



# Mock Trial Exercises

For grades 7-8



**Featuring Winning Cases from the New Jersey State Bar  
Foundation's Law Adventure 2015 Competition**



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# Preface

In 1995-96 the New Jersey State Bar Foundation launched a unique, law-related education program for middle school students – the Law Adventure Competition.

Students in grades seven and eight and their teachers are invited to create original mock trial cases. Each year the Foundation provides two themes for cases. The cases are judged on the basis of originality and educational value in teaching students about their legal rights and responsibilities. Winners are selected in each grade level. The trials are then conducted before student audiences at special Law Adventure programs in the spring. The seventh- and eighth-grade audiences serve as juries.

Following are the winning cases from the Law Adventure 2015 Competition. Themes for the 2015 contest were as follows: (1) School and/or community-based sports team liability and (2) Fourth Amendment Rights.

The cases may be used as a guide to prepare a submission to the Law Adventure Competition or as a classroom exercise. Please note that some of the cases may contain “laws” created by the students for the purpose of this competition, which may not necessarily be actual laws. Since these mock trials were written by children, the content should not be considered technically accurate.

*These exercises were created by children and are intended for school use only. Any resemblances to characters, names, events and circumstances are intended only for the purpose of education, and all characters, names, events and circumstances described herein are fictitious.*

This project is made possible by funding from the IOLTA Fund of the Bar of New Jersey.

Law Adventure has won recognition in the Associations Advance America Awards program, a national competition sponsored by the American Society of Association Executives in Washington, D.C. This prestigious award recognized innovative projects that advance American society in education, skills training, community service and citizenship.

If you would like to participate in the Law Adventure Competition, please call 732-937-7519 or e-mail [sboro@njsbf.org](mailto:sboro@njsbf.org).

*For information about other free, law-related education services available from the New Jersey State Bar Foundation, visit us online at [www.njsbf.org](http://www.njsbf.org).*

# A Tail of Trouble:

## Kenny Swish v. Brownsville Middle School

### SCHOOL

Morris Plains Borough  
Morris Plains  
Grade 7, First Place

### TEACHERS

Becca Swope and Deb Clark

### STUDENTS

Romeo Aguayo, Brendan Clark, Jarred Colaiacovo, Gavin Cunningham, Ryan Daniolowicz, Marc Dilluvio, Maddie Gallagher, Amanda Gillespie, Nikko Inserra, Evan Jinks, Caroline Manion, Connor Manion, James Myers, Jonathan Nicholson, Ava Plott, Sabrina Robinson, Peter Swope, Madelyn Wagner, Annalise Webber

## FACTS

The Brownsville Middle School Beavers hosted the Birdburg Middle School War Pigeons in a public school regulation conference basketball game. At 3:30 p.m., the scheduled start time of the game, the two contracted officials had not yet arrived. Mr. Ray Feree, a teacher from the school who had retired from officiating the previous year but maintained a current license, volunteered to be the sole referee of the game. Both coaches agreed to this arrangement.

All named parties in the case—Coach Jim Nasium from Birdburg, player Kenny Swish from Birdburg, student mascot Matt Scott from Brownsville, and referee Ray Feree from Brownsville—agreed that the game could be characterized as “highly competitive,” “intense,” and “aggressive”. During the course of the game, Matt Scott, in his Brownsville Beaver costume, performed his duties as mascot. As such, he never came onto the court, but was otherwise unrestricted. He never spoke during the game, but only pantomimed.

In the third quarter of the game, Kenny Swish, from the Birdburg War Pigeons, was called for his fifth foul. Accordingly, he fouled out of the game. Play was stopped as the referee and coaches conferred at the scorer’s table. Upon exiting the court in close proximity of the mascot, Kenny Swish suddenly fell into the corner of the bleachers. He sustained a concussion and a laceration on his forehead which required 22 stitches.

The plaintiff claims that in general the game was insufficiently supervised by only one referee. Furthermore, the mascot, Matt Scott, was insufficiently supervised and was instigating trouble with his actions and should not have been so close to the court. Had the home team properly supervised his behavior and location, the injury would not have happened.

The school district claims that the Ray Feree was an official in good standing and therefore qualified to referee the game. Furthermore, the behavior of the mascot was reasonable. The school also maintains that Kenny Swish had proven himself to be aggressive and a hothead. His own actions in confronting the mascot led to his injuries.

## ISSUE

Was Brownsville Middle School negligent in its “duty to protect” and its “supervision” of the Brownsville-Birdburg basketball game and therefore liable for Kenny Swish’s injuries?

## WITNESSES

### *For the Plaintiff*

Kenny Swish

Jim Nasium

### *For the Defendant*

Matt Scott

Ray Feree

## WITNESS STATEMENTS

### *Testimony of Kenny Swish*

My name is Kenny Swish. I am in seventh grade at Birdburg Middle School. I don't want to brag, because I consider myself a humble person, but I'm the leading scorer on the Birdburg basketball team—Go War Pigeons! I'm a great shooter, so other teams usually try to shut me down, but they can't deny me. I dominate.

In the Brownsville game, I was playing pretty hard. You know, clean and intense. I don't know why I was getting called for so many fouls. That so-called ref was obviously rooting for the other team. No offense, but he was old. He must have forgotten his glasses. Anyway, this ridiculous giant beaver mascot for the other team was giving me a hard time. Like I said, I draw a lot of attention, but this was the worst. No matter what I did, he had some gesture for me. He was the worst when I got my fifth foul, which by the way I did not deserve! While the ref was at the scorer's table and obviously not going to control this kid, I went over to him to politely ask him to leave me alone. As one final insult, he went to turn his back on me, and swung his tail around. That tail went under my foot, and I slipped and went head first into the corner of the bleachers. I don't remember much after that because I hit my head and was in so much pain, but I ended up getting 22 stitches from a plastic surgeon and a concussion. This whole school was against me just because I'm such a good player. It's not fair!

### *Testimony of Jim Nasium*

I'm Coach Jim Nasium of the Birdburg War Pigeons. For me, it's nothin' but net! My players were really excited about this game, and so was I. The Beavers are our big rivals, and we go way back with a history of huge games and, might I add, huge victories.

Well, game time rolled around, and the referees never showed! Some teacher who was a retired referee said he'd officiate the game; what else could I do but agree? I had my reservations, though. As it turned out, the kids were just barely

supervised by this guy who, by the way, was initially rooting for the Beavers in the stands. That can explain why all my players were overreacting to fouls and not playing their cleanest game of the season. My best player was having an especially hard time. He made a few mistakes and was called out on them. That beaver mascot targeted him from the start, mocking him and making him madder. Well, second half came around, and he made his fifth foul. The referee came over to the coaches to confirm that Kenny had fouled out of the game. Even from the other side of the court I could still see the mascot mocking the poor kid. No one was supervising that mascot; they let him go anywhere and do anything he wanted. Then Kenny started walking off the court in the vicinity of the beaver because he knew he had fouled out. Out of the corner of my eye I saw the beaver just swing out his tail and trip my star! Poor Kenny fell into the corner of the bleachers and got an ugly cut on his head. My best player, Kenny Swish, got taken out all because of a rowdy mascot and poor supervision.

### *Testimony of Matt Scott*

My name is Matt Scott. I am in seventh grade at Brownsville Middle School. I play the Brownsville Beaver, the school mascot. My job as the mascot is to pump up the crowd and help the players get excited for the game. Since I can't talk, all of my actions have to be really exaggerated. I'm kind of known as a jokester because I like to get the crowd laughing.

At the game I was doing my usual routine and reacting to what was happening on the court. I don't usually notice too many individual players, but in this game I noticed Kenny Swish because he was really aggressive and had gotten a bunch of fouls. Sometimes when that happened I would wag my finger like, "no, no" or mime "shame on you" just for fun. Then, Kenny got called for a foul that I guess he didn't agree with and was complaining. I was just trying to lighten the mood by rubbing my eyes and pretending I was crying. Everybody else thought it was funny, but Kenny must have taken it personally because all of a sudden he was coming at me, and he looked furious! I turned my back to

protect myself from him, and then I felt a pull on my tail. The next thing I knew, Kenny was on the floor moaning. He fell into the bleachers and cut his head. It was gross, but it wasn't my fault that he slipped on my tail.

### **Testimony of Ray Feree**

My name is Raymond Feree, but I go by Ray. I have been teaching history here at Brownsville Middle School for 18 years. Up until last year, I officiated many of these middle school basketball games. In fact, this is the first year that I've taught at Brownsville and not been in the regular rotation, but I'm not as young as I used to be, so I decided to take a break. However, I still technically am allowed to officiate these games, as my certification is still current.

I was in the crowd to watch the game, when neither of the officials showed up. I volunteered, as I knew I was capable of handling a game like this. It was a very intense game. The boys were playing physically, the crowd was getting vocal, and even the mascot was involved. Since I was the only referee, I was calling the game tight to keep things under control. Everything was fine until late in the third quarter. Kenny Swish, a visiting player, had been playing very physically, I might even say aggressively, throughout the game. He had gotten his fifth foul, which would mean he fouled out. I was over at the scorer's table with the coaches to confirm this, when I heard a loud crash. I didn't see what happened because I was facing the coaches, not the court, but apparently Kenny Swish had fallen into the bleachers and hit his head. He had a large cut on his forehead and he seemed to have sustained a concussion. I heard players from the Birdburg team saying the mascot was responsible. I also heard players from Brownsville saying Kenny was going after the mascot. I cannot confirm any of this.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of the evidence that Brownsville Middle School is liable for Kenny Swish's injuries due to negligence during the Brownsville-Birdburg basketball game.

## **SUB-ISSUES**

1. Which witness(es) should be believed?
2. What was the reasonable standard of care in this circumstance, and did the Brownsville Middle School apply that standard?
3. Was the game properly supervised by the one volunteer referee, Mr. Feree?
4. Was Matt the mascot properly supervised by someone from Brownsville?
5. Was the mascot taunting or bullying Kenny?
6. Was the mascot a proximate cause of the accident?
7. Was Kenny's injury an inherent risk of the game of basketball?
8. What was Kenny's intent when moving toward the mascot?
9. Did Kenny contribute to his own injury by advancing on the mascot?
10. Did Coach Nasium from Birdburg provide adequate supervision of his players, especially Kenny?

## **CONCEPTS**

1. **Burden of Proof:** By a preponderance of the evidence. This is considered to be just enough evidence to make it more likely than not that the fact the plaintiff seeks to prove is true.
2. **Credibility of Witnesses:** Which witness' testimony is more than likely to be true and therefore should be believed?
3. **Circumstantial Evidence vs. Direct Proof:** Circumstantial evidence is evidence that relies on an inference to connect it to a conclusion of fact. By contrast, direct evidence supports the truth of something directly, without need for any additional evidence or inference.
4. **Duty to Protect:** The responsibility to anticipate potential and foreseeable dangers and take

reasonable precautions to protect others from these dangers.

5. **Reasonable Standard of Care:** How another person of the same education, training, and experience would respond in the same circumstance.
6. **Negligence:** Failure to use reasonable care, resulting in damage or injury to another.
7. **Supervision:** The person in charge must be within the activity area, overseeing the activity, and must be immediately accessible to the participants.
8. **Inherent Risk/Assumed Risk:** Risks so common to an activity that they cannot be reduced or avoided without changing the basic nature of the activity.
9. **Proximate Cause:** A happening which results in an event, particularly injury due to negligence or an intentional wrongful act.
10. **Contributory Negligence:** Failure of an injured plaintiff to act prudently, considered to be a contributory factor in the injury suffered.

## LAW

1. *New Jersey Code of Conduct Law:* An act concerning the establishment of athletic codes of conduct for players, coaches, officials and parents and supplementing Title 5 of the Revised Statutes. State of New Jersey: C.5:17-1-5.
2. *“Anti-Bullying Bill of Rights Act” P.L. 2010, Chapter 122 (P.L. 2010, c.122)* is a policy created in 2011 by New Jersey legislature to combat bullying in public schools throughout the state. This act is an extension of the state’s original anti-bullying law, N.J.S.A. 18A:37-13, which was first enacted in 2002.
3. While athletic association rules are not “law,” public schools are generally constrained to operate within them. We therefore refer to NJSIAA (New Jersey State Interscholastic

Athletic Association) regulations. See specifically *“NJSIAA Handbook for Officials”*:

- a. *Conflict of Interest-* “In most sports, individual tournament regulations require that officials not take assignments where there is any conflict or affiliation between the school and the official. While this may be difficult at times due to extenuating circumstances, every effort must be made to insure this regulation. At the same time, no regular season regulation exists in this regard, but officials are encouraged to avoid said situations whenever possible.”
- b. *Failure of Official to Arrive-* “When it becomes apparent that the expected officials will not be present for the game, the following procedure is recommended... Request via the P.A. system that NJSIAA officials (of the sport in question) report to a central location. Assignment to be the responsibility of the home athletic director.”
- c. *Unsportsmanlike Conduct-* “There will be no tolerance for negative statements or actions between any persons (athletic department, staff member, student-athlete or a fan or spectator associated with a member school). This includes taunting, baiting, berating opponents, “Trash-Talking” or actions which ridicule or cause embarrassment to them.”

# The Case of the Fireworks-Sniffing Dog: State of New Jersey v. Billy McBoom

## SCHOOL

Brookside  
Allendale  
Grade 7, Second Place

## TEACHER

Alison Baier

## STUDENTS

Emily Candela, Meghan Cornacchia, Lauren Farrington, Brian Hyun, Tyler Jones, Stephanie Monard, Stuti Phalahari, Mark Puig, Ainsley Wilson

## FACTS

On October 27, 2014, Officer Rudy Surchington came to Theodore N. Thomas High School (the “School”) to lead a presentation to the School’s students intended to educate such students, and raise awareness among them, with respect to the dangers presented by alcohol and illegal drugs and other substances. The School had recently observed an increase in student injuries related to alcohol, illegal drugs, and other substances. Officer Surchington, the Pow Town Board of Education (the “Board”), and the School thought it would be appropriate and helpful for Officer Surchington to lead such drug and alcohol awareness presentation to the students. Officer Surchington is part of Pow Town Police Department’s K-9 Unit, and Officer Surchington thought the students would find it fun and educational to meet his police dog, Trekker. Trekker is specially trained to detect concealed evidence, including illegal narcotics.

After the 30-minute demonstration, Trekker was drawn to one student, Billy McBoom. Trekker sniffed Billy and began to dig and paw at his legs. Consequent to the incident, Officer Surchington searched Billy’s person but found nothing illegal or alarming. Nevertheless, Officer Surchington thought it would be appropriate to search Billy’s locker because, as Officer Surchington stated to Principal Ron Giver, the School’s building principal, and to Billy’s homeroom teacher, Mrs. Gugelburger, Officer Surchington thought Trekker

might have picked up on the scent of illegal drugs carried on Billy’s clothes.

