

A MOCK TRIAL: THE RIGHT TO SELF-DEFENSE

By

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Approved by:

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First Reader

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Abstract

The legal field is one that is full of abstract concepts and constructs that are open to interpretation. This opens the door to varying and conflicting statements regarding a controversial issue such as self-defense. There is at present times a gap in the literature related to this issue. Often times, the issue of self-defense is one that varies on a case-by-case basis, as it should. The question at hand, therefore, is what constitutes self-defense? Are there certain cases that are clear, black and white depictions of a individual asserting his right to defend himself? Or is it a matter left up to interpretation, say by a jury? These questions are the type of investigation that I embarked on in order to compile an understanding of what comprises a self-defense case. This research was then translated into a creative piece that can be utilized by future students to aid their education and understanding of legal principles. As a result of my research, a mock trial was created where the issue of self-defense is one left up to a jury. The created piece was purposefully made to be left up to interpretation in terms of guilt and innocence. This mimics what is often the case in a real-world criminal trial.

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Statement of Purpose

The purpose of this project was to create a mock trial that can be used by future University of Indianapolis students who are interested in Pre-Law. My goal in this project was to create a comprehensive packet containing case law, statutory law, trial procedures, instructions, facts of law, a case summary, a list of witnesses, the statement for each witness, and the exhibits to be used in the mock trial. The main legal issues that were researched are assault and self-defense. Upon the completion of the project, I played out the mock trial as a part of my presentation. By researching these key legal issues and compiling a mock trial packet that can in turn be used in the classroom I enhanced my understanding about the law and to aid future students' education.

Introduction

For someone interested in the legal field, the topic of self-defense is one that poses a difficult question. The meaning of self-defense can be interpreted many ways, and this is what makes criminal cases revolving around self-defense difficult to solve. When does an individual have the right to use force to protect themselves? And how much force does that individual have the right to use? A review of the previous literature conducted on this topic is necessary to begin to understand how to answer these questions. In order to define the elements that make up a self-defense claim it is necessary to examine the literature. The issue of self-defense is not a new topic in the legal field. However, it is necessary to continue research into the topic as it evolves with society. With an issue such as self-defense, there is no clear cut way to define it. As society evolves, so does the nature of criminal acts. This leads to no two criminal cases being the same. That is why it is necessary to review the literature on this topic and begin to examine what has been decided in the past. Such precedents can then guide future decisions.

The first source examines a North Carolina Supreme Court case which held that, “an honest but unreasonable belief in the necessity for self-defense will not reduce murder to manslaughter” (Jarrell, 1992). This article is one that looks at a subjective criteria, the belief of the defendant, in deciding whether or not it constitutes self-defense. Four elements of self-defense are found by the North Carolina Supreme Court, which will parallel elements found by other Courts and other state laws. First, “it appeared to the defendant and he believed it to be necessary to kill the deceased in order to save himself

from death or great bodily harm”. Second, “the defendant’s belief was reasonable in that the circumstances as they appeared to him at the time were sufficient to create such a belief in the mind of a person of ordinary firmness”. Third, “the defendant was not the aggressor in bringing on the affray”. And finally, “the defendant did not use excessive force” (Jarrell, 1992). This comprehensive set of criteria for establishing the legitimacy of a self-defense claim coincides across sources.

The second source looks at those who contribute to the necessity of self-defense. This article laid out four areas which constituted provocation by the defendant. Such areas are verbal provocation, purposeful provocation, provocation by criminality, and looking for trouble (Lagstein, 2013). For the purposes of this paper provocation by criminality is important. Provocation by criminality is “when one creates the situation requiring self-defense by participating in crime” (Lagstein, 2013). This is the only source that introduced the possibility that the aggressor may be responsible for his need to use self-defense.

Another area that Lagstein addresses, along with multiple other writers, is a duty to retreat. While conducting research, I found disagreement among the sources regarding this issue. It is important to note that a duty to retreat (or lack thereof) is not the deciding factor in whether defendants can claim self-defense. In fact, the Supreme Court of Indiana “...noted that American sentiment no longer favored the notion of retreat in the face of assault where one who is without fault is attacked in a place where he has a right to be” (Lagstein, 2013).

