of all the evidence, the Government has proven, to your satisfaction beyond a reasonable doubt, each of the elements of the offense charged, as I have just explained them to you, then you must find the defendant guilty of arson. On the other hand, if the you find the Government has failed to prove any element beyond a reasonable doubt, then you must find the defendant not guilty of arson. In either event, as this is a criminal case, your verdict must be unanimous.

It is your duty, as jurors, to consult with one another and to deliberate with a view toward reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to reexamine your own views and change your opinion if convinced it is erroneous, but do not surrender your honest conviction as to the weight or effect of the evidence solely because of the opinion of your fellow jurors or for the mere purpose of returning a verdict. You are not partisans; you are judges of the facts.

This completes the instructions and you may now retire to consider your verdict.



## WITNESSES

### Witnesses for the Prosecution:

1. United States Marshal Madison McCorvey
2. Agent Kate Francois, Federal Fire Investigator for the United States Fire Administration

### Witnesses for the Defense:

1. Billy von Nyssen, Dewitte Business Club President
2. Luke Clark, Defendant

**Affidavit of United States Marshal Madison McCorvey:**

I, Madison McCorvey, having been duly sworn, state the following under the penalty of perjury:

I was assigned the night shift to monitor the Anna Meekins Federal Courthouse. I relieved another United States Marshal, Abigail Yates, at 9:48 PM and she told me that everything had been quiet so far. I went upstairs in the Carriage House (above the old garage on the grounds) and sat down at the desk. I checked all camera views at that time and periodically during my four-hour shift. At 1:35 AM, I heard the fire alarm and knew something was wrong. At 1:42 AM I called the Department of Public Service Communications on my personal cell phone, walked outside, and smelled smoke. As I continued to walk as I talked, I saw a glow through the Courthouse's front window. I told the DPS Communications person to call the fire department. At about 1:47 AM, I heard sirens coming from Wynter Lane and went out the back gate to flag down the firemen. However, the fire truck ended up going around the other way, down Manokian Avenue and ending up on Perdew Place.

However, while I was out on Wynter Lane, something caught my eye. I saw a suspicious-looking person walking along the sidewalk, coming from the direction of the north side of the Courthouse and going towards a car that was parked facing west on Carpenter Avenue. This person got into the car—a late-model yellow sports car—and drove rapidly away. I walked to where the car had been parked and I found a cigarette lighter on the ground right next to where the car had been. I put the cigarette lighter into an evidence bag.

The Federal Fire Investigator, Agent Kate Francois, told me that they have evidence that indicates this was an intentionally set fire, so we consider it a criminal act. I reviewed a video taken by the security cameras, and I could clearly see a shadowy figure scaling a barricade wall to get onto the grounds of the mansion. The person, between 5 feet 5 inches and 5 feet 9 inches tall, is wearing a baseball-type cap, a dark shirt, long pants and work gloves. He or she appears to be lighting a glass bottle stuffed with a fuel-soaked rag using a cigarette lighter. The figure is then seen hurling an object at the front porch. Immediately thereafter, a burst of flames can be seen on the video. The intruder's face is not clearly shown on the images.

After several days of investigation, Luke Clark was arrested and charged for the crime of arson. At the time of his arrest, Luke Clark was wearing a baseball cap. As is our standard arrest procedure, he was fingerprinted. While there were fingerprints on the lighter, they were smudged, so the results of fingerprinting analysis came back as inconclusive. However, DMV records indicate that Luke Clark is the owner of a late-model yellow sports car.

Madison McCorvey

Madison McCorvey

Signed before me on this day: October 4, 2021

Meredith Lezcano

Meredith Lezcano, Notary Public

## **Affidavit of Agent Kate Francois, Federal Fire Investigator**

I, Kate Francois, having been duly sworn, state the following under the penalty of perjury:

I am an investigator for the United States Fire Administration and have studied fires for over 15 years, 5 for the state of North Carolina and 12 for the federal government. It has been my experience that arson cases involving public buildings are especially challenging to solve. When we first started investigating this case, we felt that there was great likelihood of it had been committed by someone we'd never heard of, with no connection to the Courthouse. We suspected that it might even have been a gang initiation, someone upset at the Federal Judges who work in the Courthouse, or even someone with political motivation.