At the beginning of the school year, Billy and his parents had signed a contract with the School pursuant to which Billy and his parents consented to, and granted the School permission to, search (i) Billy at any time while on school grounds and (ii) any of Billy’s property and possessions at any time while located on school property, in each case for any purpose deemed reasonable by the School or the Board. Every student of T.N. Thomas High School, together with each such student’s parents, was required to sign such contract prior to the beginning of the school year.

When Officer Surchington asked Billy for permission to search his locker, Billy refused to grant permission. Billy claimed that it would be inappropriate to search his locker as many of his personal belongings were inside.

After the demonstration ended and Billy went onto the next class, Officer Surchington approached Mrs. Gugelburger, the subject teacher, who was also Billy’s homeroom teacher. He believed the search of Billy’s locker was necessary to ensure the safety of the other students, and that this was more important than Billy’s privacy. This convinced Mrs. Gugelburger and she gave Officer Surchington Billy’s locker combination. Officer Surchington searched the locker. No drugs were discovered, but Officer Surchington proceeded to find \$2,103 in cash in Billy’s locker. Seeing this as suspicious, the officer went to Principal Giver and told him about the money.



Officer Surchington then asked to search Billy's car. Asking Billy's permission was not mentioned. Principal Giver agreed and gave Officer Surchington Billy's license plate number, as well as what kind of car he drives. Officer Surchington found Billy's car parked in the school parking lot. There Officer Surchington searched the car and found a box of fireworks. Pursuant to applicable state law, no person is permitted to sell, purchase, possess, or use fireworks of the type found in Billy's car without a special license.

Recently, there were several cases of house fires as result of illegal firework displays.

As a punishment, Billy was suspended from school for one week and is not allowed to play on the school soccer team for the rest of the season. Billy had recently been accepted for a scholarship to Goalers University. This might cause them to rethink their decision. Billy claims that the search of his car was a violation of his Fourth Amendment rights.

## ISSUE

Did Officer Surchington's search of Billy McBoom, Billy's locker, and/or Billy's car violate Billy's rights under the Fourth Amendment to the Constitution of the United States?

## WITNESSES

### *For the Prosecution*

Officer Rudy Surchington

Lily Troof

### *For the Defense*

Billy McBoom

Coach Bobby Shute

## WITNESS STATEMENTS

### *Testimony of Officer Rudy Surchington*

My name is Rudy Surchington and I have served as a police officer in Pow Town for the past 15

years. On October 27, 2014, I went to Theodore N. Thomas High School to do a drug and alcohol awareness presentation. I brought my police dog, Trekker, with me because Trekker is specially trained to detect concealed evidence, including illegal drugs, and because I thought it would be fun and educational for the students to meet Trekker.

After the demonstration, Trekker smelled something suspicious on student Billy McBoom and the dog pawed at Billy's legs, an aggressive alert Trekker was trained to perform when he smells an illegal substance. After receiving the locker combination from Billy's homeroom teacher, I found \$2,103 in his locker and then illegal fireworks in Billy's car after getting the information from the building principal, Mr. Giver. Pursuant to New Jersey state laws N.J.S.A. 21:3-2 and N.J.S.A 21:3-8 and U.S. law 18 U.S.C. § 842(b), it was illegal for Billy to be in possession of the fireworks.

We make sure that our drug-sniffing dogs are thoroughly trained to sniff out illegal substances or even explosives in some cases. The dog was taught to show an aggressive alert, pawing or digging at where the substance is located, when he smells illegal substances. There are plenty of instances like this case when the dog sniffs and, as a result, made a legal and reasonable search.

This drug-sniffing dog showing an aggressive alert informed me that Billy might have drugs or substances, even explosives. As a 15-year veteran of the police force and as a member of the K-9 unit, I have seen countless instances supporting the reliability of these dogs in identifying illegal substances. A reasonable person would also believe that \$2,103 is too much for a child to have in possession, and the building principal agreed that this could threaten the safety of the school. In this case, the principal gave me the right to search Billy's locker because it was on school property and the right to search his car because it is in my jurisdiction. The contents of Billy's trunk could disrupt Pow Town and the people in the community. Fireworks have been a problem in this town, not only causing loud noise and disturbances but house fires and other damages. Billy's fireworks, when used, could cause fire damage to property and injuries to people.

### ***Testimony of Lily Troof***

My name is Lily Troof and I am a senior at Theodore N. Thomas High School. I have been a classmate of Billy McBoom's since the third grade. On the morning of October 27, 2014, Billy was sniffed out by a drug-sniffing dog on the day of a demonstration. I was not surprised by this. He has a history of being a bad kid and he gets in trouble quite a lot. Billy was caught stealing graphing calculators, bullying kids, and selling unhealthy snacks (even though these snacks have been outlawed). One of T.N. Thomas High School's rules is a rule that bans unhealthy snacks. Due to a rapidly rising obesity rate, our school cut down on unhealthy snacks, but Billy didn't want to abide by the school rules. He sold his snacks to other students for a dollar each. Even after getting caught, he continued to sell snacks, steal, and bully other students. Bullying is taken very seriously in today's schools, and Billy has faced several incidents where he has gotten in trouble for bullying other students. Last but not least, Billy has been stealing other students' calculators. Billy has been caught selling these calculators on eBay to make extra money.

I think that it was important to find the fireworks, especially given what's been going on in town. In my opinion, I think that Billy should have a harsh punishment. It's not like my classmate was a straight-A student who never did anything wrong. Billy is always mean to other students and deserves a harsher punishment, since he seems to never learn his lesson. In the beginning of the year, all students had to sign a contract that showed they were aware of the rules. Billy willingly signed this piece of paper, fully aware that he had to abide by these rules.

### ***Testimony of Billy McBoom***

My name is Billy McBoom, and I am a senior at Theodore N. Thomas High School. On the morning of October 27, 2014, I drove my car to school. I went inside the school building, put my backpack in my locker, and collected my books for homeroom. Our class was having a demonstration about drugs and alcohol awareness. Officer Surchington brought along his police dog partner, Trekker.

After the demonstration, the dog charged at me. He started to paw and dig at my legs and I felt like I was being attacked. Then the police officer walked over to me. I was wondering what was wrong when the officer asked me to stand up and put my hands up. He then searched my person. All throughout this process, I had no clue what I had done wrong. When Officer Surchington saw that I didn't have anything on me, he asked if he could search my locker. I denied his request because my dirty gym clothes were in there, and I would be embarrassed for a stranger to see this. I was later told that with the help of Mrs. Gugelburger, Officer Surchington searched my locker behind my back and found some money I had saved up ever since 10th grade to buy my own laptop from the Apple Store. I was planning to go straight there after school.

Then I was called down to Principal Giver's office, and they told me that I was in big trouble. Again, I had no idea what they were talking about. They told me that they had gone out and searched my car, without my permission, and found fireworks.

I know nothing of the fireworks that were found. My brother Joel had access to my car. He and a couple of his friends took it out a few nights prior to the search.

Principal Giver and Officer Surchington told me this would go on my record. I had recently applied and was accepted for a full scholarship at Goalers University. A mark on my record might cause them to rethink their decision. My father recently lost his job and without the scholarship, I won't be able to go to Goalers because we can't afford it. I was told that I was suspended from school for a week and would not be able to play on the soccer team for the rest of the season. I am being punished for a crime I didn't commit.

### ***Testimony of Bobby Shute***

My name is Bobby Shute and I have been Billy McBoom's physical education teacher and soccer coach for the past three years. On the morning of October 27, 2014, my physical education class was running laps when I saw a police car pulling into the school. I then remembered that Officer Surchington was coming to do a Drugs and Alcohol

Awareness presentation. I told the students that class was over and they should get to the seminar. When the bell rang, I followed them into the building to watch the seminar as well.

The police officer talked about drug safety and drunk driving for about 30 minutes. I noticed that he brought his K-9 dog along. Then I saw the dog moving toward Billy and then started to dig at his legs. I saw Officer Surchington approach Billy and check him for something. Billy was noticeably alarmed.

Officer Surchington then went over to Mrs. Gugelburger and started asking questions. While they were having this conversation, the bell rang and all students exited the room. Before Officer Surchington left the room, Mrs. Gugelburger gave him a piece of paper. I knew that this particular teacher always seemed to have it out for Billy as well as other student athletes, so I was not shocked to learn that the piece of paper was Billy's locker combination.

Once I saw the officer open Billy's locker and show a stack of cash to Mrs. Gugelburger, I had a feeling they would jump to conclusions about Billy. He had experienced the brunt of a few wrongful accusations: bullying, stealing and illegal sales in school. Since I work closely with Billy and see him perform in both in-school and out-of-school situations, I can assure any who doubt Billy McBoom's character that he is a scholar, athlete and model citizen in both his school and his community.

From what I heard, Officer Surchington indeed found the cash to be suspicious so he went to Ron Giver, and from there he searched the boy's car. I was told that the officer found some illegal fireworks, which have been a serious issue in this community. I don't understand why Billy would have fireworks. This must have been his brother. Billy's brother Joel was also an amazing soccer player, but unlike Billy, Joel is quite the troublemaker. Billy is so different from his brother and shouldn't suffer as a result of Joel's reputation. He gets good grades and wouldn't hurt a fly. Nevertheless, since Mr. Giver told me Billy was accused of this crime and was suspended, I had no choice but to take Billy out of every soccer game for the rest of the season.

A couple weeks ago, Billy received a full-ride scholarship to his dream school, and it was great to see him and his family so excited after all of Billy's hard work. His father recently lost his job, so the scholarship is all that would enable Billy to attend his dream school. I think it would be a real shame if Billy was suspended, benched from his team and lost this scholarship to Goalers University for a crime he didn't commit.

## INSTRUCTIONS

The prosecution must set out such a convincing case against the defendant that the jury believes "beyond a reasonable doubt" that the defendant is guilty.

## SUB-ISSUES

1. Is a drug-sniffing dog enough proof to warrant a search?
2. Is finding cash sufficient evidence to search property without permission?
3. Did others have access to Billy's car?
4. Were school policies closely followed during the search?
5. What information is the school able to provide law enforcement about student property?
6. Do students have to a right to privacy in schools?

## CONCEPTS

1. Witness evidence vs. direct proof.
2. Evidence regarding defendant's character vs. direct proof.
3. Circumstantial evidence vs. direct proof.
4. Credibility of witnesses.
5. Burden of proof: beyond a reasonable doubt.

# LAW

N.J.S.A. 21:3-2, “It shall be unlawful for any person to offer for sale, expose for sale, sell, possess or use, or explode any blank cartridge, toy pistol, toy cannon, toy cane or toy gun in which explosives are used; the type of balloon which requires fire underneath to propel the same; firecrackers; torpedoes; skyrockets, Roman candles, bombs, sparklers or other fireworks of like construction, or any fireworks containing any explosive or inflammable compound or any tablets or other device commonly used....”

N.J.S.A. 21:3-8, “Any person who sells, offers or exposes for sale, or possesses with intent to sell any fireworks as herein mentioned is guilty of a crime of the fourth degree. Any person who purchases, uses, discharges, causes to be discharged, ignites, fires, or otherwise sets in action, or possesses any fireworks is guilty of a petty disorderly persons offense.”

U.S Federal Code 18 U.S.C. § 842(b), “(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

- (1) a licensee;
- (2) a holder of a user permit; or
- (3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.”

The Fourth Amendment to the United States Constitution: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

# Does Noah Awl Know It All?

## United States v. Corey Ahn

### SCHOOL

Bloomfield Middle  
Bloomfield  
Grade 7, Honorable Mention

### TEACHER

John Shanagher

### STUDENTS

Camille Aquino, Jennifer Cardona, Dante Gibbs, Noah Kelly, Samantha La Duca, Selvana Labib, Amber Lassalle, Kayla Lesko, Jordan Mosley, Roberto Pabon, Gina Perrotta, Alexander Quintana, Shane Rue, Emily Sawaked, Sienna Tyransky, Janette Vasquez, Alexa Vastola, Adam Velin, Caroline Vigna, Pharaoh White

## FACTS

Corey Ahn was born in South Korea but became a naturalized citizen of the United States in 2013. While waiting at her dentist's office for a nine o'clock appointment on June 5, 2014, she was watching the news and saw a story about a bombing situation in Seoul, South Korea. She stepped outside and called her cousin in South Korea. The two of them had a conversation in Korean about the bombing and her cousin told her that there appeared to be many deaths. Among the dead were several Americans.

Since the 9/11 attacks, the United States government has been monitoring conversations between people in the United States and those in other countries, especially those nations suspected of supporting terrorism. One of the monitoring devices picked up on the words "bombs" and "dead Americans" and alerted an FBI translator. Upon listening to recordings of the conversation between Corey Ahn and her cousin, the FBI obtained a warrant and tapped Corey Ahn's phone. Corey Ahn and her cousin had numerous conversations over the course of the next few weeks. They discussed world events which included updates on the Korean bombing as well as other terrorist attacks around the world.

Based on what they overheard in the conversations between Corey Ahn and her cousin, the FBI arrested Corey Ahn and charged her with terroristic activities. Corey Ahn believes that her

conversations with her cousin were private and that the FBI did not have probable cause to obtain a warrant. She believes that when the government was listening to her initial conversation without a warrant that they violated her Fourth Amendment rights and that she should be released from jail and the charges should be dropped.

## ISSUE

Is Corey Ahn guilty of treason and did the government have the right to monitor her conversations without a warrant?

## WITNESSES

### *For the Prosecution*

Homer Currity

Noah Awl

### *For the Defense*

Professor Lawrence

Corey Ahn

## WITNESS STATEMENTS

### *Testimony of Homer Currity*

I'm the assistant director of homeland security. I have been working here for the past six years.

Homeland Security was created to deal with the international terrorist threat which became known following the 9/11 attacks. Our job is to keep America safe from terrorists. We work long hours each and every day to make sure that there is never another 9/11.

The Patriot Act allows the government to monitor conversations between American citizens and non-Americans who live overseas. Conversations are monitored to see if terrorists are planning activities which may threaten US citizens. We have computers which “listen” for certain words and phrases which suggest a threat. Words like bomb, hostage, and jihad are examples of words which will set off an investigation. It isn’t as if we are sitting around eavesdropping on personal conversations. Before we actually listen to personal conversations, we need to have been warned that there is a problem.

On June 5, 2014, our computers picked up a conversation between Ms. Ahn and a woman in South Korea. The conversation used many of the words which the computers are programmed to flag. A Homeland Security translator listened briefly to what was being said and alerted his superiors. The FBI obtained a warrant for a wiretap which was placed on all of Ms. Ahn’s phone lines. The conversations recorded were always about bombings around the world and always focused on the number of Americans who were killed. Both ladies seemed delighted to hear about the events. Based on the content of these conversations, Ms. Ahn was arrested as a suspected terrorist.