A second overlapping area that I found among the articles is the idea of a right to life. Lagstein argues that self-defense cases turn on factors independent of specific laws. One important factor being the balance between the defender's autonomic interest and the attacker's right to life. Multiple sources include opinions regarding the right to life and whether or not the defender's right to life outweighs an aggressors. This is one factor that is left up to the jury and can be crucial in deciding whether or not someone is entitled to self-defense

Contributing to this idea, Shlomit Wallerstein refers to a rights theory. This theory states that, "a defendant's right not to be killed overrides an aggressor's right" (Wallerstein, 2005). Wallerstein argues that this theory justifies self-defense because a defendant's core right not to be killed overrules any right of the aggressor. This means that the aggressor forfeits his right to life through acts of aggression (Wallerstein, 2005). However, two interesting questions are posed by this theory. First, if all people have the right not to be killed, then how does one forfeit that right even after he stops acting in an aggressive manner. And second, is forfeiture typically seen as permanent? If so, then a person cannot regain that right even after he stops acting aggressively (Wallerstein, 2005).

Drawing back to the beliefs of the defender, another article looks at a hybrid theory of self-defense. This hybrid theory states that, "the defendant is only justified in the killing of the victim if both (a) the killer acted with the belief that his act was necessary to prevent the victim from carrying out his imminent threat of grievous bodily harm or death, and (b) the killing did indeed prevent the victim from causing grievous

bodily harm or death to the killer” (Fontaine, 2010). This theory is interesting because while it did draw on the beliefs of the defender, it is the first article to consider whether or not the killing did, indeed, prevent the victim from causing grievous bodily harm or death to the killer. Along with the beliefs of the defender, this source also parallels other sources in that it mentions natural rights of a human. Some questions that it poses are whether one has a natural right not to be killed? And if so, what abridges that right (Fontaine, 2010).

Like the article by Douglas Jarrell, Fontaine also lists requirements of self-defense, many of which are similar. First, “the defendant must have honestly and reasonably believed that she was faced with an imminent threat of grievous bodily harm or death”. Second, “she needed to have honestly and reasonably believed that it was necessary to kill the victim in order to prevent the threat from being realized”. Third, “the amount of the defendant’s force must not have exceeded the degree of force posed by the threat”. Fourth, “the defendant needed to have honestly and reasonably believed that the treat against her was unlawful or unjustified”. And finally, “many jurisdictions require that the defendant not be the initial aggressor or provoker of the threat” (Fontaine, 2010). These criteria bring up several points which have already been mentioned such as the honest and reasonable belief of the defendant, the actual prevention of the threat, the amount of force used, and the concept of the initial aggressor.

Furthering the idea that the self-defense must have actually ceased the imminent threat, Megan E. Magoon looks at the legislation around self-defense. She states that the intent of the legislation is that the force could only be used if it was the “only viable

remedy under the circumstances” (Magoon, 2010). Magoon is the first author to introduce the idea that, along with many rules of criminal procedure, when a defendant provides evidence of self-defense it is up to the prosecution to disprove it beyond a reasonable doubt (Magoon, 2010). Going along with this idea, in deciding whether a self-defense instruction is necessary the Court must look at the evidence in the “light most favorable to the defendant” (Magoon, 2010).

Since the belief of the defendant has been established as a necessary factor in deciding if a case is subject to a self-defense claim, it is necessary to examine a two-prong test offered in *The University of Kansas Law Review*. This two part test is a novel idea in that it offers both a subjective and an objective criteria for establishing self-defense. The first prong is subjective and asks whether the defendant, “sincerely believed” that the use of deadly force was necessary to protect himself or another (Phillips, 2009). The concept of a sincere belief, which has been introduced in many of the articles, appears again. The second prong is a more objective test and asks whether the defendant’s sincere belief was reasonable. It is this part of the test that must be supported by facts (Phillips, 2009).