I examined several photographs released by the United States Marshals and the FBI affiliated with the Federal Courthouse which show collapsed ceilings, a charred staircase and damaged walls of the Courthouse. An earmark of arson is the V-shaped pattern of black soot on the Courthouse's façade. The bottom of the V-shape is on the front porch, suggesting someone threw a Molotov cocktail, with the flames spreading up and out. I do believe this is a case of arson. During the course of the investigation, I marked a duplicate of a crime scene photograph to better illustrate the V-shape pattern that appears on the front porch of the Anna Meekins Federal Courthouse.

Marshal McCorvey spoke to me on the day of the fire and told us about seeing a suspicious person in the area of the mansion earlier that morning. She described the person and the car which he drove away. We also received an anonymous tip telling us about a meeting of the Dewitte Business Club at McGee University where someone suggested (jokingly) about initiating their new members by making them do "something" to earn their places in the group. They mentioned that the Anna Meekins Federal Courthouse was empty and not in use so that it could be renovated, and that might be a good subject of the hazing.

After investigating these two tips, we were led to Luke Clark, who was a new initiate at the business club meeting and also drove a late model yellow sports car. FBI Special Agent Kayley House, who has been assisting me with this investigation, placed him under arrest,. Because there were fingerprints found on the cigarette lighter on the scene, she also fingerprinted him. However, I believe the fingerprint analysis came back inconclusive due to smudges.

We were also told that the Federal Crime Stoppers had offered a \$50,000 reward for information about this crime.

Agent Kate Francois

Agent Kate Francois, Federal Fire Investigator

Signed before me on this day: October 4, 2021

Meredith Lezcano

Meredith Lezcano, Notary Public

## **KATE FRANCOIS**

411 Taylor Street, Wilson, NC 27896 | (252) 864-7677 | KFrancois@usa.gov

### **EDUCATION**

University of North Carolina – Chapel Hill, North Carolina  
Bachelor of Science, Criminology, 2000  
Cum Laude

### **TRAINING**

Fire and Arson Investigation Certification – Raleigh, North Carolina  
Basic Course, October 2005 – Recertified in all courses in October 2015  
Forensic Fire Certification  
Advanced Evidence Collection Certification

Fundamentals of Fire Investigation – Raleigh, North Carolina  
Basic Course, October 2005 – Recertified in all courses in October 2015  
Evidence Collection and Preservation Certification

Fire Officer I & II Special Training – Raleigh, North Carolina  
Basic Course, August 2005 – Recertified in August 2016

EMT Basic Training – Chapel Hill, North Carolina  
National Registry of Emergency Medical Technicians  
May 2000

### **EXPERIENCE**

Federal Fire Investigator for the United States Fire Administration  
June 2010—Present

Wilson County Fire Marshal  
August 2005—May 2010

Chapel Hill Fire Department – Chapel Hill, North Carolina  
May 2000—August 2005  
Promoted to Driver Engineer in April 2002  
Promoted to Lieutenant in June 2004

**Affidavit of Billy von Nyssen, President of the Dewitte Business Club  
at McGee University.**

I, Billy von Nyssen, having been duly sworn, state the following under the penalty of perjury:

I am the president of the Dewitte Business Club at McGee University. Every spring we initiate juniors who have good grades and records at the college. Luke Clark was one of our initiates this past spring, and I personally have been very impressed with him. He attends every meeting and actively takes part in all business of the organization. He was at the meeting this past June, and I remember some of the senior members joking about requiring some kind of hazing activity for new members. But we would never really do that—it was just talk. Luke is a very intense person who would do anything to please the group. I think he wants to run for office at the end of the year.

I was very shocked when I heard he had been arrested, because I was with Luke earlier that night and he seemed totally normal. That night our club threw a huge party to celebrate the football win earlier in the day. I think there were about 150 people there. We started partying around 10:00 PM. I talked to Luke a few times in passing throughout the night, but I distinctly remember talking to Luke about the game around 1:00 or 1:15 AM. I know our conversation took place around then because some of the football players arrived to the party a few minutes before we started talking and I took a Snapchat video of them coming in that was time-stamped 1:02 AM. I feel like we talked for a while, but I'm not sure exactly how long our conversation was because I was about 7-8 drinks in at that point. It takes about 10 minutes to get to the Courthouse from the house where we threw the party.