There are those who believe that the Patriot Act allows the government to walk all over the Constitution. They have a perfect right to that opinion which is one of the great things about our country. But if we don’t keep the terrorists under control, we won’t be around to exercise our rights. Corey Ahn is a terrorist and needs to be brought to justice.

### ***Testimony of Noah Awl***

I’m a translator working with Homeland Security. Both of my parents were born in North Korea but escaped to the United States. We all became United

States citizens. I am fluent in English and Korean. My work helps keep America safe, which is why I am so careful to be accurate in my translations. No one has ever questioned my professionalism.

Our department has the responsibility of keeping terrorists out of the United States. Because of how easy it is now for people all over the world to talk to each other on the phone or online, it would be impossible to listen to every conversation. Plus, that would be wrong. I took this job to protect Americans and their rights, not to violate those rights. So, we use the most up to date computers and programs to scan conversations. We aren’t listening to individual conversations. We’re listening for key words which might occur in a conversation involving terrorist activities.

On June 5, 2014, one of our programs detected the words, bombing, terror, and dead Americans in a conversation between someone in the United States and someone in South Korea. Based on that, Homeland Security obtained a warrant and placed listening programs on Ms. Ahn’s phones and computer. I was assigned to listen and translate all conversations between Ms. Ahn and her cousin in Korea into English. They pretended to be discussing the news but to anyone who speaks Korean, it was very clear that there was a lot more going on in those conversations than a current events discussion. Not all Korean words translate into English. Some words describe moods or attitude. The Ahn’s were using those words when they were talking about terrorist attacks around the world. The meaning and mood was clearly anti-American. They are terrorists and need to be stopped.

### ***Testimony of Professor Lawrence***

I am a professor of constitutional law at Yale University. I have also been a practicing attorney for the past 44 years. Corey Ahn’s constitutional rights have definitely been violated. The Fourth Amendment protects all citizens, whether naturalized or native born, from unreasonable searches and seizures. If the government wants to arrest you or listen in on your conversations, they need a warrant. To get a warrant, the police

need what is known as probable cause, or a good reason to believe that evidence of a crime exists. In this case there was no probable cause. The warrant which was used to eavesdrop on Ms. Ahn's conversations was based on illegally obtained evidence. Her conversations weren't public. They were private conversations, which mean that Homeland Security had no right to listen to them.

Laws such as the Patriot Act were an overreaction to the terrible events of September 11, 2001. If we allow the government to stretch the intentions of these laws even further, we will wind up with no rights at all. Benjamin Franklin once said, "Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety." The charges against Corey Ahn need to be dismissed.

### ***Testimony of Corey Ahn***

I am a naturalized citizen who emigrated from North Korea to the U.S. in hopes for a better life. I became a citizen in 2013. On June 5, 2014, I visited a dentist for a routine checkup. In the waiting room, the TV was reporting that a terrible bombing had occurred in Seoul, South Korea. I stepped outside and called my cousin. She lives in Seoul and told me that she could hear the sirens and see the flames from her apartment. My cousin does not speak English, so we were speaking in Korean. She described what she could see and hear as well as what the Korean news stations were reporting. Sadly, there were many deaths including tourists from the United States. As a loyal American, I was horrified by what occurred.

My cousin and I speak to each other at least once a week. We talk about how our family members are doing, and we talk about the news. She and I are both very concerned about the outbreak of terrorism around the world. Living so close to North Korea is stressful and she is hoping to move to the United States soon.

Last August, I was walking to work when FBI and Homeland Security agents suddenly surrounded me and placed me under arrest. They questioned me for hours about my cousin and our conversations. It soon became clear that some fool had misunderstood what was said between my

cousin and me. Now I am on trial for treason. This just doesn't make any sense. I love my adopted country. I would willingly die in her defense. My family risked everything to come here and I would never do anything to dishonor their sacrifice.

The government has made two serious mistakes. They hired a translator who doesn't really understand Korean and they shouldn't have been listening in the first place. They violated my Fourth Amendment rights and I should be set free.

## **INSTRUCTIONS**

The prosecution must prove beyond a reasonable doubt that Corey Ahn is guilty of treason. The judge must decide whether to admit the recorded conversations into evidence.

## **SUB-ISSUES**

1. Did Homeland Security have anyone else check Noah Awl's translations?
2. Did Corey Ahn have any reason to betray her country?
3. Does the fact that Corey Ahn's cousin is not a citizen and was speaking from another country affect whether or not the government had the right to monitor her phone calls to the United States?

## **CONCEPTS**

1. Search and seizure.
2. Individual liberty vs. public safety.
3. Burden of proof: beyond a reasonable doubt.
4. Credibility of the witnesses.

## **LAW**

The Fourth Amendment to the Constitution of the United States.

...and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and

particularly describing the place to be searched,  
and the persons or things to be seized.

#### The Patriot Act

*Section 201: Authority to intercept wire, oral, and  
electronic communications relating to terrorism*

#### 18 U.S. Code § 2381 - Treason

Whoever, owing allegiance to the United States,  
levies war against them or adheres to their enemies,  
giving them aid and comfort within the United States  
or elsewhere, is guilty of treason and shall suffer  
death, or shall be imprisoned not less than five years  
and fined under this title but not less than \$10,000;  
and shall be incapable of holding any office under  
the United States.

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# The Cheerless Cheerleader: Kulhertz v. In Jury Preparatory Academy

## SCHOOL

Bruriah Junior High  
Elizabeth  
Grade 7, Honorable Mention

## TEACHER

Hadassah Tirschwell

## STUDENTS

Kinneret Adler, Deena Aflalo, Abi Ezra, Michal Feder, Shira Friedman, Rivka Marcus, Shalva Poppers, Shoshi Rothstein, Rivka Shapiro, Sara Shuman, Adina Solomon, Daniella Strauss

## FACTS

On Sunday, November 9, 2014, the football team of In Jury Preparatory Academy was having its first game of the season against St. John's. The In Jury Cheer Squad had been practicing for months to perform a special routine choreographed by their coach, Coach Rue Tina Maker. The routine involved some of cheerleaders doing some cheer stunts in front of a big banner held by other cheerleaders and moving out of the way so that the football players could run through the banner for a dramatic entrance. The cheer squad never practiced the routine with the football players.

At 3 p.m. the stands were full of fans from both teams, as well as two prominent cheerleading scouts, who were looking for scholarship candidates among the cheerleader seniors. The In Jury Cheer Squad ran on to the field, waving their pom-poms. Four cheerleaders held up the big In Jury Preparatory Academy banner, two on each side. There were five groups of spotters in front on the banner, forming the base of a cheer pyramid, each supporting one cheerleader. The cheerleader at the top of the pyramid was a 17-year-old high school senior named May Anne Kulhertz, who had been on the cheer squad for all four years of high school.

The cheerleaders formed their pyramid, and the crowd cheered in response. The five cheerleaders in the air screamed out an In Jury school cheer. The cheerleaders on both sides of May Anne then performed Pike jumps, in order to dismount from

the pyramid. All of those cheerleaders then ran to either side of the banner. Only May Anne and her spotters were left in front of the banner, for the big finish. May Anne jumped high in the air, going from a spirit tuck to a double somersault in the air, and landed on her feet, with her pom-poms waving. Her spotters ran to the sides of the banner immediately upon May Anne's safe landing.

The football players ran through the banner on the cue of the music, but May Anne was still in the middle of a double cartwheel to get to the side of the banner. She was trampled to the ground by the running football players, who couldn't see her until they had run through the banner. May Anne was loaded onto a stretcher and immediately brought to the nearest hospital, Summer Salt Regional Hospital.

May Anne suffered a serious spinal injury and broke her shoulder and ankle. The doctors told her that she would never be able to cheer again. May Anne's parents are suing In Jury Preparatory Academy for Coach Rue's negligence in creating a dangerous routine. They are suing for \$600,000 for the cost of medical bills as well as the loss of May Anne's potential cheer scholarship.

## ISSUE

Did Coach Rue create a dangerous routine that didn't give May Anne enough time to get out of the way of the football players?

## WITNESSES

### *For the Plaintiff*

May Anne Kulhertz

Carta Wheeler

### *For the Defense*

Rue Tina Maker

Dr. Nag le'Jince

## WITNESS STATEMENTS

### *Testimony of May Anne Kulhertz*

My name is May Anne Kulhertz. I have been on the cheerleading squad at In Jury Academy for all four years of high school, and have always been devoted to my cheerleading. I was hoping to continue my schooling at Sky High University, with a cheerleading scholarship. All of that is ruined now, since my doctors say that my injuries are too serious for me to ever be able to cheer again.

I always worked so hard to be the best cheerleader I could be. I put in countless hours, staying late at practices to make sure I could perform every jump, kick, and cheer perfectly. The routine at the first game of this football season was going to be my chance to finally star in a performance. Cheer scouts were watching in the audience. I was extremely focused in practices, always double-checking to make sure I knew the exact timing of every move.

When Coach Rue taught us the routine, I was nervous about the timing. It seemed like I had very few beats to get away from the banner before the football players would run through. I asked Coach Rue if we could practice with the football players, but she told me that the football team practiced on a different schedule than we would, and that I should just rely on her 20 years of choreographing experience. She wasn't worried at all about the timing, and since she is the expert, I trusted her and agreed to go ahead with the routine.

When we got to the game, I was extremely focused. I knew the routine so well, and knew that I could perform it perfectly and impress all of the

scouts. As we started the cheer, I felt so good about it. I was right on the beat, performing every jump and tuck exactly as we practiced. When I landed after my dismount from the pyramid, I felt like I had a cheerleading scholarship in the bag. All I had to do was get out of the way with a double cartwheel. I started my first cartwheel and was about to swing into the second one when I felt someone crash into me. That was the last thing I remembered from the game.

The next thing I knew, I was waking up in a hospital room. The doctor told me that I would never be able to cheer again. My dreams are crushed, and so are my hopes of getting a scholarship to college. Now I have no idea how my parents and I will be able to afford tuition to college, especially since we have hundreds of thousands of dollars in medical expenses to pay off. I honestly believe that if the coach had just had us practice with the players, she would have seen that there wasn't enough time for me to get out of the way, and that the routine wasn't safe, and I would never have gotten injured.

### *Testimony of Carta Wheeler*

My name is Carta Wheeler. I am the captain of the cheerleading squad at In Jury. May Anne and I have been best friends for six years, ever since we met at cheerleading tryouts in sixth grade.

Out of all of the cheerleaders on our team, May Anne is by far the most dedicated to cheerleading. She never comes late to practice, and always stays later than she has to, just to make sure she knows every step perfectly.

Coach Rue wanted this routine to be really special, so she chose May Anne for the lead stunt because she knew that May Anne is so reliable, precise, and capable. May Anne was always looking to practice the routine again and even wanted to practice with the football players. I thought that that was a really great idea, because the coach had timed the sequence with very little room for error, and I wanted to make sure that all of our cheerleaders knew what they were doing and also wanted to make sure that there really was enough time.

However, Coach Rue shot us down and told us that the routine was safe, and we should just trust her, since it would be really hard to coordinate a practice together with the football team.

I know how much this routine meant to May Anne. She has always dreamed of getting a scholarship to Sky High University, since her parents can't really afford to send her to a good college. She took her cheerleading so seriously and just wanted to do everything perfectly.

At the game, everything happened so fast. I was also part of the pyramid, and ran to the side of the banner following my dismount. Out of the corner of my eye, I saw May Anne stick her dismount as she had done every time we practiced. All of a sudden, there was a huge gasp from the audience. I quickly turned to see my best friend lying on the floor, with football players surrounding her. She wasn't moving.

When I saw May Anne lying there, I knew that she had probably lost her chance at a scholarship. My heart breaks when I think of May Anne losing her dream and possibly her chance to afford college. She is an amazing person, friend, and cheerleader, and deserves to get the opportunities that she should have had before her terrible injuries.

### ***Testimony of Rue Tina Maker***

My name is Rue Tina Maker, and I am the coach of the cheerleading squad at In Jury. I have been the cheerleading coach at the school for 12 years, and was choreographing professionally for a decade before that. I have won the award for best cheerleading coach in the state for five years in a row.

I chose May Anne for the lead spot in this cheerleading routine because I knew how much this opportunity meant to her, and she is a hard worker who deserved a turn in the spotlight. She had never had a lead position in any routine we had done, and I thought she was ready for one. Tragically, I was wrong.

The routine I choreographed was safe. We practiced it many times before, and I always called out at the exact moment that the football players would be running through. Every time we practiced, May Anne was well out of the way before the players would have reached the banner.

While it's true that we didn't practice with the players beforehand, that should not have affected the safety of the routine. I have never practiced a cheerleading routine with the football team before a game, and in all of my years of coaching, it has never been a problem. I know how to create routines that are foolproof and safe.

I was watching May Anne on the day of the game. I watched her perform the jumps, the steps, and the cheers. Everything was going well. She landed smoothly from her dismount, and she still had plenty of time to get out of the way of the incoming football players; she was exactly on beat. Then, suddenly, I saw her look at the stands, toward where her boyfriend was sitting. At that moment, I realized that she was standing there, waving her pom-poms, for too long. I tried calling out to her, to get her to move more quickly, but she was enjoying the moment too much, and stood there for an extra few beats, while I frantically screamed and waved at her to move. She then turned to continue the routine, but it was too late—she had fallen behind, and in a split second, she was on the ground, having been run over by the players.

I agree that it is terrible that such a promising young cheerleader was struck down, losing many opportunities that had sparked in her future. However, this was because she got distracted during the routine and fell behind. The routine was certainly safe, and I cannot believe that a cheerleader would blame me, her coach, for a game-time distraction that led to her injuries.

### ***Testimony of Dr. Nag le'Jince***

My name is Dr. Nag le'Jince, and I am the principal of In Jury Preparatory Academy. Our school is renowned among the private school sector for the excellence and professionalism of our staff. Coach Rue Tina Maker is no exception. She is an award-winning choreographer and cheerleading coach with impressive credentials.

Coach Rue joined the faculty at In Jury Prep 12 years ago, and since then the cheerleading at our school has reached new heights—literally and figuratively. The squad has won awards on the district, state, and even national level. I strongly

believe that this is due to the fantastic coaching of Coach Rue.

It is truly terrible that a student of our school was hurt while participating in a school activity. May Anne Kulhertz is a good student and a great addition to our squad, and we had high hopes for her future opportunities within the competitive cheerleading circuit. However, this injury is not the fault or responsibility of our school. It is true that May Anne is a hard worker, and I often see her staying late to go over the new cheerleading routines. However, she is young and distractible, and it is very likely that she slipped up and missed her cues during the cheerleading routine at the football game. Coach Rue is experienced and accomplished, and if she says that the routine was safe, we should all trust her and rely upon her professional opinion.

## INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Coach Rue Tina Maker is solely responsible for injuries sustained by May Anne Kulhertz when she was trampled by the football team.