The final source contributes and furthers ideas that have already been posed. Specifically, the idea of the initial aggressor, provocation by criminality, and a duty to retreat. The State Bar of Nevada found that three elements are necessary to justify the use of deadly force. First, “the person using deadly force cannot have been the original aggressor in a situation that gave rise to the need to use that force” (Giles, 2014). This mirrors the idea given by other writers that the initial aggressor is not entitled to use

deadly force. Second, “the person using deadly force must have a legal right to be in the location where the force is being used,” (Giles, 2014). This idea is one that has not been previously mentioned but relates to provocation by criminality. And third, “the person using deadly force must not be actively committing a criminal act or otherwise acting in furtherance of a criminal activity when the deadly force is used” (Giles, 2014). Again, another mention of provocation by criminality. This author relates that as long as the three requirements are met there is no duty to retreat before using deadly force. A theme that has been common among the sources.

In summary, there are many overlapping themes among the authors who study self-defense. In deciding whether or not someone is subject to a self-defense claim it is important to note who the initial aggressor is and if the belief in the need of self-defense is reasonable. These are two points which appeared in the analyses of many authors. Another point drawn upon by many academics is the right to life and what this encompasses. These topics relate to my research in that I examined how they played a part in designing a criminal case. These are the topics that determined whether the defendant in my case has a valid claim of self-defense. In such a way that these issues played a part in my research, my work contributes to the vast field of legal studies. Future research should be done that examines the intricate relationship between defender and aggressor and how that relationship can contribute to the situation calling for self-defense. With each new case that calls for the examination of a self-defense claim the large body of research relevant to this topic expands.

Product Produced

Case Summary

Wellington High School is located in Atlanta, Georgia and serves as the only secondary school in the city. It is home to 4,500 students who are in grades 9-12.

Wellington High is located in an affluent neighborhood and has a history of having a low crime rate. However, in recent years the school has seen an increase in violence and drug activity among upperclass students. Specifically, there have been multiple suspensions and expulsions for the buying and selling of prescription medications. In an effort to stop this the school has enacted a new zero-tolerance drug policy. The school enforces this policy by having drug dogs come search the school monthly on random days. However, due to a limited number of drug dogs in the county, the dogs only search the school building and are unable to search student cars parked in the parking lot. The increase in violence at the school has been due to this drug trafficking. The school principal has had to hire law enforcement officials to patrol the hallways and cafeteria due to fights breaking out between students.

Sam Smith is a seventeen year old, junior at Wellington High School. Sam has lived in Atlanta all his life and lives in a neighborhood close to the school. He lives with his mother, father, and younger sister. Sam is an average student who maintains B's and C's. He does not participate in any sports but is known to have a lot of friends. There are not gangs at Wellington High School but Sam is known to hang out with a "drug crowd". His girlfriend, Marsha Young, is also seventeen years old but she is a senior at Wellington High. They have been dating off and on since they were freshman. Marsha is

an above-average student who maintains A's. She is captain of the soccer team and a member of the debate team. Marsha has a reputation of being a goodie-two-shoes and is often asked why she hangs around with Sam Smith.

On January 27, 2014 Sam Smith had arranged to sell prescription medication to two senior students, Jordan Day and Alex Jones. Jordan and Alex are both eighteen-year old seniors at Wellington High School and have a history of getting into trouble. Jordan Day is the troublemaker of the pair and has been suspended for cheating on a math exam freshman year. Alex is often seen as the quieter, submissive one in the pair but has a history of detentions and in-school suspensions for petty infractions.

On the day of the arranged deal, Sam has agreed to drive Marsha home from school after he "takes care of something." Marsha, knowing that Sam is up to no good, agrees to sit and wait in the car. The two sit in Sam's car in the parking lot of Wellington High School after school has released for the day. Jordan Day and Alex Jones have agreed to pay Sam \$100 for a bottle of medication and agree to meet him in the school parking lot. Sam sees Jordan and Alex approaching on foot and tells Marsha to wait in the car.

Sam exits the car and begins to walk toward Jordan and Alex. Upon getting closer, Sam notices that both boys have knives sticking out of their front pockets. Sam reaches into his back pocket and pulls out a black tube of pepper spray that he always carries and holds it up defensively in front of him. Jordan and Alex approach Sam and begin to reach into their pockets and withdraw the knives. Sam tells Jordan and Alex that he will put the pepper spray away if they will put their knives away. Sam, realizing that

Jordan and Alex are not going to listen, turns away and opens the car door. He tells Marsha that they are going to leave and puts his keys in the ignition. Jordan and Alex then approach the car, grab Sam, and forcefully take the bottle of pills from his pocket as well as the \$50 cash that he had in his wallet. In the process, Jordan and Alex both cut Sam's arm and Sam falls to the ground. Before retreating, Jordan and Alex each kick Sam in the side and punch him in the face as Sam is lying on the ground bleeding from the cuts on his arm. Marsha, meanwhile, stays in the car and witnesses the entire event. Marsha is the one who calls 911 and police arrive within a few minutes. In a police interview Marsha says that she heard Sam, Jordan, and Alex arguing before the attack.