An investigator came to me a few days after the Anna Meekins Federal Courthouse was burned down and asked me to provide them a list of those members who were in attendance at our June meeting. Of course I had to do this, and Luke's name was on the list. However, if I thought he had anything to do with this crime, I certainly would have already reported it and earned the \$50,000 reward.

\_\_\_\_\_ *Billy von Nyssen* \_\_\_\_\_

Billy von Nyssen

Signed before me on this day: October 4, 2021

\_\_\_\_\_ *Meredith Lezcano* \_\_\_\_\_

Meredith Lezcano, Notary Public

## Luke Clark's Statement to the FBI and U.S. Fire Administration

This past spring, I was a junior at McGee University majoring in business. I was so happy to be asked to join the Dewitte Business Club that spring, based on my grades and community service, and I am looking forward to not only getting my bachelor's degree in business but also an MBA. Our business club is not like social sororities or fraternities that have initiation and hazing of new members. But at our meeting in June, a couple of the seniors mentioned something about how much fun it would be to order the new initiates to do something "challenging." They also mentioned that the Anna Meekins Federal Courthouse was empty so that it could have deferred maintenance performed. I personally would never take that as a suggestion to go set the Courthouse on fire, but some of the seniors were joking about making the new members do something to "earn our places in the group."

On the night of the September 22, the night of the fire, I was at a party thrown by the Dewitte Business Club after the football team got a huge win. I was there from about 10:00 PM until about 1:30 PM. I'm not exactly sure what time it was when I left, but it was definitely after the football team came in, and then I had a long conversation with Billy von Nyssen, the president of the club, about the football game. At that point, I was tired and I had a headache from all the loud music, so I decided to leave. I hadn't been drinking. I wasn't quite ready to go home yet, and I really wanted some fresh air, so I parked my car downtown to go walk around the courtyard near the Courthouse. I love looking at all the old architecture and the gardens, I go there to walk around all the time. I parked my car, a yellow sports car, on Carpenter Avenue. Then I got out and started to walk east down the sidewalk, towards the corner of Carpenter Ave and Perdue Place, when I heard some alarm going off. It sounded like it was close by, so I decided to leave. I was a little creeped out by it so I ran back to my car and left. I went straight home. I don't have a roommate.

A couple of days later, I was arrested for the crime of arson at the Anna Meekins Federal Courthouse. Was I surprised! By the way, I'm about 6 feet tall. I often wear ball caps, but so do all of my friends. I also do not and never have smoked. I read in a newspaper that a group accused by the FBI of making Molotov cocktails during the Political Party Powers' Conference might be responsible for this crime. I hope they continue the investigation because I did not commit this horrible crime.

I certify that this statement is true, to the best of my knowledge, and that it is given freely and voluntarily.

          Luke Clark            
Luke Clark

          October 1, 2021            
Date

Witnessed by:

          Agent Kayley House            
Special Agent Kayley House,  
Federal Bureau of Investigation

          October 1, 2021            
Date

**EXHIBITS**



🙄 Billy von Nyssen  
1:02 a.m.