## SUB-ISSUES

1. Would practicing with the football players beforehand have prevented May Anne's injury?
2. Did the coach have the cheerleaders practice sufficiently to ensure their ability to properly perform the routine?
3. Is a coach responsible for game-time injuries?
4. Did May Anne get distracted while performing the cheerleading routine at the football game?

## CONCEPTS

1. Burden of proof: by a preponderance of the evidence.
2. Credibility of witnesses.

3. School sports team liabilities.
4. Coach negligence and abuse.

## LAWS

### 1. **NJ 5.10A Negligence and Ordinary Care – General**

Negligence may be defined as a failure to exercise, in the given circumstances, that degree of care for the safety of others, which a person of ordinary prudence would exercise under similar circumstances. It may be the doing of an act which the ordinary prudent person would not have done, or the failure to do that which the ordinary prudent person would have done, under the circumstances then existing.

### 2. **N.J.S.A. 2A:15-5.8. Joint Tortfeasors**

Notwithstanding the provisions of P.L. 1952, c. 335 (C. 2A:53A-1 et seq.), section 3 of P.L. 1973, c. 146 (C. 2A:15-5.3) or any other law to the contrary, in any case where a social host or any other party to a suit instituted pursuant to the provisions of this act is determined to be a joint tortfeasor, the social host or other party shall be responsible for no more than that percentage share of the damages which is equal to the percentage of negligence attributable to the social host or other party.

### 3. **Duty Number Three of the Fourteen Legal Duties of a Coach:**

Duty to Assess Athletes Readiness for Practice and Competition – Athletics administrators and coaches are required to assess the health and physical or maturational readiness skills and physical condition of athletes. A progression of skill development and conditioning improvement should be apparent from practice plans. Athletes must also be medically screened in accordance with state association regulations before participating in practice or competition.

*The Fourteen Legal Duties of a Coach, accepted by the NFHS (National Federation of High Schools) and NIAAA (National Interscholastic Athletic Administrator Association)*

# Dazed and Confused: State of Florida v. Ellen Walker

## SCHOOL

Bloomfield Middle  
Bloomfield  
Grade 7, Honorable Mention

## TEACHER

Lauren Barton

## STUDENTS

Grace Carlin, Juliana Cianciotta, Felicia Cochran, Michael Gillespie, Gabriela Gonzalez, Matthew Kelly, Patrick Liggins, Nicole Mautone, Elizabeth Nucci, Bryana Perez, Walla Rahama, Manas Ranpariya, Jaden Referente, Mike Simbana, Jason Torres, Nazir Young

## FACTS

Bill, Ellen Walker's husband, developed stage four lung cancer. Ellen watched him go through extreme pain for a couple of months and even though their doctor explained that there was no remedy for the pain, he gave her a pamphlet of recommended websites to research ways to help alleviate pain for cancer patients. She referred to the pamphlet to try to come up with some options to help Bill. One of the websites suggested that marijuana was an effective way to help manage pain. Ellen began to grow marijuana in her home, hoping it would help her husband. It helped to ease his pain for a short while, but after a month, Bill died.

Shortly after Bill's death, Ellen was showing signs of the beginning stages of dementia. Her daughter Mary believed that her mother was not safe living by herself, so she moved Ellen into her home in Cannabis, Florida. One afternoon, Ellen heard noises from her bedroom and was afraid an intruder had entered the home and called the police. When the police officers arrived, they found Mary sitting on the front porch. The officers briefly explained the call they received, and began to look around to make sure everything was okay. One of the officers, Officer Warren T. Pott, found Ellen scared and hiding in her bedroom. Officer Pott, while trying to calm Ellen down, saw a marijuana plant. The officers questioned Ellen about the plants in her bedroom. She could not provide an explanation; therefore they arrested Ellen for illegal drug possession.

The defense affirms that the plant was not in plain view of Officer Pott. Officer Pott maintains that the marijuana plant was in plain view in Ellen's room. The defense is requesting this evidence be eliminated due to a violation of Ellen's Fourth Amendment rights.

## ISSUE

Is Ellen Walker guilty of possessing a marijuana plant in her bedroom? Is the evidence seized from Ellen Walker's bedroom to be excluded from the case based on the plain view doctrine under the Fourth Amendment?

## WITNESSES

### *For the Prosecution*

Officer Warren T. Pott  
Dr. Noah D. Ruggs

### *For the Defense*

Ellen Walker  
Mary Walker

## WITNESS STATEMENTS

### *Testimony of Officer Warren T. Pott*

On December 13, 2014, we received a call from an elderly woman who seemed scared and

confused claiming an intruder was in her house. My partner and I dispatched to 420 Juana Lane. When we reached the house, we saw Mary Walker sitting on the front porch. We informed her of the call and told her we had to do a walk-through of the house for her safety. All seemed to be okay as we made our way to check the bedrooms. Once we reached Ellen's room, we opened the door and saw a frightened elderly woman sitting on her couch in the corner against the windows. When we asked her if she was okay, she responded in a confused state and was unsure as to why we were there.

I tried to comfort Ellen and assure her that she was in no danger. I started a conversation about her plants which were in front of the windows when I noticed a marijuana plant on the floor beside her loveseat. When I questioned her about the plant, she became disoriented and confused. I had no choice but to arrest her for possession of an illegal substance. The marijuana plant was clearly in plain view next to the couch. I was following the law that I uphold as a police officer.

### ***Testimony of Dr. Noah D. Ruggs***

Ellen and Bill were my patients for over 20 years. I treated Bill during his battle with cancer. Toward the end of Bill's life, Ellen knew that he was in serious pain and she could not stand his suffering. She told me that her husband didn't deserve this so she asked if there was any kind of medicine to numb the pain. I explained there was not much I could do at this point, but provided her with a pamphlet of websites with possible home remedy solutions. I didn't prescribe any medication.

At their appointment the following week, Ellen thanked me for the help. I wasn't sure what she was talking about, so she explained she found a home remedy that helped with Bill's pain. About a month later, Bill died of lung cancer. I continued to care for Ellen, who had been exhibiting signs of dementia ever since the death of her husband. At Ellen's last appointment, her daughter told me she felt that Ellen shouldn't be living on her own and Ellen would be moving in with her.

In no way did I encourage Ellen to grow the marijuana, nor did I recommend it to help with Bill's pain. At the time, I was shocked to find out that Ellen

had grown the marijuana. She should have known it was illegal. If I thought Bill would have benefited from marijuana, I would have prescribed it to him.

### ***Testimony of Ellen Walker***

When my husband was dying of cancer, his doctor informed me that there wasn't much I could do to help him, but he gave me a list of websites that had home remedy suggestions on how to make his pain go away. I decided to take matters into my own hands to find a solution for his pain. I saw on the internet that marijuana could be given to help his suffering, so I started growing it. My husband Bill was struggling with this illness for too long, and I just wanted him to feel better. I was devastated when Bill died. I just didn't know what to do with myself. My daughter told me I was starting to become unaware of my surroundings and beginning to become very forgetful, so I moved in with her. She was kind enough to renovate her sunroom so I would have a room of my own. We were living together for a while when I finally had settled in.

One evening, I thought I heard someone come into the house and I called the police. I was very frightened and hid in my bedroom until they arrived. When the police came they immediately began to search. I had no idea why they were in my house, and I certainly had no recollection of calling them. When they were searching my bedroom, I became very anxious and nervous. It made me uncomfortable that they were searching through my stuff. One of the officers tried to sit next to me to console me, but then he started asking me all these questions about my plants. I don't know how he even saw the plants since they were on the floor in front of the windows and my loveseat blocked their view. My privacy has been violated. They had no right to search my room and take my plants.

### ***Testimony of Mary Walker***

After my father died, my mother wasn't acting like herself. We began to see the early stages of dementia, and I couldn't have her living alone anymore. I willingly took my mom into my home to care for her. We didn't have an empty bedroom so I renovated my sunroom so she would have some privacy. My mother had many plants so I knew she would enjoy living in a room with abundant sunlight.

One night, I came home from work and made myself a cup of tea. Suddenly, there were two police officers walking into my house. The officers briefly explained there was a call informing them that someone had broken into the house. I assured them there was no emergency, but they had to check the property to make sure there was no danger. While they were checking my mom's room, I saw Officer Pott holding one of mom's plants. The police thought it was a marijuana plant. There was no way the police could have seen her plants since they are all on the floor behind the loveseat.

To my knowledge, my mother didn't have a marijuana plant in her room. If I had known she had a marijuana plant when she moved in, I would have made her throw it out. What I do know is Officer Pott upset my mother by badgering her with questions while she was clearly in an unstable state of mind. She became very confused and started yelling that it was her plant and they couldn't take it. My husband, a well-known lawyer, informed me that my mother's Fourth Amendment rights were violated since the officers did not have a plain view of the plant. There is no way Officer Pott would have seen it. My mother's Fourth Amendment rights should be protected. The police should not have invaded our home like this.

## INSTRUCTIONS

The prosecution must prove beyond a reasonable doubt that Ellen Walker is guilty of possession of illegal drugs. If the defendant is able to prove that Officer Pott did not see the marijuana plant in plain view, then the evidence should be excluded from her case.

## SUB-ISSUES

1. Was Ellen experiencing signs of dementia prior to Bill's death?
2. Was it necessary for Officer Pott to comfort Ellen?
3. Does Ellen require daily assistance due to her poor memory and state of mind?
4. Was there a reason for the officers to look around the entire house, including Ellen's bedroom?

## CONCEPTS

1. Plain view doctrine.
2. Unreasonable search and seizure.
3. Burden of proof: beyond a reasonable doubt.
4. Credibility of the witnesses.

## LAW

Fourth Amendment of the United States Constitution: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated....

Florida Drug Possession Laws: State law allows a first degree misdemeanor charge for simple possession of cannabis in an amount less than twenty grams.

To establish the elements of drug possession, the prosecutor must show:

- The illegal nature of the controlled substance: The prosecutor must present evidence that the seized material is a controlled substance as defined by Florida law.
- The defendant's knowledge of the drug: The prosecutor must show that the defendant actually knew or should have known about the illicit nature of the controlled substance and its presence.
- The defendant's control of the drug: The prosecutor must prove that the defendant had control over the location and presence of the controlled substance. A prosecutor likely has a more straightforward case if the defendant had the drugs on the defendant's body or in a container held by the defendant. However, the prosecutor can also establish the defendant's control by describing the location where the drugs were found and showing that the defendant controlled the premises.

# Kater v. Board of Education

## SCHOOL

Ramapo Ridge Middle  
Mahwah  
Grade 7, Honorable Mention

## TEACHER

Jo Ellen Wall

## STUDENTS

Olivia Chung, Juliet Corless, Kavya Parameswar,  
Scott Tremblay

## FACTS

James Kater, age 17, is a hockey star for the Torona Manatees of Torona, Minnesota. He is in his senior year at Torona High School and has received a full ride to Boston University for hockey.

On Friday, November 13, 2009, the Torona Manatees played their season opener against their rivals, the Birmingham Blue Jays. During the first period, James was playing forward, and he was on a breakaway. He was skating very fast, and his skate got wedged into the ice. His momentum carried him forward while his left leg was stuck behind him, causing him to pull his leg muscle. Two teammates supported him off the ice and to the bench.

James took a break for the second period. When Coach Ockey asked if he was okay, James replied, "I'm fine, Coach," despite his limp. Coach Ockey proceeded to let him back in the game.

Each stride James took caused pain to his left leg and caused him to limp. Shortly after James went back in, he collapsed on the ice with excruciating pain. Coach Ockey called the paramedics, and they took him off the ice on a stretcher.

Later, at the hospital, Dr. Diane Heelz examined James' injury. Dr. Heelz told James that it was a mistake to go back in the game. She diagnosed a torn ACL and a pulled muscle. She told him that he would not be able to play for the rest of the hockey season. His scholarship would be revoked. James claims that his injury is due to Coach Ockey's negligence and is suing the school for loss of

scholarship, hospital bills, physical therapy, and pain and suffering.

## ISSUE

Is the Torona Board of Education liable for the negligence of Coach Ockey towards James Kater's injury?

## WITNESSES

### *For the Plaintiff*

James Kater  
Dr. Diane Heelz

### *For the Defense*

Noah Ockey  
Shirley Jackson

## WITNESS STATEMENTS

### *Testimony of James Kater*

I am James Kater, 17 years old, and I play for the Torona Manatees Varsity High School hockey team. I am a senior, and next year I was going to go to Boston University on a hockey scholarship. Our season opener was on Friday night, November 13. We were playing the Birmingham Blue Jays, our rival team. The game was going well until I was on a breakaway with the puck. As I took a stride with my left skate, the blade got caught in the ice and



because of my speed, my momentum caused me to keep on going and pull my leg muscle. I was in a lot of pain so I took a break.

In a little bit, I was feeling slightly better. My coach, Noah Ockey, was pressuring me to go back in because this was such a big game against our rivals. I said that I was fine, so he wouldn't get mad at me. He ended up putting me back out on the ice, even though it was obvious that I was limping and in a lot of pain. When I went back out, I could barely skate, and every time I took a left stride, I was in pain. All of a sudden, one especially bad stride sent me collapsing on the ice with excruciating pain in my leg.

I had to go to the hospital, and I knew I wasn't going to be able to play for a while. I couldn't even walk on it, not one step! I knew I shouldn't have gone back in, and it is all Coach Ockey's fault. The only reason I said I was fine was because he was pressuring me so much, and I did not want to let him down and make him mad. Now thanks to him, I have a torn ACL, a revoked Boston University scholarship, and no more hockey career.

### ***Testimony of Dr. Diane Heelz***

I am Dr. Diane Heelz. I am an orthopedist with a medical degree from John Hopkins Medical School. On Friday, November 13, James Kater came to the hospital. As I work part-time at the Torona Hospital, I was called in to examine James. He explained that he was playing in his season opening hockey game when his blade suddenly got caught in the ice. He said that he felt a painful tightness in his leg. I immediately concluded that he had pulled a muscle. He told me that after this incident, he took a short break, and the coach pressured him to go back into the game. James told me, however, that it was obvious that he was still hurt.

When James went back in, he collapsed on the ice because the pain in his leg was so strong. Because of the second incident, James not only pulled a muscle, but his knee was swollen, and he could not even move his leg without intense agony occurring. My diagnosis was that he pulled a muscle and tore his ACL while playing in the game.

I know that James had a scholarship to Boston University. This injury will sit him out for the rest of the season, making him lose his scholarship. If the coach didn't put him back in the game, after James was clearly injured, he would have had a less severe injury and a quicker recovery.

### ***Testimony of Noah Ockey***

I am Noah Ockey, coach of the Torona Manatees Varsity Hockey team. I have been coaching hockey for 17 years now, and never in my life have I pressured someone to play when injured. I used to play hockey from when I was nine years old until I finished college. Now, I'm a retired phys ed teacher from Torona High School, and I decided to continue working as a hockey coach.

