

AFFIDAVIT
DEFENSE WITNESS: PAT (PATRICIA) SMITH

1 My name is Pat (Patricia) Smith. Since high school graduation I have worked as a security guard at
2 a number of retail and grocery stores in town. I've been trying to get a job with the Sheriff's
3 Department, but haven't been hired yet. My test scores have been above average, and I am in the
4 best shape of anyone I know. I think the reason I haven't been hired is because my father has had
5 a lifelong feud with Rick Estrada, who is a big wig at the Department.

6 I have been employed by Super King as a security guard since August 1, 2007. They hired me
7 because they had a lot of shoplifting during the summer. Other security guards weren't able to
8 control the thieves, so they brought me in to get the situation under control. The manager, Terry
9 Walker, told me the store was losing lots of money because of the shoplifting that was going on.
10 When I was hired, Terry told me s/he chose me because s/he knew I could protect their merchandise
11 and their store. In fact, when he/she hired me, Terry told me about a time that a shoplifter knocked
12 over an old lady while trying to run out of the store and the lady ended up with a broken leg.

13 I am an excellent all-around athlete, but my favorite sport is martial arts. In high school I started
14 getting serious about karate. I took lessons from the best "Sen Sei" in town, and in just two years I
15 earned my black belt. I started competing in fight classes, and I won nearly every time. My karate
16 chop was legendary around town. I can easily break wooden boards with my hands or feet, but the
17 rumor about me breaking a horse's leg is not true. The horse's leg was only bruised. Karate chops
18 are rated on a scale of K-1 to K-6, with K-6 being the most severe, depending on the strength used
19 to deliver the blow. Until the incident with Frank Howe, I had never used a karate chop beyond K-3,
20 and that was only because someone threatened my girlfriend/boyfriend with a knife. At a karate meet
21 in January 2008, one of the younger students gave me a K-5 to the ear. Since then, I've had difficulty
22 with my hearing on the left side.

23 On August 20, 2008, I was at the Super King, standing near the front of the store, when a guy bolted
24 for the door. I was wearing my security guard uniform: blue shirt, a security patch, and dark blue
25 pants. I had seen this person before and knew him to be a shoplifter from earlier in the summer. His
26 name was Frank Howe, and he was approximately 5 feet, 6 inches tall, and weighed about 180
27 pounds.

28 Frank Howe had a cigarette lighter, a pack of cigarettes, and a package of diapers in his hands. The
29 items were not in a bag and he wasn't holding a receipt. It is store policy that items must be bagged
30 after they are rung-up and receipts must be given to the customer.

31 On the afternoon in question, the store was crowded. There were people of all ages, including old
32 ladies and mothers with children.

33 I felt it was my responsibility to catch Frank before someone got hurt and make sure that he never
34 did this again.

35 Frank ran by me. As I ran toward Frank, he said, "leave me alone or I'll stuff you full of lead!" I replied,
36 "If you try it, you'll be sorry." I meant what I said. Frank didn't listen. He ran out the front door.

37 Frank dropped the diapers, and reached for his pocket. Based on his comment, I was sure that Frank

38 was reaching for his gun, and I was afraid of what might happen to me and the innocent bystanders. I
39 immediately gave him the "K-5 move," which I knew would do the trick. The move is a karate chop to
40 the chest. My "Sen Sei" told me that the K-5 move should only be used in the most serious situations.
41 Frank fell down.

42 Frank still tried to reach for his pocket, so I jumped on him and did the K-2 so I could get his attention.
43 This time it worked.

44 Frank lay on the ground, not moving, with his hand still in his pocket. When I pulled his hand out, I
45 saw that Frank had a receipt. I looked at the receipt, and it showed that he paid for the cigarettes and
46 diapers, but not the lighter. Super King sells lighters like the one Frank had in his hand.

47 Terry Walker seemed very concerned and said to me, "I heard him threaten you! I heard him say,
48 'leave me alone and I'll stuff you full of the real stuff!'" Terry Walker repeated this at least three times
49 while we were in the parking lot waiting for the Sheriff's Deputy to arrive. I didn't even know Terry saw
50 anything, with those carpet cleaners and all.

51 I believed that I was protecting myself and the store's property and patrons. When Frank called out to
52 me, I believed this was a threat and when he reached into his pocket I thought he would pull out a
53 weapon. I believe I acted appropriately in defense of persons and property.

54 I know that Detective Estrada thinks that I'm a lifelong criminal based on some old documents he/she
55 dug up from when I was 17. I thought that was supposed to have been expunged from my record,
56 because I haven't been in trouble since then. Anyway, as I told the Court back then, the marijuana
57 joint found in my backpack was not mine. I don't know who put it there. Of course, the Court didn't
58 believe me and I had to serve some weekends at the detention facility. That was the worst time of my
59 life and there's no way I'm going through that again.

SIGNED

Pat (Patricia) Smith