The next day detectives go to Wellington High School and conduct interviews to begin to investigate what had happened. One student, Avery Cook, tells detectives that he was browsing Facebook two weeks earlier and had seen a picture of Jordan Day posing with a knife. Another student, Sawyer Emerson, tells the detectives that he had witnessed an altercation between Sam, Jordan, and Alex two weeks prior. During this altercation, he says that Sam accused Jordan and Alex of stealing pills from his locker and threatened the two of them. Sawyer also told detectives that Jordan and Alex had confided in him and had expressed fear of Sam.

Sam suffered severe cuts to his right arm which required 28 stitches total to close. He was admitted to the hospital and remained there for 3 hours while doctors stitched his arm.

Jordan and Alex were arrested and charged with aggravated battery, robbery, and carrying a weapon on school property in violation of sections 16-5-24, 16-8-40, and 16-11-127.1, Georgia Statutes.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR FULTON COUNTY, GEORGIA
CRIMINAL DIVISION**

STATE OF GEORGIA,

Prosecution

v.

Case No. 11-0011-H

JORDAN DAY,

Defendant

ALEX JONES

Defendant

_____ /

INFORMATION

In the name of and by the authority of the State of Georgia:

W. George Tate, State Attorney for the Twenty-First Judicial Circuit of the State of Georgia, charges that in Fulton County, Georgia, the above-named Defendant committed the following crimes.

COUNT 1

On or about January 27, 2014, in violation of section 16-5-24, Georgia Statutes, Jordan Day and Alex Jones committed an Aggravated Battery upon Sam Smith by intentionally cutting Sam Smith with a knife on his arm, causing great bodily harm, and during the

commission of the crime, Jordan Day and Alex Jones carried or had in their possession a knife, which constitutes a deadly weapon.

COUNT 2

On or about January 27, 2014, in violation of section 16-8-40, Georgia Statutes, Jordan Day and Alex Jones committed a Robbery upon Sam Smith by intentionally taking property, that is, prescription medication and \$50 cash, from the person of Sam Smith by use of force.

COUNT 3

On or about January 27, 2014, Jordan Day and Alex Jones violated Georgia Statute 16-11-127.1 by carrying a weapon, that is, a knife, on school property.

Gabriel S. Slaten

Assistant State Attorney

STATE OF GEORGIA

FULTON COUNTY

W. GEORGE TATE, STATE ATTORNEY

TWENTY-FIRST JUDICIAL CIRCUIT

Witness List

Prosecution:

Defense:

Sam Smith-Victim	Jordan Day-Defendant
Marsha Young-Girlfriend	Alex Jones-Defendant
Charlie Hughes-School Principal	Dr. Quinn Rutherford-Psychiatrist
Avery Cook-Facebook Friend	Sawyer Emerson-Friend

*Each team must call all four witnesses for their respective party.

**Witnesses may be male or female.

EXHIBIT LIST

Only the following physical evidence may be introduced at trial:

- A. A diagram of the area around Wellington High School.
- B. A diagram of Sam Smith's injury.
- C. Printout of Jordan Day's Facebook profile
- D. Printout of Jordan Day's Facebook picture

STIPULATIONS

Stipulations shall be considered part of the record. Prosecution and defense stipulate to the following:

1. Federal Rules of Evidence and Procedure apply.
2. All of the exhibits referred to above are authentic and accurate copies of the documents. No objections as to the authenticity of the exhibits may be made. Exhibits may still be objectionable under the Federal Rules of Evidence and require a proper foundation for admission.
3. All witness statements were given under oath.
4. All charging documents were signed by the proper parties.
5. Jurisdiction and venue are proper.
6. The arrest warrant was based on sufficient probable cause and properly issued.
7. Dr. Rutherford is a qualified expert witness and can testify to relevant information.
8. The absence of lab reports may not be questioned.
9. The absence of photographs may not be questioned.
10. All physical evidence and witnesses not provided for in the case are unavailable and their availability may not be questioned.
11. The diagram of the area around Wellington High School is an accurate diagram of the area, and the diagram of Sam Smith's injury is an accurate diagram of the injury. Neither party can challenge the authenticity of the exhibits.
12. Beyond what's stated in the witness statements, there was no other forensic evidence found in this case.