Friday, November 13, was the season opener for my team. It was the first period of the hockey game, and I was sitting on the bench with the rest of my team when my star player, James Kater, got his skate blade caught in the ice and fell. I immediately got him off the ice and let him rest on the bench.

Later in the game, during the third period, I asked James if he was able to play, and he assertively said that he was fine. When he went back out, he took some strides back and forth. James was limping a bit, but overall, he seemed perfectly fine. Then, I sat down on the bench and went back to watching the game.

As he started to play, he slid across the ice. I suddenly saw him collapse with what seemed to be unbearable pain. He couldn't walk on his leg, so I came to the conclusion that he sustained a serious injury. After I called the paramedics, I saw him get carried off the ice in a stretcher. I tried to ask him what had happened, but he was in too much pain to speak.

I have to say that I surely did feel bad for him, but why did he say that he was fine? If he were to say that he was still hurt, I would never have put him back in the game. You can't just blame his injury on me because he was the one that told me he was fine! James should have been able to know how hurt he was because if he had not told me that he was fine, this would never have happened.

## Testimony of Shirley Jackson

I am Shirley Jackson, athletic director of the Torona School District. I choose all my coaches with great care. Some of the characteristics I look for when I first hire coaches are responsibility and caution. Candidates do not get hired if they do not display caution. The staff member in question is Coach Ockey, one of the 20 or so coaches I have hired for both the middle and high schools. He is one of the best coaches, and one of the most trusted.

A few years ago, he retired as a physical education teacher, and he has been coaching for nearly 20 years, so I place great trust in him. He has always shown good judgment for injuries and has never made a false judgment on a player's injury before. He would never have made James Kater go in unless he was absolutely sure that he was fine.

On November 13, as it was the first game of the season, I came to watch. I was sitting on the bleachers behind the players. James Kater came and sat on the bench after his fall. After Coach Ockey asked him if he was good to play, I distinctly heard him say to Coach Ockey, "I'm fine, Coach." He played for a few minutes and seemingly tripped. James should not have told Coach Ockey that he was fine if he wasn't.

## INSTRUCTIONS

The plaintiff must prove by a preponderance of evidence that the Torona Board of Education is liable for James Kater's injury, which was reasonably foreseeable by Coach Ockey.

## SUB-ISSUES

1. Was James hiding his injury in order to play?
2. Was Coach Ockey pressuring James to get back in the game?

## CONCEPTS

1. Negligence and liability.
2. Credibility of witnesses.

3. Preponderance of evidence.
4. Causation.

## LAW

**C.18A:40-41.3:** Written policy for school district concerning prevention and treatment of sports-related...injuries.

A student who participates in an interscholastic sports program and who sustains or is suspected of having sustained [an]...injury while engaged in a sports competition or practice shall be immediately removed from the sports competition or practice. A student-athlete who is removed from competition or practice shall not participate in further sports activity until he is evaluated by a physician or other licensed healthcare provider trained in the evaluation and management of [injuries], and receives written clearance from a physician trained in the evaluation and management of [injuries] to return to competition or practice.

**3. a.** Each school district shall develop a written policy concerning the prevention and treatment of sports-related concussions and other...injuries among student-athletes. The policy shall include, but need not be limited to, the procedure to be followed when it is suspected that a student-athlete has sustained a concussion or other...injury. When developing the district policy, a school district shall review the model policy established by the Commissioner of Education....

## BIBLIOGRAPHY

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# Hickory Dickory Dock, the Rat Blew up the Block?

## State of New Jersey v. Ivan Torres

### SCHOOL

Bloomfield Middle  
Bloomfield  
Grade 8, First Place

### TEACHERS

John Shanagher and Lauren Barton

### STUDENTS

Olivia Brzostek, Nathanael Calvo, Ethan Farabaugh, Anthony Fernandes, Adonis McGee, Luis Nieves, Martin Ramos, Emily Sanchez

## FACTS

The city of Dickory experienced something that most towns never have had to go through. The town hall had been bombed and there were many bomb threats in the surrounding area. Due to these situations, the police have been on high alert for any suspicious activity.

On April 13, 2014, at 4:20 p.m., the police received a complaint from a woman who said she heard a scream coming from her neighbor's house. The police arrived within minutes. The owner, Ivan Torres, a young inventor, admitted the police into his home. He explained to the officers that his young daughter was terrified of rats and that while there was an exterminator in the house, a rat ran up the stairs and scared her. The police made a brief walk-through of the house and determined that there seemed to be nothing wrong.

Ivan briefly stepped away to check on his daughter. While he was gone, the police heard a very loud beeping noise coming from the living room. Upon further investigation, the police officers found a beeping phone lying on the floor behind the couch next to a FedEx box containing a number of materials such as fertilizer, wires, ammonia, nail polish remover, and nails.

When Mr. Torres returned from comforting his daughter, the police had a number of questions regarding the content of the box, especially the

information they found on the phone. Mr. Torres was arrested by the police on charges of making terroristic threats and possession of a weapon for unlawful purposes.

Mr. Torres maintains that the box was behind the couch and therefore not in plain view. The police claim they heard suspicious noises, which led them to look behind the couch where they found the box. The defense feels that since the box was not in plain view, all evidence contained in the box should be excluded based on the Fourth Amendment.

## ISSUE

Is Ivan Torres guilty of making terroristic threats and possession of a weapon for unlawful purposes?

Is the evidence seized from Ivan Torres' home admissible under the plain view doctrine?

## WITNESSES

### *For the Prosecution*

Officer Bea Ping  
Dexter Hickory

### *For the Defense*

Ivan Torres  
Laurie Dock

## **WITNESS STATEMENTS**

### ***Testimony of Officer Bea Ping***

My partner and I responded to a 911 call regarding screaming coming from the residence at 134 Eagle Road. The owner of the house, Ivan Torres, allowed us to enter his home. He explained that the screaming came from his six-year-old daughter who was terrified because she saw a rat. We did a quick walk-through and everything seemed to be okay. We ended our investigation in the dining room.

Ivan stepped out of the room for a minute, telling us he was going to check on his daughter. While waiting for Ivan to return, I heard a loud beeping noise, similar to the sound of a smoke alarm, coming from the living room. We followed the noise to the couch. When we looked behind the couch, we saw the cause of the sound: a cell phone on the floor next to a partially opened FedEx shipping box. I was very concerned about what I saw because our town hall was bombed recently and there had been a number of bomb threats to surrounding towns. Inside the box we saw wires, fertilizer, nail polish remover, and a number of other suspicious items. The phone contained text messages about the bombing that were dated before the actual event occurred. Based on what we saw, we arrested Mr. Torres and he has been charged with making terroristic threats and possession of a weapon for unlawful purposes.

### ***Testimony of Dexter Hickory***

I'm an exterminator and I have been to Mr. Torres' house multiple times. While working in the basement, I've noticed a large number of fertilizer bags. I thought that was unusual, because he doesn't have a very big lawn. I've also noticed that he has many visitors who seem to drop off and deliver packages, but act uncomfortable if I'm around when they're speaking to Mr. Torres.

On April 13, 2014, Mr. Torres called because he saw rats in his basement again. When I moved some boxes filled with nails, I disturbed a nest and one of the rats ran up the stairs. Mr. Torres' daughter saw the rat and began to scream. A few minutes later, the police arrived.

At one point, Mr. Torres left the police in the hallway and went up to the second floor. I heard Mr. Torres speaking to someone on his house phone in a language I didn't recognize. I was able to hear him because of the air ducts that connect to various floors of the house. Ten minutes later, Mrs. Torres returned home. She began screaming, and when I came into the living room, I saw Mr. Torres being taken out of the house in handcuffs.

### ***Testimony of Ivan Torres***

I am an inventor of sorts. In my house I have some prototype machines and many boxes of spare materials. The exterminator was at my house to get rid of rats in my basement. My six-year-old daughter is absolutely terrified of rats and, when one ran up the stairs, she screamed. A few minutes later, the police arrived because a neighbor heard the scream. I let them into my house and explained that my daughter was screaming because she saw a rat. The police told me they just wanted to look around. After they finished their search, I excused myself to see if my daughter was okay. When I came back, the police had moved my couch, were going through a box of scrap materials, and were scrolling through my phone!

There is nothing suspicious about an inventor having a variety of materials in boxes around his house. I run a business which creates prototypes based on inventors' designs. Customers contact me online and, once I've made the prototype, I ship it to them. Some of my customers are a little paranoid about having their ideas stolen so they actually come to my house to pick up their prototypes. I use the fertilizer as a poison on the rats which keep infesting my house, despite all the money I've paid to that lazy exterminator.

I allowed the police to look through my house without any hesitation. Does that sound like a guilty person to you?

Finally, the box was behind a large couch, not to hide it, but because my wife gets mad at me when I leave things in the middle of the room. The police claim that a suspicious noise made them look behind the couch. What in heaven's name is suspicious about a ringing cell phone? I believe

they were sneaking around the room as soon as I left to check on my daughter, and that is illegal.

### **Testimony of Laurie Dock**

I am Laurie Dock, a full-time lawyer and a part-time inventor. I like to think of new and creative ways of doing things, but I am not very good with my hands. I was looking online and found Mr. Torres' website. He has a business which takes the ideas given to him from inventors and builds the invention. You can email him ideas and either pick them up or he will ship them to you via FedEx. I have always found Mr. Torres to be an honest man, so I was shocked when I heard that he had been arrested. I was even more surprised when I discovered that his arrest was based on what I believe to be an illegal search of his home.

The Fourth Amendment is very clear in stating that the police require a warrant before a man and his possessions can be searched or seized. The police had no business snooping around his house. If the box and the cell phone were behind the couch, then they were obviously not in plain view. The only evidence against Mr. Torres is the box. Without it, the charges against Mr. Torres should be dropped.

## **INSTRUCTIONS**

The prosecution must prove beyond a reasonable doubt that Ivan Torres is guilty of making terroristic threats and possession of a weapon for unlawful purposes.

The judge must rule on whether or not the evidence was in plain view to determine its admissibility.

## **SUB-ISSUES**

1. Was the box completely obscured by the couch?
2. Did Mr. Torres have any motive to threaten his community?
3. Did the police investigate whether the people who visited Mr. Torres' house were legitimate inventors?

4. Is it believable that Mr. Torres needed to check on his daughter before the police left?

## **CONCEPTS**

1. Plain view doctrine.
2. Unreasonable search and seizure.
3. Burden of proof: beyond a reasonable doubt.
4. Credibility of the witnesses.

## **LAW**

The Fourth Amendment to the Constitution: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated....

N.J.S.A. 2C:39-4. Possession of weapons for unlawful purposes

b. Explosives. Any person who has in his possession or carries any explosive substance with a purpose to use it unlawfully against the person or property of another is guilty of a crime of the second degree.

c. Destructive devices. Any person who has in his possession any destructive device with a purpose to use it unlawfully against the person or property of another is guilty of a crime of the second degree.

N.J.S.A. 2C:12-3. Terroristic threats

a. A person is guilty of a crime of the third degree if he threatens to commit any crime of violence with the purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience....

# State of New Jersey v. Reese Ceets

## SCHOOL

Bloomfield Middle  
Bloomfield  
Grade 8, Second Place

## TEACHER

Lauren Barton

## STUDENTS

Alexander Canova, Antonio D'Andrea, Dinae  
Dover, Ivan Galinski, Angiel Luque, Melanie  
Rodriguez, Eva Smith, Trinity Valentin

## FACTS

Deb Reez's daughter attended Neighborly Nest Day Care. When Deb Reez came to pick up her daughter, she started whining and crying. The only thing that will calm her down is her pacifier, which was missing from her bag. Deb Reez went inside and asked Reese Ceets, owner of Neighborly Nest, if she could look for her child's pacifier. Deb Reez looked all over Neighborly Nest for the pacifier and couldn't find it anywhere. She then decided to look through the trash, as she has been guilty of accidentally throwing the pacifier out herself. While she searched for the pacifier in the garbage can, she saw several receipts with her name on it. Unsure as to why these receipts were in the trash, she took them out and put them in her purse and continued searching for her child's pacifier and left once she found it.

Once Deb returned home, she checked her account and saw several charges that she did not make. The receipts she put in her purse were for some of the charges, but there were several other charges in small amounts that added up to a significant amount of money. Later Deb returned to Neighborly Nest to question the owner, but instead found the trash of the Neighborly Nest out on the curb. Deb found receipts not only with her name on it, but also receipts belonging to other families that attended the day care.

She brought her evidence to the local police. The police took this evidence as probable cause to get a warrant to search the Neighborly Nest. Upon

getting the warrant, they searched the house only to find more receipts under other families' names. When they questioned the owner, she could not justify why these receipts were on her property. They arrested Reese Ceets for fraud.

Reese Ceets argues that her Fourth Amendment rights were violated when Deb Reez looked through her trash, which resulted in an unlawful acquisition of a warrant. The police feel they had enough evidence with probable cause to get a warrant.

## ISSUE

Is Reese Ceets guilty of fraud?

Is the evidence acquired under Fourth Amendment admissible based on the information provided to Officer Evan Dintz resulting in probable cause to obtain a warrant?

## WITNESSES

### *For the Prosecution*

Deb Reez  
Officer Evan Dintz

### *For the Defense*

Reese Ceets  
Pat R. O'nage

## **WITNESS STATEMENTS**

### ***Testimony of Deb Reez***

When I was ready to go back to work, I asked friends for recommendations of reputable day care centers in the area. Many had recommended Neighborly Nest. After observing the daily routine of the center, I knew this was not only a safe environment to care for my child, but also was reasonably priced. Reese Ceets kept my credit card information on file after I enrolled to charge my card every month. I don't pay much attention to my account statements, as my husband handles most of our finances.

On the afternoon when I went to pick up my daughter, she started to cry and whine. The only thing that calms her down is her pacifier. When I reached into the bag to get it, I noticed it wasn't there. So I went back inside to find it. While looking, I was shocked to find receipts with my name and account information on them. Something didn't seem right to me so I put the receipts in my purse and went home.

Later that evening I checked my account to see if the receipts matched. I was outraged that Reese Ceets had made these fraudulent charges to my account. Disappointed and upset, I wanted to confront Reese Ceets so I went back to Neighborly Nest. Before I did that, I noticed the trash on the curb and wanted to make sure there were no other receipts with my account information on them. I became angrier as I discovered there were many additional receipts showing charges to my account. In addition, I found a few receipts with other parents' names and information. Not knowing what to do, I brought this information to the police.

### ***Testimony of Officer Evan Dintz***

One evening I was sitting at my desk when Deb Reez came into the station. She handed me many receipts as well as a printout of her account statement. She went on to explain that she was a victim of fraud and accused the owner of the day care her daughter attended. She also gave me receipts from other families at the day care who she thinks were stolen from as well. It was clear to me she was upset and agitated because she felt like

her trust was betrayed. I tried to calm her down and told her I would get to the bottom of this. Based on her evidence, I felt I had enough probable cause to obtain a warrant to search Neighborly Nest.