Exhibit 2

Here they come! Great Win! 🏈



Exhibit 3





Exhibit 4

Exhibit 5





Exhibit 6

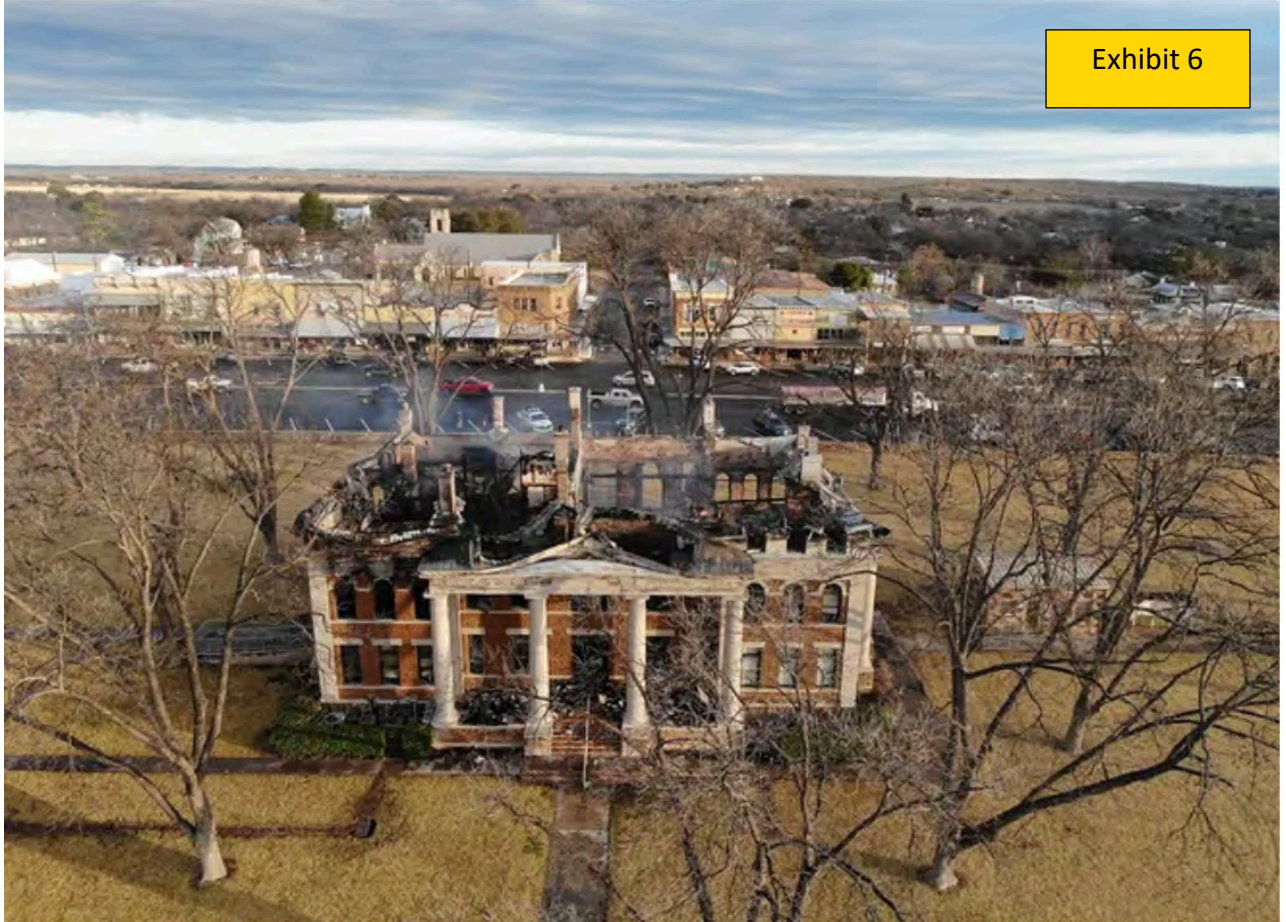
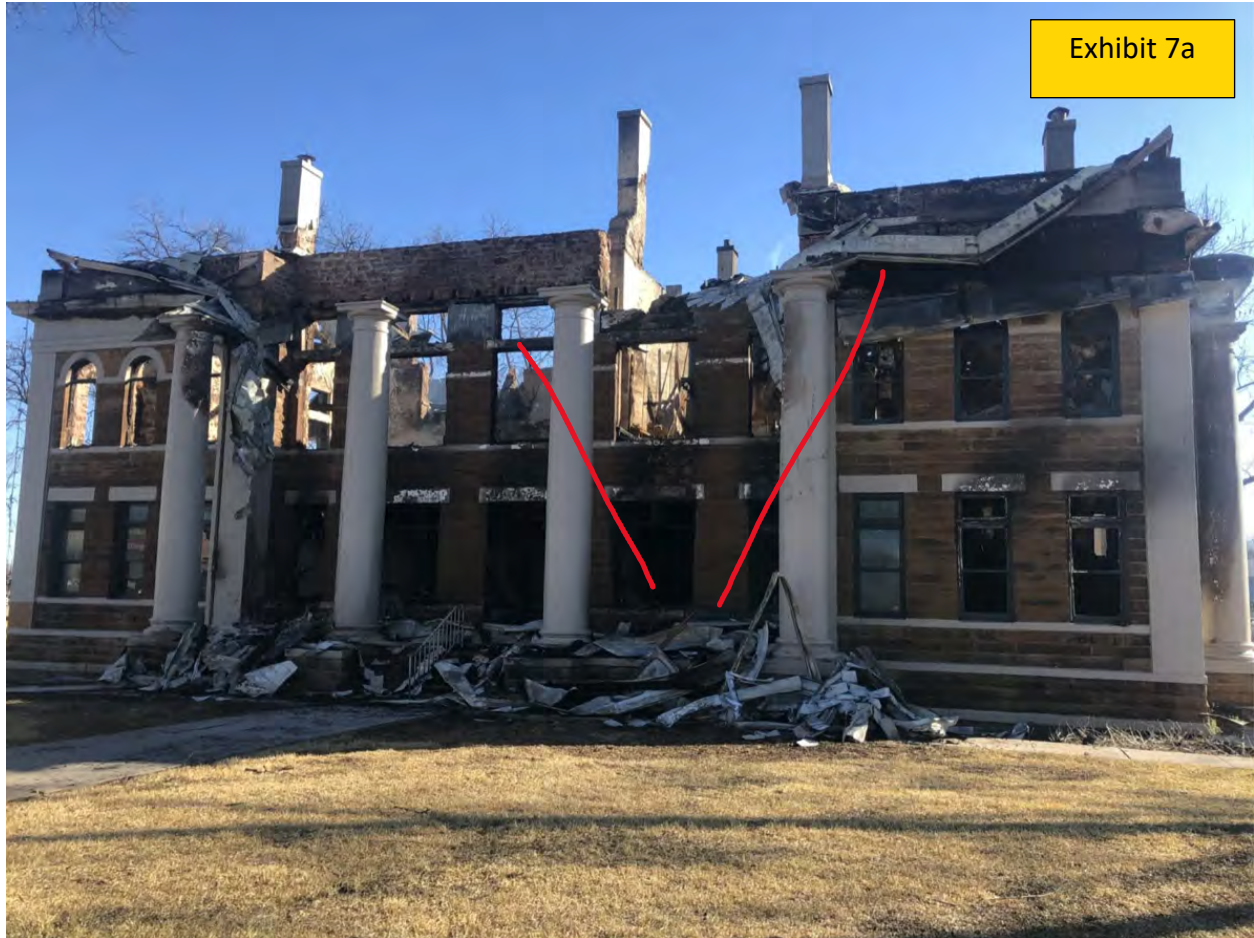