13. All witness statements were taken in February 2014.
14. Physical descriptions of the victim, the defendant, and of the witnesses are accurate and may not be questioned.

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_____ /

SWORN STATEMENT OF SAM SMITH

My name is Sam Smith. I am seventeen years old and a junior at Wellington High School. I have lived in Atlanta all of my life. I live in Bollingbrook, which is about a ten minute walk from the high school. I live with my mother, father, and younger sister. My younger sister's name is Ally. She is fourteen years old and is in eighth grade at Wellington Middle School.

I like going to school at Wellington High School. The teachers are pretty cool and I have a lot of friends. I'm not really a sporty guy but I like to hang around with my friends and attend football and basketball games. There aren't really cliques or gangs at my school, but I do have a group of friends that I hang around with a lot of the time. My girlfriend's name is Marsha Young. She's a senior at Wellington but we are both

seventeen. While I wouldn't say we were serious, we've been dating off and on since freshman year. Marsha's pretty cool but she has an annoying habit of nagging me about my grades. See, Marsha just doesn't understand that school doesn't come easy to everyone. Marsha gets straight A's and doesn't get that I'm just not a book-smart type of guy. Don't get me wrong, I do okay in school. My grades just aren't up to Marsha's standards. I don't like to spend my free time studying, and if I can get by with B's and C's and still chill with my friends that's what I'm gonna do, you know? I drive Marsha home from school most days and we were about to leave from the school parking lot when the incident happened.

It was January 27 of last year and I had plans to meet Jordan Day and Alex Jones after school. I had some Adderall that I wasn't going to use and they asked if they could snag some to help them study for a big test they had coming up. Now, I know that it's not right to be selling my medication but I figured I would make a few bucks off the whole thing. Anyways, Jordan and Alex told me that they would give me \$100 for the Adderall that I had left over and I really wanted to buy a new PlayStation so I figured, what was the harm? I told Marsha that I had to meet up with them in the parking lot quickly and that I would drive her home afterwards. Looking back, I should have known not to mess around with guys like Jordan and Alex. We have had disagreements in the past and they're seen as troublemakers at school.

I think that Marsha had a feeling that something was up, like I said, she's always nagging me about hanging around with a bad crowd and not spending time on my schoolwork like I should. Anyways, she stayed in the car in the high school parking lot

and I got out to meet Jordan and Alex. As I was walking towards Jordan and Alex I saw something sticking out of their front pockets. After getting a little closer I realized that they both had knives. This really scared me and I reached for a tube of pepper spray that my mom makes me carry for protection. You see, I have a job at the local Pizza King and sometimes have to walk home after work in the dark. My mom's kind of paranoid and bought the pepper spray for me after I started my job.

Anyways, I took out the pepper spray from my back pocket and held it up in front of my face. Jordan and Alex came closer to me and took out their knives. I was really confused at this point because I thought we were cool. I told them that if they would just put their knives away I would put my pepper spray away and we could all go our separate ways. By this point I realized that the \$100 that I was going to make was not worth all of this. I was also scared for Marsha because I did not want her to get stuck in the middle. After I said this I realized that they were not going to listen to me. Feeling scared for my life, I walked quickly back to my car and opened the driver side door. I told Marsha that we had to get out of there and put the keys in the ignition. Next thing I knew, Jordan and Alex came up to the car, grabbed me, and snatched the pill bottle and my wallet out of my pocket. While they were robbing me they both cut me on my arm with their knives. I fell to the ground grabbing my arm and Jordan and Alex both kicked me and punched me as I was lying on the ground. I was beat up real bad. I'm just thankful that Marsha was in the car to witness the whole thing and to call 911. The next thing I remember is waking up in the hospital with bandages on my arm. The doctors told me that I required 28 stitches and would have scars for the rest of my life. I just can't believe that Jordan and

Alex would do something like this over some money and pills. I guess I always knew they were bad news.