When we arrived at Neighborly Nest and presented our warrant, Reese Ceets was defiant and disrespectful because she said our search would disturb the children. We explained to the owner that we had no choice but to search the center based on our warrant. We made our way in to search file cabinets, desks, drawers, and any other possible spots where we could find evidence. We came across piles upon piles of receipts, even going back five years ago. When I questioned Ms. Ceets about the receipts, she couldn't justify why she had so many of them. Based on our search, it was clear I needed to arrest her for fraud. I did not violate her Fourth Amendment rights as I had evidence for probable cause to obtain a warrant.

### ***Testimony of Reese Ceets***

My family day care has been in business for about a decade now. Recently, I have been rated a four star center. Neighborly Nest is recommended by many families in town. We do tons of activities from painting to playing with toys. We have never gotten a complaint at all. We try to make sure that every child's property and belongings go in their individual cubby so nothing gets lost.

I was standing outside when Deb Reez needed to go inside to get her child's pacifier. After Deb Reez left, one of my employees told me she was looking through the garbage to find the pacifier, but she was also looking at individual receipts. Clearly, she was up to no good.

As the children were eating lunch, the police barged into my house with a warrant to search. The children were so scared. Some even began to cry and couldn't eat their lunch anymore. That nosey Deb Reez looked through my trash to try to find receipts with her name on them! Of course, she would find receipts with her name on them. I charge her account on file every month for payment. Deb Reez had no right looking through my receipts. My Fourth Amendment rights were

violated because the police didn't have probable cause to search through my house.

### ***Testimony of Pat R. O'nage***

I have been an employee at Neighborly Nest ever since it opened, which is now over a decade. Reese cares for many children and the kids are always having fun and are well cared for. As an employee, Reese treats me very well and is especially kind and caring toward the children. All the children she cares for she treats like her own. She runs an extremely organized center and would never do anything to mistreat her families. She definitely wouldn't steal from them! Why would she ruin a perfect business that has given her so much success? Deb Reez had no right to take those receipts since they weren't her belongings. My boss' Fourth Amendment rights were violated.

## **INSTRUCTIONS**

The prosecution must prove beyond a reasonable doubt that Reese Ceets is guilty of fraud. If the defendant is able to prove that Deb Reez had violated her Fourth Amendment rights to privacy by providing Officer Dintz with evidence that did not constitute probable cause for a warrant, then the evidence and any that came from it will be inadmissible from the case.

## **SUB-ISSUES**

1. Should Officer Dintz have run an investigation before obtaining a warrant?
2. Is Neighborly Nest's trash considered private property?
3. Was the evidence enough probable cause for Officer Dintz to get a warrant?

## **CONCEPTS**

1. Burden of proof: beyond reasonable doubt.
2. Credibility of the witnesses.
3. Probable cause.

## **LAW**

Fourth Amendment of the United States Constitution: The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated....

N.J.S.A. 56:8-2:

Consumer fraud is "any unconscionable commercial practice, deception, fraud, false pretense, false promise or misrepresentation" in connection with the sale of goods, services or real estate.



# Motion to Suppress the Evidence: State of New Jersey v. Wright D. Nide

## **SCHOOL**

Valley Middle  
Oakland  
Grade 8, Honorable Mention

## **TEACHER**

Jena Boomhower

## **STUDENTS**

Savannah Aboyoun, Alexa Bolnick, Harrison Chen,  
Tishya Dua, Grace Liang, Justin Miner, Emma  
Moorman, Megan Swenson

## **FACTS**

While sitting at a bar on November 13, 2014, Wright D. Nide received a text message. Like most people, his cell phone required a password. As Wright D. Nide was punching in his 4-digit code, Rob Defone, another bar customer, casually glanced over and saw Wright D. Nide enter the password. A few minutes later, Wright D. Nide jumped up when the Giants scored a touchdown and spilled buffalo sauce on his jeans. He ran to the bathroom to clean himself up and left the phone on the bar near where he had been sitting. Rob Defone used this opportunity to his advantage and stole the phone.

Later that evening, while patrolling the street, Police Officer Liam Booker saw someone exchanging a small bag and money with another person. Officer Booker assumed that it was a drug deal and was able to catch one of the perpetrators; however, the other man escaped. Once the man was taken into custody, Officer Booker identified him as Rob Defone, a local drug dealer. Officer Booker requested a search warrant for Defone's phone. Once granted a warrant by the judge, Officer Booker searched the digital contents on the cell phone and found evidence of illegal drug dealing. He then formally arrested Defone on charges of selling and possessing illegal substances.

During the interrogation, Defone confessed that the phone wasn't his; he admitted that he had

stolen it at a bar. Subsequently, Officer Booker went back and searched the cell phone a second time, learning that Wright D. Nide was the actual owner of the phone. Booker then obtained a second warrant, this time to arrest Wright D. Nide based on the incriminating texts found on his phone. Officer Booker found Wright D. Nide coming out of his place of employment a few days later, and arrested him for selling illegal substances. Wright D. Nide claims that the search of the phone was a violation of his Fourth Amendment rights. He believes that the court should suppress the evidence that was found on his phone as he had an expectation of privacy due to the passcode he had in place on his cell phone.

## **ISSUE**

Did Wright D. Nide lose his expectation of privacy when his cell phone was stolen?

## **WITNESSES**

### ***For the Prosecution***

Officer Booker  
Ryan Z. Xpirt

### ***For the Defense***

Wright D. Nide  
Arthur Ovlaw

## **WITNESS STATEMENTS**

### ***Testimony of Officer Booker***

It was November 13, 2014. I was on my night shift and was patrolling the street as usual. I spotted Rob Defone, a notorious drug dealer, making a suspicious exchange on a street corner. I hollered at him to freeze and put his hands up. Surprisingly, Rob Defone followed my instructions, but the other guy sprinted away. I took Defone into custody and requested a search warrant from a judge to search Defone. I had probable cause and therefore was issued a valid search warrant.

I then searched his phone, finding incriminating evidence against him. From the text messages, I could tell he was conducting illegal drug deals. I formally arrested him on charges of selling and the possession of illegal substances. However, as I was arresting Defone, he confessed that he had stolen the mobile device.

After further investigation, I realized that the phone actually belonged to Wright D. Nide. Consequently, I requested a warrant to arrest Mr. Nide based on the evidence found on the cell phone. As soon as the warrant was issued, I drove to Wright D. Nide's office and arrested him for selling illegal substances.

### ***Testimony of Ryan Z. Xpirt***

My name is Ryan Z. Xpirt, and I have studied constitutional law for the past 20 years. In addition, I have taught for seven years at Seton Hall University.

It is clear that Mr. Nide's phone was reasonably searched. The Fourth Amendment explicitly states, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." This shows that the phone was rightfully searched since Mr. Nide lost his expectation of privacy the moment he left his phone on the public bar top. When Mr. Nide left his phone alone on the bar

in a public place for his so-called "emergency" trip to the bathroom, he lost his expectation of privacy because he no longer was in control of it. Not only that, he also entered his passcode in plain sight, revealing it to anyone who decided to peek over his shoulder. Although the 4-digit passcode gave him an expectation of privacy, it only came into play when the phone was in his possession. Henceforth, the moment he lost control of the phone, his expectation of privacy was lost. Indeed, the defense should not be filing a motion to suppress evidence found on the cell phone, as the search was legal and reasonable.

### ***Testimony of Wright D. Nide***

My name is Wright D. Nide, and I am 25 years old. On November 13, 2014, I was sitting in a bar after work. I was tired, hungry, and wanted to watch some football. Right when I got my buffalo wings, a man came in and sat next to me. I got somewhat of a strange vibe and felt uncomfortable around him. My phone buzzed, and I checked a text message from my friend. I entered my 4-digit passcode, which restricts anyone from unlocking it without my permission.

Sometime after, when the New York Giants scored a touchdown, I jumped up and spilled buffalo sauce all over my jeans. I ran to the bathroom to clean myself up, not realizing that I had left my phone on top of the bar.

When I returned to my seat, my phone had vanished and so had the man next to me, who I later learned was Rob Defone. I had only left my seat for a few minutes due to an emergency. Therefore, I assumed that the guy who was sitting next to me had stolen my phone. Frantically, I ran around shouting in the bar, asking if anyone knew him or had seen him leave. I hurried outside to see if I could find him; however, the creep was nowhere to be found. I couldn't believe someone would have the nerve to steal my phone.

About a week later, I was leaving work when a police car pulled up in front of me. An officer jumped out of the car and called my name. He told me I was under arrest for distribution of drugs. I had no clue why I was being arrested. After

a few minutes at the police station, I found out. Apparently, the police had arrested the man who stole my cell phone and supposedly had found some evidence against me when they searched the phone. That search was definitely a violation of my Fourth Amendment rights. The passcode on my phone ensured my privacy because it is like a key to open a lock; it is in place to keep the information on my phone private. Therefore, I had a legitimate expectation of privacy.

### **Testimony of Arthur Ovlaw**

My name is Arthur Ovlaw. I am an attorney who has practiced constitutional law for the past 15 years. I have also written a book about my studies called *The Study of Constitutional Laws*, which has sold over a million copies.

The Fourth Amendment, in simplest terms, protects people from being searched without a legitimate reason. However, with a warrant, a police officer or official can search someone if he/she has a probable cause. According to *Riley v. California*, 573 (2014), a warrant is needed before searching information stored in a cell phone. Yes, Officer Booker had a warrant to search Mr. Defone's cell phone, but not to search Mr. Nide's. Thus, Officer Booker didn't have the authorization to search Mr. Nide's phone because the warrant stated that he could only search Mr. Defone's phone.

Today's world is becoming much more technologically advanced, and almost everyone leaves his or her house with a cell phone. Cell phones are an extension of one's personal information and privacy. Most smart phones cannot be entered without a required passcode only known by the owner. This security code gives the owner a legitimate expectation of privacy. Nide didn't expect anyone to see his personal information contained on his phone even though he was in a public area because the passcode ensured his privacy. While Nide did get up and leave his phone unattended in a public place, he still had a legitimate expectation of privacy because he had an emergency. This emergency, spilling the buffalo sauce all over his clothes, forced him to leave as quickly as possible to wash the sauce off so it wouldn't stain.

The exclusionary rule states, "Evidence illegally seized by law enforcement officers in violation of a suspect's right to be free from unreasonable searches and seizures cannot be used against the suspect in a criminal prosecution." This clearly shows that this evidence is inadmissible because of the way it was obtained. It was a breach of Mr. Nide's Fourth Amendment rights.

## **INSTRUCTIONS**

The prosecutor must prove beyond a reasonable doubt that Officer Booker had not violated Wright D. Nide's Fourth Amendment rights by conducting a search and seizure of his stolen property.

## **SUB-ISSUES**

1. Were Wright D. Nide's Fourth Amendment rights violated when the police searched his stolen phone?
2. Can the evidence found in the search of the stolen phone be admitted as evidence in the trial?
3. Was it reasonable for Officer Booker to search the cell phone when he knew it did not belong to Rob Defone?
4. Was the evidence found on the phone enough to issue a warrant to arrest Wright D. Nide?
5. Does spilling buffalo sauce on one's pants constitute an emergency?
6. Did Wright D. Nide lose his expectation of privacy when he entered his password in public?
7. Did Wright D. Nide lose his expectation of privacy when he left his cell phone on the bar, unattended?

## **CONCEPTS**

1. Fourth Amendment rights.
2. Burden of proof: beyond a reasonable doubt.

3. Expectation of privacy.
4. Exclusionary rule.

## LAW

### Fourth Amendment to the U.S. Constitution

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

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# Ted I.S. Dead ... Who Killed Ted?

## SCHOOL

Orchard Valley Middle  
Sewell  
Grade 8, Honorable Mention

## TEACHER

Jeffrey Snyder

## STUDENTS

Elise Abbott, Nyle Bajwa, Brett Guetens, Colin Macapagal, Frank Mazzuca, Nicholas Segal, Hani Shakrah, Antonio Talotta

## FACTS

On June 3, 2014, Ted I.S. Dead died at a lacrosse practice for the varsity team at Headstone High School in Washington Township, New Jersey. Ted had been playing under Coach John LaCrosse for three years and had become a very valuable asset to the Headstone High Gravediggers. Ted suffered from CHD, or Coronary Heart Disease. A record of Ted's condition was available in his file with the athletics department. Although it is not law, it is common practice in Washington Township for the coach of a school team to check his players' athletic files before the start of each season in order to make himself familiar with any possible complications.

Ted went to Wednesday practice directly after school as normal. He began warming up and complained slightly about a sore left arm and chest when stretching, but this was common for many athletes. Practice was an extra hour that day because the team was facing their biggest rivals on Sunday. The day got rather hot, reaching up to 88°F. The coach gave water breaks every half hour. In the middle of practice, a group of boys had gathered around in a huddle, and were scolded for slacking off. The huddle was around Ted, who was visibly not playing his best. Coach LaCrosse was frequently yelling at the boys, especially Ted who was seemingly not trying hard.

During the last hour of practice, Ted told the coach he was not feeling himself. Coach LaCrosse sent Ted with the team trainer, Trey Knorr, to the locker room. Trey Knorr took Ted to the locker room at approximately 3:23 p.m. While in the

locker room, Ted told Mr. Knorr that he had pains in his left arm and his chest. Mr. Knorr thought of this condition as normal, as Ted was a left-handed player and frequently got checked there. Ted was given water and a few ice packs. Practice was wrapping up and Coach LaCrosse, along with Ted's friend who knew of his condition, Go Li, entered the locker room. Ted refused to drink the water and tried to get up, but could not stand. Ted's breathing became slow and the coach and trainer attempted to help Ted. Ted suddenly went into cardiac arrest on the floor. Emergency services were not called until 3:52 p.m. Ted died on the way to the hospital.

Ted's family is suing Headstone High School and Coach John LaCrosse for a failure to react to Ted's condition in a timely manner.

## ISSUE

Did the athletic staff at Headstone High School neglect to call emergency services at a reasonable time, resulting in Ted's death?

## WITNESSES

### *For the Plaintiff*

Maya Kidds-Dead  
Go Li

### *For the Defense*

Coach John LaCrosse  
Trey Knorr

## WITNESS STATEMENTS

### ***Testimony Maya Kidds-Dead***

I am the mother of the now deceased, Ted I.S. Dead. On Friday, June 3, 2014, Ted had lacrosse practice as usual for the third day that week. I was home while Ted was practicing with his school team, whom he had been playing with for three years. On that Friday, I got a call from Coach LaCrosse, the head coach of the Headstone High Gravediggers. He told me that Ted hadn't been feeling well at the end of practice, so he was taken to see the school trainer. Around 25 minutes passed and then I received another phone call stating Ted suffered a heart attack. I rushed to the field and the ambulance arrived slightly before me, which seemed odd. I talked to some of his teammates and they told me that Ted hadn't been acting like himself, and that he had been missing shots and was running slower. I knew that it had to be his coronary heart disease.

