Discussion

Name

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There are two types of Burglary, Common Law Burglary-the intentional breaking and entering of the dwelling of another in the nighttime with the intent to commit a felony therein. Statutory Burglary-the intentional breaking and entering of any structure at any time with the intent to do any crime inside. Statutory Burglary doesn’t have to be in the nighttime as Common Law Burglary defines. For instance, the defense attorney tries to use the crime and elements of Common law burglary in the nighttime, and there is no element of nighttime in the case. In such case, the client of defense attorney was nowhere around that vicinity in the nighttime. Besides, the chances for defense attorney – when one of the elements in nighttime is missing – to save his client from conviction seems very thin (Rosenberg, 2001). The accused will be tried for Burglary of a storage building and that qualified as any structure and do not need the nighttime, and section of Statutory Burglary will be applied.

Nighttime is one of the essential elements of common law burglary because any person, convicted of burglary in the nighttime, will have to face serious penalty. In America, all states have drawn a line between the burglary in nighttime and burglary in daytime (Rosenberg, 2001). As far as the definition of nighttime is concerned, the time between sunset and sunrise shall be deemed as night time. However, there should be a relaxation of two hours in nighttime i.e. one hour after the sun sets and one hour before the sun rises. If the defendant is accused to have committed the crime within an hour following the sunset or within an hour before the sunrise then it should be considered as burglary in daytime. However, it should be the prerogative of a judge to make a decision in this regard.

# References

Rosenberg, B. (2001). The Growth of Federal Criminal Common Law. *Am. J. Crim. L.*, *29*, 193.