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ALEX JONES

Defendant,

_____ /

SWORN STATEMENT OF MARSHA YOUNG

My name is Marsha Young. I am seventeen years old and a senior at Wellington High School. I moved to Atlanta the summer before my freshman year and have gone to Wellington all four years of high school. I live in a neighborhood across the street from Wellington with my mother, father, and twin brother. My twin's name is Michael but we don't get along very well. I think he has always been jealous of me because I get better grades than he does. My parents are always comparing the two of us and I think that it gets on his nerves.

Speaking of grades, I consider myself an above-average student at Wellington. Most of my classmates would rather spend their time doing drugs or going to parties then studying and preparing for their future. Not me! I am the captain of the soccer team and I

am on the debate team at Wellington. My dream is to get into Princeton and I can't let anything get in my way. Well, I guess there is one thing that causes a problem for me sometimes. My boyfriend, Sam Smith, is not the best student. Don't get me wrong, he is a really nice guy and a great boyfriend...we just don't have the same goals in life. Most of my friends wonder why I hang out with Sam, but we've been together since freshman year and I just can't see myself without him! Secretly, I'm hoping that I will be a good influence on him and he will start to work harder in school. It's not that Sam is a bad student, he gets B's and C's, it's just not what I would want for him.

Sam drives me home from school most days because my parents let Michael take our car to football practice. Don't even get me started on that... but I don't mind too much because it lets me get more time with Sam. On January 27 of last year Sam had told me that he would drive me home but he had to meet some guys in the parking lot first. Like I said, Sam doesn't always make the smartest decisions and on this day I just had a feeling that he was up to no good. However, desperately needing a ride home I agreed to sit and wait in the car while he met his friends. Anyways, I thought he was going to meet his friends. Imagine my surprise when I saw Jordan Day and Alex Jones walking towards us! I wouldn't exactly say the three were close. They have had arguments in the past that Sam has told me all about. Jordan and Alex have a reputation of being troublemakers at school, the type of people that I don't like to hang around with.

What happened next was terrifying. I watched as Sam walked toward Jordan and Alex and all of a sudden Sam was pulling out the pepper spray that he carries. I know that his mom made him carry pepper spray since sometimes he walks home from work in the

dark, but I never thought he would actually have to use it! I looked to see what the trouble was and saw that Jordan and Alex were pulling knives out of their pockets. Then, I heard yelling and saw the three boys arguing. At this point, the argument wasn't physical but I could tell that Sam was scared. Thankfully, or so I thought, Sam turned back towards the car and opened the door. He told me that we had to leave and was just putting the keys in the ignition when Jordan and Alex came up to him. I saw Jordan and Alex grab what looked like a medication bottle out of Sam's pocket and they took his wallet also. As they were doing this they cut Sam's arm with their knives. I started screaming and pulled my phone out to call 911. As if the boys hadn't done enough harm already, as Sam was lying on the ground bleeding they kicked him and punched him in the face. I was crying by this point and begging 911 to hurry. Thankfully, the police arrived within a few minutes and an ambulance took Sam to the hospital. Now, I know that Sam doesn't always make the best decisions... but no one deserves something like this to happen to them.

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_____ /

SWORN STATEMENT OF CHARLIE HUGHES

My name is Charlie Hughes and I am the principal at Wellington High School. I got my Bachelor's degree in secondary education and math from Emory University and then completed a supervised internship that included classroom teaching. After that, I passed the Georgia State Licensing Exam and got a job teaching high school math. I taught math for 10 years before obtaining my Master's degree in educational administration from Georgia Southern University. I have been the principal at Wellington for the past five years. I live in Atlanta with my wife and our two daughters. My daughters are eight and ten years old. They attend Wellington Elementary School where my wife teaches.