When Ted was younger, he was diagnosed with coronary heart disease (CHD). CHD is when the blood vessels in the heart become narrowed and the supply of blood and oxygen diminished. It usually ends in a fatal heart attack, which is what occurred with Ted. Some of the symptoms are shooting pains up and down the left arm, chest pains, shortness of breath, and dizziness.

I have known Coach LaCrosse for the three years Ted had been playing lacrosse. He should have checked Ted's file and become aware of his condition and, therefore, called for help earlier.

I met Ted at the hospital once I was notified. When I was finally allowed into his room, I couldn't look at Ted, it was too hard. My son had just died, and no one did anything about it. I am suing the school for lack of preparation for Ted's condition and not calling for help at the needed time.

In doing my research, I found that in other similar cases, such as the case *Kahn v. East Side Union High School*, the court stated, "A sports instructor or coach owes a duty of due care not to increase the risk of harm inherent in learning an active sport." By not calling for emergency services fast enough, and not recognizing the symptoms of Ted's condition, the athletic staff at Headstone

High School was increasing his risk and harm. So shouldn't this law apply to them?

### ***Testimony of Go Li***

I am the goalie for the Headstone High Gravediggers. I have been playing for five years, but nothing like this has ever happened. That Friday was a very hot day, maybe near the 90 degree range. We had been practicing a lot for the past few days because we were going to play our rivals over the weekend. Ted was one of our best players and always pushed himself to make himself better. On the day of the... mishap, Ted started playing and looked fine. After 10 minutes, he began to slow down and his shots got softer. We decided to ask him what was wrong and got into a huddle at midfield, but when the coach saw us "slacking off," he told us to get back to practice. Another 10 minutes passed before Ted finally said something. He went to one knee and said he had to go to the locker room. The head trainer and I went to the locker room with Ted and told him to lay down and rest.

Ted showed the trainer his left arm, telling him that he had been feeling pain there since the beginning of practice. The head trainer then gave Ted water, but he refused it, complaining that he couldn't drink it. I decided it would be best not to bring up Ted's heart condition because I knew that there would be a possibility of the coach taking him out for the big game on Sunday. Ted is our best player and my best friend. I didn't want to ruin the big game for Ted and for our team. Ted was then given an ice pack by the trainer for his left arm. Within the hour, Ted closed his eyes for the last time.

### ***Testimony of Coach John LaCrosse***

The deceased student, Ted I.S. Dead, had been on my lacrosse team for three years. I vaguely remember checking his file at the beginning of the season and noticing that he had problems with his heart. However, Ted had not had any complications from the disease while he was playing for my team and, if he did, I assumed that he would be able to recognize his problematic symptoms and inform someone that he may be experiencing heart complications.

Normally, Ted was far and away the fastest and hardest-shooting player on the team. Seeing as how I knew it was supposed to be a hot day that Friday, I made sure to give the players extra water breaks so that they would not have as many problems with the weather. We saw that Ted was a little bit out of breath, and we believed he just needed a drink. I asked him if he was okay and he responded that he was able to keep practicing. I took his word for it, since he should be responsible and know himself. He kept going throughout the practice, and he was a little sluggish, but the rest of the team was also a little sluggish from the hot weather. Also, at one point in the practice, the team was in a big huddle on the field, and I reprimanded them because they were disrupting the flow of the practice.

At no point did they inform me that they had been checking on the well-being of one of my players, or I surely would have done my best to render aid. Ted was in the center of the huddle, and I thought he was leading the pack, so to speak. We then got back to practice. When Ted was brought into the locker room with Trey and Go Li, they asked him again if he was all right. He complained of left arm pain but stated that he probably got hit in practice by another teammate, as this was a usual occurrence. Again, Ted knows his body better than any of us do, so we took his word for it. We were not suspicious at all of a heart attack because Ted never gave us any reason to be, and it is a terrible tragedy that he passed. It is not, however, because of our negligence. We want nothing but the best for our players and had Ted given us any indication that his condition was so serious, we would have made the call in accordance.

### ***Testimony of Trey Knorr***

I am the trainer for the Headstone High Gravediggers lacrosse team. On June 3, 2014, I received a call in my office from Coach LaCrosse. He explained that one of his best players, Ted, wasn't feeling well. Once I arrived at the field, I met with Coach and Ted. Coach specifically told me that Ted was complaining about sharp pains shooting up his left arm and middle back soreness along with chest pains. Coach took his complaining as an excuse, saying many of the players were trying to

get out of practice because the heat was getting to them. To my knowledge, the temperature reached a high of 88 degrees. Due to the extremely hot weather, the coaching staff tried their absolute best to give the team as many water breaks as possible.

At approximately 3:23 p.m., I took Ted back to the locker room with another one of his teammates, Go Li. He didn't look physically injured, but he was holding his left arm. When we entered the locker room, I allowed Ted to lay down. I gave him a few water bottles, a cold ice pack, and pointed a fan on him, hoping he would cool down from outside. I called Coach back to update him on Ted; he said that he hoped he felt better and that he could take off from practice for the remainder of the day. Ted was starting to become lightheaded. I continued to keep watch on him.

Time passed and Ted asked me what time it was. I informed him that it was 3:44 p.m. Ted said his mom would be picking him up from the field at 4:15 p.m. He thanked me and closed his eyes. He was beginning to look much better than he did when I picked him up from practice, so I figured I would let him rest his eyes because he worked very hard that day. Around 3:52 p.m. I was next to Ted when he fell to the ground as he woke up. He began to gasp for air and couldn't breathe. He was holding his hand over his chest when his eyes closed. I got up from my seat and threw my clipboard down and ran to my office to call an ambulance.

Ted went into sudden cardiac arrest, and there was little time to react. His condition occurred so rapidly that there was a little chance he could have survived even if I had called earlier. Ted's sudden heart attack was extremely out of the blue and there is a good chance Ted was going to die whether or not I had called emergency services earlier. I am sorry about Ted's passing, but it was out of my control to save him.

## **INSTRUCTIONS**

The plaintiff must prove by a preponderance of the evidence that the school did not call for the paramedics (911) fast enough, which may have resulted in Ted surviving the heart attack.

## SUB-ISSUES

1. Could Ted have been more responsible by letting the coach know that he was experiencing possibly problematic symptoms of his heart condition?
2. Did the coach take reasonable care in reading Ted's file and would such care have resulted in the Coach's recognition of heart attack symptoms?
3. Should Coach LaCrosse have taken Ted out of practice as soon as he saw Ted start to struggle?
4. Did the athletic staff call for emergency assistance within a reasonable time after noticing Ted was having difficulty?
5. Could earlier intervention by the athletic staff have saved Ted's life?

## CONCEPTS

1. Burden of proof.
2. Preponderance of the evidence.
3. Credibility of witnesses.
4. Personal rights.
5. Negligence.

## LAWS

1. A sports instructor or coach owes a duty of due care not to increase the risk of harm inherent in learning an active sport. (*Kahn v. East Side Union High School*)
2. The doctrine of primary assumption of risk, including the issue of the scope of defendants' duty of care, does not turn on a plaintiff's subjective awareness of the risk or a decision to encounter it voluntarily, but on the question whether defendants owed the plaintiff a duty of care. (*Kahn v. East Side Union High School*)

3. Governmental employees acting within the scope of their employment are immune from tort liability unless their conduct amounts to gross negligence. Gross negligence is statutorily defined as "conduct so reckless as to demonstrate a substantial lack of concern of whether an injury results." (*Poppen v. Tovey*)

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# The Case of the Costly Concussion: Sweeterson v. Rad Routines Rec Center

## SCHOOL

St. John Vianney  
Colonia  
Grade 8, Honorable Mention

## TEACHER

Maureen Jorgensen

## STUDENTS

Skylar DeGeorge, Diljeet Khokher, Billie Kluse,  
John Loftus, Ryan Loftus, Emrit Nijjar, Sarah  
Ohnmeiss, Joseph Smieya

## FACTS

On a cold afternoon on December 12, a cheerleading tournament was taking place at Rad Routines Rec Center in Bernardsville, New Jersey. Typhani Sweeterson, a promising flyer for the Xplosion cheer squad, had just finished a routine with her team. Olga Wiskowski, a talent scout from The Elite Academy, the five-time national cheer champions, had just finished watching Typhani. Olga was sent out to see if Typhani was good enough to make The Elite Academy cheer squad. If so, then Typhani would be offered a full scholarship to the exclusive school.

As a tournament rule, there was a 20-minute break between each team's routine. The Xplosion's coach left the gym floor to buy a soft pretzel from Rad Routines' snack bar. While the coach was absent, the cheer squad prepared to try a new stunt. The stunt was called the Waterfall, and was rarely attempted without any prior practice. It involved a very complicated aerial routine by the flyers.

As Typhani was flipped through the air, she slipped through the grips of one girl. Typhani landed on her back and immediately began to cry. The coach rushed to Typhani's side, but Typhani had suffered an apparent head injury. After being taken to a local medical center, Typhani failed her concussion test when she could not remember what sport that she had been playing when she suffered her injury.

Luckily, Typhani made a speedy recovery without any further complications. She returned

to Xplosion cheerleading after two months, but Olga and any other talent scouts were absent from her later tournaments. At the end of the year, no high schools contacted Typhani to inform her of a scholarship. Now Typhani is suing Rad Routines for financial compensation for damages and the loss of a potential high school scholarship. She claims that Rad Routines' cheer mats were in bad condition, and the lack of safety padding contributed to her head injury. Typhani also thinks that the head trauma that she suffered at Rad Routines caused the top cheerleading schools to refuse her a scholarship due to the New Jersey concussion law, which states that someone with two concussions is not allowed to participate in a contact sport.

## ISSUE

To what extent is a recreational facility responsible for a serious injury that occurred on its premises?

## WITNESSES

### *For the Plaintiff*

Typhani Sweeterson  
Olga Wiskowski

### *For the Defense*

Bryttnie Spielman  
Mr. McClean

## WITNESS STATEMENTS

### *Testimony of Typhani Sweeterson*

It was December 12, and my team had a cheer tournament at Rad Routines Rec Center. We went, and like started to warm up. I heard that a scout was going to be there because like our team was so good, but all I could really think about was that this could like be my big break. My parents said they were really confident in me that morning, which made me feel really good. However, because The Elite Academy is such a good school, I knew that I like had to take my cheering to the next level or I could be left behind. So, we had just finished our amazing routine, and I was like zoned in.

I decided that it was time to show Olga why I deserved a scholarship to The Elite Academy. So, I like told everyone that we should try this cool new stunt called the Waterfall while our coach, Helen, went to the snack bar for her hourly soft pretzel snack. I don't blame her because these kind of events can get pretty boring when you're done cheering. So, everything was like going good and then it was time for the big finale. I was flying through the air like showing off my totally awesome skills when I felt myself falling through the grips of this one girl. I do not even think that I was that like high up, it was just that like stupid padding that didn't work. The next thing that I remember was my coach standing over me calling 911. I just wanted to impress Olga because she was like going to get me into high school, which I really needed because my grades like weren't very great.

I later found out I had like suffered a concussion, which I couldn't afford. This meant I could not go to the cheerleading school I had planned to go to because you have to stop sports after two concussions, and I had just suffered my first, so they were like afraid. I'm mad at Rad Routines because I would not have had to go through this traumatic incident if it weren't for the pads.

My parents are suing on my behalf for compensation for the scholarship I would have received to attend The Elite Academy. At \$25,000 a year, that is, like, \$100,000. I think? If it were not for Rad Routines' faulty mats, that scholarship would have been, like, totally mine.

### *Testimony of Olga Wiskowski*

On December 12, I was getting ready to see Typhani and a couple other recommended cheerleaders perform at Rad Routines, to see if they were The Elite Academy material. I remember walking into Rad Routines' gym and seeing Typhani's team practicing their routine. Typhani started talking to some of her team members and I noticed that her coach left the gym. Typhani then began to instruct her teammates to try a new stunt. I was a little bit worried, because it is very hard to perform a stunt that you thought of spontaneously, and finish it without any errors, but Typhani was exceptional and it wouldn't have surprised me if she landed it.

I noticed that Typhani was going for the Waterfall which was very ambitious, and her choice also impressed me. The stunt was going very well until Typhani suddenly missed her landing, and landed on her back. One of her teammates went out of the gym to find their coach. Typhani's coach ran back into the gym with a soft pretzel in hand and began to call the ambulance. They took a quick, precautionary concussion test, but Typhani could not even remember what sport she was playing when she got injured.

While all of this happened, I had a lurking suspicion that the mats were at fault. Although Typhani fell, it was only from about 12 feet, onto supposedly safe mats. I knew that it was probably not her fault because anyone else would have normally walked away with a sore back and nothing else if the mats provided by the venue were safe. This also worried me because even if it wasn't Typhani that was injured, it could have been any other cheerleader at that tournament. I was disappointed, not at Typhani, but at Rad Routines Recreation Center for ignoring the issues with the mats. If Typhani had not gotten a concussion, it would have resulted in her getting the full scholarship to The Elite Academy. She is very upset and her parents are possibly even more outraged than she is at this point.

### *Testimony of Bryttnie Spielman*

On December 12, I was like sitting on the bleachers at Rad Routines when I heard Typhani saying that she was going to try this stunt called

the Waterfall. Her teammates seemed like almost reluctant and tried to like totally convince her that like it wasn't a good idea. I had a feeling that she was doing this just to like impress Olga, who was a talent scout from Elite Academy. Anyway, I rolled my eyes at Typhani's typical behavior and began to tie the laces on my shoes. So, seconds later I looked up again, just in time to see Typhani fall flat on her back. It also looked like Typhani hit her head when she made contact with the mat. Typhani started to cry as her coach like came rushing back into the gym with a soft pretzel.

My coach is always like watching us while we perform new stunts, and would not like ever let us try something new by ourselves. All cheerleaders are supposed to know like not to try new stunts without their coach or some other sort of supervision; it's like the first thing you learn when you become a cheerleader. It was pretty stupid of Typhani to do that considering that her coach wasn't even like there. It seemed to me that Typhani hasn't ever done a stunt like that in her life. Even if Typhani had at least tried the stunt at some point, it's like *super* hard to land. I am pretty sure that I am the only one in the state that could like land it, but that's not the point. I guarantee that Typhani wouldn't even have tried the stunt if Olga wasn't there.

I can honestly say that Rad Routines is like totally safe. I don't think that like she could've gotten that hurt because of mats, because I have seen many girls like fall before, and no girls have been like hurt. Even *I* fell on the mat at Rad Routines like once, and it didn't even hurt. Only once!