Exhibit 7







This photo is a copy that was edited by Fire Investigator Kate Francois to illustrate the “V” pattern that appears in cases of arson.

Agent Kate Francois, Sept. 29, 2021





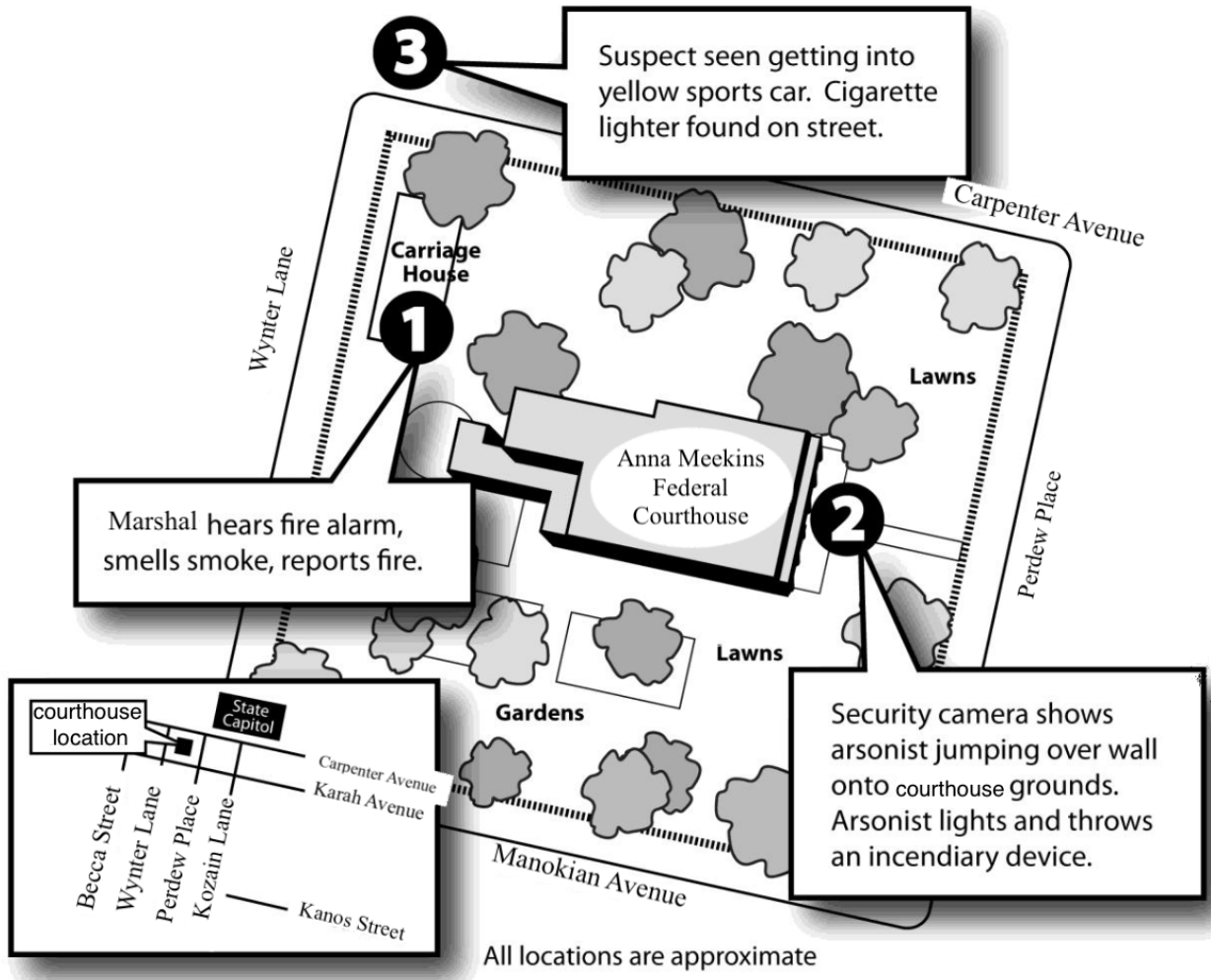






Map of the Anna Meekins Courthouse Courtyard

Exhibit 12



Date Map Created: 9/28/2021

Prepared by: NATHALIE GLADWELL. Cartographer, Wilson County Planning Commission

ATTN: Federal Fire Investigator Kate Francois

United States Fire Administration

Raleigh, NC



## EVIDENCE CUSTODIAN'S RECEIPT

CUSTODIAN IN RECEIPT: SA Kayley House

CUSTODIAN RELIEVED: SA Olivia Wolff

Items Received:

1 – Cigarette Lighter (Orange, BIC brand)

6 – Records:

Copy of surveillance video

Photo log of physical evidence (all photos taken by Federal Fire Investigator Kate Francois)

Photos of Anna Meekins Federal Courthouse

Photos of fire damage

Arson analysis of Anna Meekins Federal Courthouse

Map of Crime Scene Area

DATE: September 30, 2021 1:12 p.m.

FROM

*Olivia Wolff*

Special Agent

TO

*Kayley House*

Special Agent



**FEDERAL BUREAU OF INVESTIGATION**

**FEDERAL ANALYSIS REPORT**

Date: 10/01/2021  
Lab: FBI Forensics Lab  
Raleigh, NC Case #: 09-A-808  
Technician: Taylor, Asha

**ITEMS TESTED**

1 – Cigarette Lighter (Orange, BIC brand)

**TESTED FOR:**

DNA, Chemical Spectrometry, Fingerprints

**RESULTS**

DNA Trace – Negative

Chem. – Negative

Fingerprint –Inconclusive

**ANALYSIS**

The fingerprint return for the lighter did not return a match above 10. Therefore, I cannot say to any reasonable degree of certainty who handled the lighter.

*Asha Taylor*

Asha Taylor  
Certified Forensics Technician