Wellington High School is a fairly large school. It is home to 4,500 students in grades 9-12. I enjoy being the principal, however Wellington has been having some troubles lately. Recently, the school has seen an increase in violence and drug activity among upper-class students. Specifically, I have had to suspend and expel multiple students for the buying and selling of prescription medication. In an attempt to put a stop to this I enacted a zero-tolerance drug policy. We enforce this policy by having drug dogs search the school at random once each month. However, due to a limited number of drug dogs in the county, the dogs are only able to search inside the school building. I believe that the increase in violence at Wellington is due to this drug trafficking. That is why I am doing everything I can to put a stop to it. I have also hired law enforcement officials to patrol the hallways and the cafeteria due to fights breaking out between students.

There is definitely a group of “troublemakers” at Wellington High School. While I do not like to use this label loosely, a few of the students are recurrent visits to my office. Jordan Day and Alex Jones are two such students. I have had to suspend Jordan for cheating on a math exam freshman year. Alex is the quieter of the two and I believe him to be a follower. Him and Jordan are always together and always causing trouble. Alex has a history of detentions and in-school suspensions for petty infractions such as being truant and smoking cigarettes in the school bathroom during lunch. I have had meetings with both the students and their parents to try and fix their behavior. Up until now I believed that these meetings were working because I have not had many problems with either boy this year.

Sam Smith is another student that keeps popping up on my radar. Sam is known to hang around with many of the students involved in the drug trafficking I mentioned earlier. However, I have never been able to catch Sam doing anything wrong. Sam is a quiet student who I believe makes an effort to fly under the radar. He has been in my office before for low grades and problems paying attention in class but nothing that has caused me much concern. I have, however, heard rumors that he sells pills but I have not been able to obtain proof. Part of the reason I started the drug dog searches was to find out if my students were indeed selling pills on school property.

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Defendant,

ALEX JONES

Defendant,

_____ /

SWORN STATEMENT OF AVERY COOK

My name is Avery Cook. I am seventeen years old and a senior at Wellington High School. I moved to Atlanta last year and have had some difficulties fitting in at Wellington. That's not to say I don't have friends, I do, it's just that Wellington is a school full of cliques and groups and I don't really fit into any one group. I live in an apartment that's walking distance from Wellington so I often walk to and from school. My mother and younger sister both live with me. My sister is ten years old and attends Wellington Elementary. I try to set a good example for her by staying out of trouble and doing well in school. Honestly, I try hard in school because I can't wait to graduate and go off to college. I am trying to get into a college in my home state, California, so I have to focus on my schoolwork this year.

Since I am shy and don't interact much with the students at Wellington, I find myself using Facebook to surf the internet in my free time. I don't really like face-to-face interaction and find it much easier to talk to people on the internet. Facebook is pretty cool because I can add friends and then use the Messenger app to talk to them. It's like we're talking in person but it doesn't scare me so much. Every day after school I go home and get my homework done and spend the rest of the evening on Facebook. I have about 300 friends on Facebook, most of them from my high school back in California. However, I have added some of the guys that are in my classes at Wellington. I'm trying to be a little more social and get to know the people that I will be spending my last year with.

With that being said, Jordan Day is one of my Facebook friends. I have shop class with Jordan and have talked to him a couple of times. He seems pretty cool. He's the type of guy that I thought I might be able to become friends with. That was before I saw his Facebook page. After class one day I decided to go home and add Jordan on Facebook. I thought maybe we could start talking on there and I might be able to make a friend that I could hang out with. However, once he accepted my friend request and I began to look through his profile I got quite frightened. Jordan's profile picture was him holding a knife and smiling menacingly. It was the kind of picture that you see on the news of someone who has committed a crime. Along with this picture, Jordan had posted a Facebook status that said, "Just bought this beauty, nobody better mess with me." I can remember exactly when I saw this because I had just turned in a big project that I had been working on all month. My project was due January 20 and I had turned it in that afternoon before I went

home from school. So it must have been around January 20 that I saw these posts. After that, I decided I did not want to be friends with Jordan Day.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR FULTON COUNTY, GEORGIA
CRIMINAL DIVISION**

STATE OF GEORGIA,

Prosecution,

v.