Like, she was saying that the school turned her down because of her concussion, but everyone like knows that you can't play with two concussions, not one concussion. Like, I'm not good at math, but even I know that one isn't two. Like, it's not my fault that The Elite Academy gave me the scholarship; they gave me the scholarship because I deserved it. Maybe The Elite Academy didn't want her because they don't want a cheerleader that like puts herself at risk for no reason.

### ***Testimony of Mr. McClean***

On December 12, I was mopping up the lobby. It wasn't very busy because most of the people

were in the gym watching the cheerleaders. Then, Helen, the stunt coach of the Xplosions, comes in to get her hourly serving of a soft pretzel at our snack bar. I figured that this was just another one of her "supply runs," so I went back to mopping the floor. However, I felt the floor shift a little bit, so I looked back. Sure enough, Helen had taken off to the gym.

I knew something was really wrong when I noticed that she hadn't bought a drink yet. So, I also made my way to the gym. From the gym doorway I observed a girl crying on the floor while Helen held up a phone and several of her teammates had gathered in a semicircle around her. I was definitely a little bit worried because the girl was crying. However, I knew that there wasn't anything else that I could do, so I went back to the lobby, put my headphones in, and went back to mopping the floor. After all, our mats are so good that people were more likely to be hurt in the lobby than cheering.

Well, I've been the janitor at Rad Routines since it opened up 15 years ago. I might not have finished college, but I sure as heck know how to store a simple mat. I can personally vouch for our storage area. We have a state-of-the-art closet. It's supposed to be waterproof and airtight. I have never seen a leak or a speck of mold on the equipment stored in the closet. Also, we perform routine tests on the mats and other various equipment to make sure that they can safely serve their purpose. Plus, we got these new mats only two years ago. They're called Rebound Mats, and they're supposed to be some of the best tumbling mats on the market. They have a layer of EVA foam on top of Crosslink foam. I don't know what all these fancy-shmancy foams are, but they form a great cushion that's soft to land on. There is no way that the conditions of mat had anything to do with her injury. I'm sure that hundreds of girls practice on those mats and fall, but until now there haven't been any incidents. The only way that somebody could have seriously injured themselves on such safe, high-tech mats is if they were trying to do something so dang stupid and without practice. I'm sorry to hear that Ms. Sweeterson was injured, but I won't listen to the false accusations that our mats caused this unfortunate injury.

## INSTRUCTIONS

The plaintiff must prove by a preponderance of the evidence that Rad Routines did not properly maintain its safety equipment and that resulted in a serious injury, causing her to lose a potential athletic scholarship.

## SUB-ISSUES

1. Was Typhani's coach negligent towards her team by leaving the girls unsupervised?
2. Was Typhani at fault for attempting an unpracticed, dangerous stunt without supervision?
3. Is the custodial staff at fault for improper maintenance of safety equipment?
4. Did Rad Routines' negligence ruin Typhani's chance at the scholarship she always wanted?

## CONCEPTS

1. Burden of proof.
2. Preponderance of evidence.
3. Contributory negligence.

## LAWS

1. P.L.1984, c.203 (C.18A:40-41.1e)  
In order to ensure the safety of student-athletes, it is imperative that athletes, coaches, and parents and guardians are educated about the nature and treatment of concussions and other sports-related head injuries, and that all measures are taken to prevent a student-athlete from experiencing second-impact syndrome.
2. Negligence is defined as conduct which falls below the standard established by law for the protection of others against unreasonable risk of harm. 2 *Restatement, Torts, Sec. 282*; *Harpell v. Public Service Coord. Transport*, 20 N.J. 309, 316 (1956); *Prosser, Torts*, p. 119.

3. An invitee is one who is permitted to enter or remain on premise for a purpose of the owner/occupier. He/she enters by invitation, expressed or implied. The owner/occupier of the premises who by invitation, expressed or implied, induced persons to come upon his/her premises, is under a duty to exercise ordinary care to render the premises reasonably safe for the purposes embraced in the invitation. Thus, he/she must exercise reasonable care for the invitee's safety. He/she must take such steps as are reasonable and prudent to correct or give warning of hazardous conditions or defects actually known to him/her (or his/her employees), and of hazardous conditions which he/she (or his/her employees) by the exercise of reasonable care, could discover. The basic duty of a proprietor of premises to which the public is invited for business purposes of the proprietor is to exercise reasonable care to see that one who enters his/her premises upon that invitation has a reasonably safe place to do that which is within the scope of the invitation. *See Restatement to Torts 2d*, § 343, Comment f, pp. 217-218 (1965), saying that a proprietor is required to have superior knowledge of the dangerous incident to facilities furnished to invitees.
4. The duty of an owner/occupier of premises to make the place reasonably safe for the proper use of an invitee requires the owner/occupier to make reasonable inspection of the premises to discover hazardous conditions. *Zentz v. Toop*, 92 N.J. Super. 105, 111 (App. Div. 1966), *aff'd*, 50 N.J. 250 (1967); *Handelman v. Cox*, 39 N.J. 95, 111 (1963); *Schwartz v. Zulka*, 70 N.J. Super. 256 (App. Div. 1961), *modified on other grounds*, 38 N.J. 9 (1962).

# Johnson v. Brooklane High School

## SCHOOL

Mount Olive Middle  
Budd Lake  
Grade 8, Honorable Mention

## TEACHER

Becky Hull-Clark

## STUDENTS

David Boisvert, Danielle Faustino, Brigid Heitmann, Jacob Huhn, Naveen Kamath, Sarah Mattalian, Julia Petrocelli, Hailey Restuccia, Estanislao Saenz

## FACTS

Fourteen-year-old Aaron Johnson is a freshman at Brooklane High School and a participant in the after-school Intramurals Club. He is a classified student diagnosed with high-functioning Asperger's syndrome, which can cause delays in motor development and unusual physical behaviors such as clumsiness and repetitive finger flapping, twisting, or whole body movements.

On May 24, 2014, the school's Intramurals Club began the archery program. One week before starting this program, the coach, Nate Porter, sent waivers home to the students' guardians asking for permission for their children to participate in archery. Aaron's parents, Julie and Cory, signed the waiver which Aaron handed in to the coach the next day. They did this hoping that Aaron's interaction with other students would help him become more social, as he has had problems interacting with other people in the past.

On the first day of the program, Coach Porter explained the steps to correctly and safely use the bow and arrow. However, he did not direct any special attention towards Aaron and continued to teach the class as a whole. While nocking an arrow with a practice tip, Aaron pulled the bow string connected to a 35-pound, circle cam compound bow and accidentally shot his right foot with the arrow, tearing the extensor tendon and shattering the Lisfranc joint complex. The Johnsons allege that Coach Porter did not provide special supervision and teaching for Aaron, and they are suing Brooklane High School for Aaron's medical expenses.

## ISSUE

Is Brooklane High School responsible for Aaron's injury due to negligence, or did the Johnsons acknowledge the risks of allowing their child to engage in the archery unit beforehand?

## WITNESSES

### *For the Plaintiff*

Aaron Johnson  
Dr. Garry Tristan

### *For the Defense*

Nate Porter  
Buddy Jones

## WITNESS STATEMENTS

### *Testimony of Aaron Johnson*

My name is Aaron Johnson and I am 14 years old. I am a freshman at Brooklane High School, and I am a part of the after-school Intramurals Club. On May 17, 2014, Coach Porter, who is both my gym teacher and the instructor for the club, told everyone in Intramurals to bring home a waiver for our parents, allowing us to participate in archery starting the following week. I gave it to my parents and they told me that they wanted me to experience new things despite my Asperger's syndrome. I understood and agreed because I never let my Asperger's syndrome keep me from participating in activities. However, my Asperger's

syndrome causes me to have trouble moving correctly, so my parents advised me to be careful when using the equipment.

My parents signed the paper and I returned it to the coach the next day. On May 24, 2014, we started the archery program in the Intramurals Club. Coach Porter gave all of us a bow and some arrows and placed each of us directly across from one of the targets. He taught all of us how to hold the bow and shoot the arrow correctly. Even though Coach Porter explained and demonstrated, I wasn't able to understand the steps too well. When the coach told us to grab an arrow and nock it onto our bows, I did, but I pointed the bow down and accidentally plucked the string. This launched my arrow towards my right foot and it shot into it, piercing my skin, which was very painful.

When I was rushed to the hospital, the doctor there told me that my Lisfranc joint complex was torn and shattered, the extensor tendon was also torn, and that I had to wear a cast for two months until it healed. Until then, I can't participate in gym or the Intramurals Club. More importantly, I was unable to participate in the National Summer Special Olympics. I was supposed to compete in the 50-yard dash, but my injury prevents me from running. Participating in the Special Olympics allows me to feel like a normal kid and helps me forget about my syndrome.

### ***Testimony of Dr. Gary Tristan***

My name is Gary Tristan, and I am a gym teacher at Brooklane High School. I work as the orthopedist for after-school clubs within the school. I was directed to supervise the Intramurals Club after school on May 24, 2014 when they began the archery program. On the day I attended, I realized that a student with Asperger's syndrome, Aaron Johnson, was participating. I noticed that the coach, Nate Porter, was not providing enough attention towards Aaron. Aaron was fiddling with the string and the coach didn't even notice. Before I was able to inform the coach, Aaron had already hurt himself. He shot an arrow through his right foot, causing blood to leak through his shoe. I called another nurse to the gym and asked her to bring a wheelchair for Aaron.

After rushing him to the nurse's office for observation, I determined that his right foot was definitely broken. We informed his parents and sent him to the hospital where the doctor, Dr. Bartholomew, confirmed that the extensor tendon and the Lisfranc joint complex were torn. Considering Aaron's high-functioning Asperger's syndrome, I believe that Coach Porter should have supervised him more carefully.

### ***Testimony of Nate Porter***

My name is Nate Porter, and I am a licensed coach of the Brooklane High School's Intramurals Club. On May 17, 2014, I sent waivers home to my students' guardians, as required by the school, giving permission for them to participate in the archery program that would start the following week on May 24, 2014.

Before the program started, I received the waivers from my students; most of them were granted permission to participate. On the other hand, I was concerned when one of my students with Asperger's syndrome, Aaron Johnson, also was allowed to participate. This could pose a danger to the entire Intramurals Club.

On the first day of the program, I handed out the bows and arrows to my students and placed them across from a specific target. I clearly explained and demonstrated to them how to correctly and safely hold the 35-pound compound bow and shoot arrows with practice tips. When telling my students to nock their arrows, everyone listened and did as told; however, while I averted my gaze to look at the time, I heard one of the children shriek. It was Aaron; he shot his own right foot and tore his extensor tendon as well as shattered his Lisfranc joint complex. I was not the cause of his injury.

### ***Testimony of Buddy Jones***

My name is Buddy Jones. I am a student member of the Best Buddies of Brooklane High School. I have helped out many children in this program and have knowledge of most forms of autism. Recently, I had joined an after-school intramural team. In order to participate in this program, Coach Porter sent home waivers for parents to sign, explaining

the dangers and precautions of engaging in the activities.

During our first session of the archery program on May 24, 2014, Coach Porter explained and demonstrated all the safety precautions. I noticed Aaron, a high-functioning Asperger's syndrome student, was focusing so hard on the first thing Coach Porter said. Although he followed the first instruction very well, I could tell he didn't listen to anything else he said. As the whistle blew to start shooting, I looked over at Aaron and saw him draw the way Coach Porter showed us. He was aiming at his foot, zoned out on how he should have drawn and released. Suddenly, he was on the floor, holding his foot, blood coming out of his shoe and foot. Coach Porter ran over to help in any way he could. Dr. Tristan called the nurse and called Aaron's parents to the gym. Then, he was rushed to the hospital immediately after. Coach Porter had nothing to do with the injury. It was Aaron's inability to listen that hurt him.

## INSTRUCTIONS

The plaintiff must prove by preponderance of the evidence that Brooklane High School is liable for Aaron's injury.

## SUB-ISSUES

1. Was Aaron's injury caused by Aaron's Asperger's syndrome or Coach Nate Porter's ignorance?
2. Should Aaron have been more attentive to Coach Nate Porter?
3. Should Nate Porter have been more attentive to Aaron?
4. Should Aaron's parents have signed the waiver, giving Aaron permission to participate in archery in the first place?
5. Should the school have provided more supervision for Aaron in order to protect him and his fellow students?

## CONCEPTS

1. Preponderance of evidence.
2. Burden of proof.
3. Credibility of witnesses.
4. Acknowledgement of waiver.
5. Athletes with disabilities right to participate in sports with athletes of different abilities.

## LAWS

1. *Kahn v. East Side Union High School District*  
A 14-year-old high school freshman swimmer was fearful of diving into the shallow portion of a pool, had not received any previous instructions on how to dive in competition and had been allowed to swim the first leg in relay races where she could start in the pool and did not have to dive. The plaintiff was not forced to accept her coach's challenges; she could have refused to swim. By voluntarily rising to the challenge of attempting an unfamiliar dive, plaintiff assumed the risk that she would be unable to meet that challenge.
2. *Koffman v. Garnett*, 574 S.E. 2d 258 (Va. 2003)  
Sport coaches and instructors owe a legal duty to exercise ordinary reasonable care to protect participants from unassumed, concealed or unreasonably increased risks. Participants, on the other hand, assume the risk of injury associated with the obvious, unavoidable, and inherent risks in a sport, or any physical activity. When a particular activity involves coaching or instruction, the participant also assumes the risk of injury associated with challenging instruction.
3. *King v. University of Indianapolis et al*  
A waiver form that identified risks such as serious injury and/or death, does not include injuries caused by school negligence.
4. *Knight v. Jewett* 3 Cal.4th 296, 11 Cal.Rptr.2d 2, 834 P.2d 696 (1992)  
The decision outlawed claims for injuries caused by the negligence of a co-participant in

casual, recreational athletic games. In *Knight*, there was no liability for aggressive play in a rowdy amateur contest of touch football.

5. An Act concerning athletic activities of students with disabilities and supplementing chapter 11 of Title 18A of the New Jersey Statutes: Ensures that students with disabilities have an equal opportunity to participate in mainstream physical education programs and participate in mainstream athletic programs, and ensures that the provision of reasonable modifications or aids and services necessary to provide students with disabilities an equal opportunity to participate, to the fullest extent possible, in physical education and athletic programs. Also ensures that adapted programs or unified sports or inclusive programs for physical education and athletics are available. These are programs specifically designed to combine groups of students with and without disabilities.

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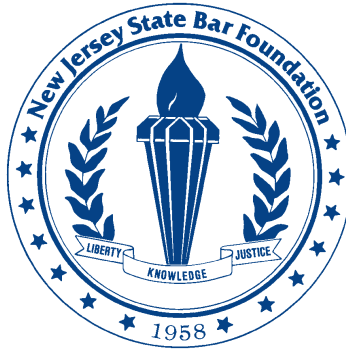
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