

**Study Questions for the *Munoz* Case and Accompanying Statutes**

1. What type of court is deciding the *Munoz* case in the decision you have? Is it the trial court?
2. George Munoz, the defendant in the case, is arguing that he should not have been convicted of burglary of the second degree, but admits that he could have been convicted of burglary of the third degree. Looking at the statute, what seems to be the difference between burglary of the second degree and burglary of the third degree? How does that help you understand the primary issue in this case?
3. Looking at Statute 810.011, Sections (1) and (2), what seems to be the primary difference between “structure” and “dwelling” under Florida burglary law?
4. Burglary of the third degree is a less serious offense than burglary of the second degree and a defendant is subject to a lower sentence for burglary of the third degree than for the second degree offense. Looking at the difference between the two offenses you’ve identified in Question 2, why do you think the difference makes the second degree offense more serious?
5. Looking at Statute 810.02 (1) (b), what is required to prove the offense of burglary in the state of Florida?
6. Looking at the discussion in the opinion, which part of the offense of burglary do you think is at issue in the *Munoz* case?
7. The opinion is written by Judge Villanti; this is the “Majority” opinion. At the end of that opinion, there is another opinion, written by Judge Canady, who is “Dissenting.” What is the difference between a majority opinion and a dissenting opinion in a legal decision?
8. Both the majority and the dissent discuss the *Bennett* and the *Perkins* cases. What did these cases decide?
9. Both the majority and dissent quote the same passage from the *Perkins* case that begins “Occupancy is no longer a . . .” (see bottom of p. 1 – top of p. 2; p. 3).

However they seem to interpret the passage differently. How would you state the majority's interpretation of the passage and how would you state the dissent's interpretation of the passage?

10. The majority opinion ends up agreeing with the defendant and deciding that he cannot be guilty of burglary of the second degree. Looking at what the majority thinks is required under the statute to prove this offense, and the facts of the case, why does the majority decide that the defendant does not meet all the requirements of this offense? The dissenting opinion is looking at the same facts, but would have decided that the defendant did meet the requirements of the offense of burglary of the second degree. Why?