

News Roundup

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Earthquakes, hurricanes, and other natural disasters have been top-of-mind for most North Carolina residents this week. Not for me, though. I have remained focused like a laser beam on tracking criminal law news.

1. I blogged [last week](#) about the Durham murder case that was dismissed due to the state's release of the decedent's bones to her family after a defense request for the preservation of physical evidence. As expected, the state has appealed the dismissal, and the court of appeals has stayed the dismissal pending resolution of the appeal. The *News and Observer* has the story [here](#).
2. The paper also recently ran [this story](#), about a break-in at the state supreme court building. The perpetrator only got into a stairwell, so the work of the court has not been impaired. Justice Edmunds discovered the intrusion when he came in to work on Sunday evening.
3. The sexual assault charges against Dominique Strauss-Kahn have been dismissed. The *New York Times* has [this story](#) on point. In a nutshell, prosecutors lost confidence in the complaining witness after learning that she had lied about her past and, likely, about at least some aspects of her encounter with Strauss-Kahn.
4. The United States Supreme Court is poised to consider the issue of eyewitness identification in the coming Term, for the first time since 1977. Adam Liptak's story for the *Times* is [here](#). It's a good read, opening as follows: "Every year, more than 75,000 eyewitnesses identify suspects in criminal investigations. Those identifications are wrong about a third of the time, a pile of studies suggest." Whatever the Court does with respect to eyewitness identifications -- and it might do quite a lot, or it might do very little -- change is again afoot in New Jersey, which has been an influential leader in this area. The AP covers the story [here](#), noting that the state high court has changed some procedural rules, making pretrial hearings on the admissibility of eyewitness identifications easier for defendants to obtain. The story also states that the new rules will "require judges to give more detailed instructions to juries about the potential flaws with eyewitness identifications — in some cases before a witness takes the stand so that jurors can listen more critically."
5. Although it hasn't yet granted certiorari on the issue, it's starting to look like the Supreme Court will also need to address the retroactivity of *Padilla v. Kentucky*, ___ U.S. ___, 130 S. Ct. 1473 (2010), which held that criminal defense attorneys must advise clients about relevant immigration consequences of potential criminal convictions. A divided panel of the Seventh Circuit just ruled that *Padilla* is not retroactive, creating a circuit split on the issue. Sentencing Law and Policy covers the Seventh Circuit's decision [here](#).
6. Finally, a couple of quick items of possible interest. The WSJ Law Blog considers the constitutionality of red light cameras [here](#), noting that at least a dozen cities have banned the devices. Meanwhile, Gizmodo [discusses](#) an initiative being implemented in Surrey, England, to give citizens real-time information about the location and activities of police, under the headline *Hey Criminals! Your Town Made You an App to Track Cops*. Finally, the *Cleveland Plain Dealer* notes [here](#) that an individual named Eric Gein, proprietor of a business called Serial Killers Ink, is selling dirt from the backyard of an Ohio murderer's house for \$25 per gram. Gein claims that the dirt is valuable because the killer's victims were buried in it, and that he expects to sell it to "professors of criminal law," among others. Not this one, at any rate.