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# Hughes Hubbard & Reed

## Firm Wins Jury Acquittal in Burglary Trial

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After a hard-fought five-day trial, a jury acquitted a Hughes Hubbard Criminal Trial Program client of burglary in the second degree.

Judge Michael Obus appointed the firm to represent the client, Lorenzo Padin, in May 2013 after Padin terminated his prior representation by the Legal Aid Society. The indictment in the case alleged that in February 2013, Padin broke into a single-room occupancy shelter on New York's Upper West Side and stole a DVD player from the office of the building manager. Padin, who was homeless at the time, had been banned from the building after repeatedly trespassing to visit and stay with his girlfriend, a resident. Because of Padin's criminal record, he faced a sentence of seven to 15 years if convicted. When numerous attempts to persuade the district attorney's office to recharge Padin with the lesser crimes of trespass and petit larceny proved unsuccessful, Padin chose to take his case to trial.

At trial, the prosecution was burdened with proving not only illegal entry to the shelter, but Padin's intent to commit a crime once inside the building. While the prosecution offered testimony and evidence demonstrating that Padin had other places to spend the night and was in need of money, so much so that he was convicted of shoplifting just two days after the alleged burglary, no direct evidence put forward by the prosecution demonstrated Padin's intent to steal or commit any other crime upon entering the building.

John McGoey gave the opening statement for the defense, conceding that Padin trespassed and likely stole the DVD player. But he maintained that he lacked the necessary intent to be found guilty of burglary in the second degree. Through testimony and phone records, Hughes Hubbard demonstrated that Padin was forbidden to stay with his father after drinking, leaving him to find other shelter overnight, often at the building where his girlfriend resided. Padin testified that he was drunk and frustrated on the evening of the incident and did not remember why he picked up the DVD player or what he ultimately did with it.

In closing, Marc Weinstein pointed out that none of the prosecution's witnesses described the office from which the DVD was taken as "ransacked," as the prosecutor alleged in her opening. Weinstein argued that given the

evidence put forward, the prosecution's case actually supported the defense theory of trespass and petit larceny more than a premeditated burglary.

On Feb. 25, 2014, after more than an hour of deliberation, the jury returned a verdict of not guilty. Padin was visibly moved by the outcome and thanked Hughes Hubbard.

This is the second acquittal for the Criminal Trial Program. In addition to Weinstein and John McGoey, the trial team included Ibert Schultz, who argued the pretrial hearings, and paralegal Olivia Warren.

## **Related People**



**John T. McGoey**



**Marc A. Weinstein**