Case No. 11-0011-H

JORDAN DAY,

Defendant,

ALEX JONES

Defendant,

_____ /

SWORN STATEMENT OF JORDAN DAY

My name is Jordan Day. I am an eighteen year old senior at Wellington High School. I live at 334 Hollingsboro Avenue. I live with my father, step-mom, and three younger brothers. Being the oldest of the family I have had to take care of my younger siblings and serve as a leader in the household. I have a part-time job at a local pet store where I clean the cages of the cats and dogs and help with the grooming. I have been working there for the past three years and have gotten promoted to a shift supervisor. When I am not at the pet store I am usually at home taking care of my younger brothers. My father works all the time and is often on the road traveling. Our step-mom is okay... she's pretty nice but she likes to spend all of her time shopping and going to dinner with her girlfriends.

I do not like Wellington High School. The principal is mean and for some reason has it out for me and my best friend, Alex Jones. We've never given him any reason to dislike us but he is always watching us. It's like he is just waiting to bust us for something. I'm not sure why we have the reputation of being troublemakers. Sure, we've had our fair share of run-ins with the principal and uptight teachers but nothing that has ever been a big deal. The most trouble I've been in was for cheating on a math exam freshman year. It wasn't even my fault. I had been up all night the night before taking care of my younger brother who was sick with the flu. Dad was out of town again, of course, and I did not have time to study in between taking Josh to the bathroom to get sick. Principal Hughes does not have a reason to dislike Alex either. He's even more of a goody goody than I am. The most trouble he's been in is for smoking a cigarette in the school bathroom. Big deal. It's not like we're into hard drugs or anything like that.

The real troublemaker at school is Sam Smith. That boy is no good. He hangs around with his goody two shoes girlfriend Marsha Young and tries to act all innocent but Alex and I know the real him. Don't just take my word for it. I have proof! Two weeks ago Alex and I were hanging out at my locker during a passing period and Sam comes up to us all high and mighty. We can tell that he's fuming. He storms up to us, slams my locker shut and demands to know, "who we think we are". I tell him that we have no idea what he's talking about and he rolls his eyes. Then, he starts yelling about how we stole some pills from his locker. Not only this absurd, but he's yelling about having pills in his locker when Principal Hughes just enacted a zero-tolerance drug policy. Crazy! I tell him that he needs to chill out and that we did not take anything from

his locker. How could we? We don't know his locker combination. Then, Sam gets real close to my face, puts his hands on my shoulders, and says that if we ever stole from him again we were going to be sorry.

Flash forward two weeks and Alex and I are real stressed out about an upcoming history exam. I had been spending all of my time taking care of my brothers and, once again, had no time to study. Having learned my lesson freshman year, I decided to pull an all-nighter the night before the exam and try to cram. However, there was no way I was going to make it without some extra help. Now, I know that doing drugs is wrong...but what else was I going to do? Anyways, Alex and I make a deal with Sam that we would pay him \$100 for some of his Adderall. We decide to meet in the school parking lot after the final bell.

After the final bell I go find Alex at his locker and we begin to walk towards the parking lot. We see Sam standing outside of his car and Marsha sitting in the passenger seat. Sam had the same menacing look on his face that he had the day he approached us about stealing from him. Alex and I walk towards Sam and Sam pulls something out from his back pocket. Thinking that this is a set up and Sam is going to follow through on his threat from two weeks earlier, Alex and I pull out pocket knives that we carry as a means of protection. You never know who you are going to run into on the streets and it is always good to have a way to protect yourself. Sam begins yelling at us about stealing from him again and we can tell that this is not going to be a civil meeting. Sam runs at us with pepper spray and is yelling about how he is going to hurt us. In self-defense, Alex and I try to grab the pepper spray from him and accidentally end up cutting his arm in the

process. Sam falls to the ground and Alex and I, scared that the police are going to come and we will get in trouble for trying to buy drugs, run off. Now, I know we shouldn't have been trying to buy Adderall and we should have just taken the extra time to prepare for the test... but we did what we had to do to protect ourselves. Sam started the whole thing and had probably been planning it for two weeks. He thought we stole from him and he wanted to get revenge.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
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STATE OF GEORGIA,

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JORDAN DAY,

Defendant,

ALEX JONES

Defendant,

_____ /

SWORN STATEMENT OF ALEX JONES

My name is Alex Jones and I am an eighteen year old senior at Wellington High School. I live in Crystal Lake Village which is close to the high school. I have lived in Atlanta all of my life, but I've moved around a couple of times within the city. My mother, father, and I all live in my house. My mother is a teacher at Wellington Elementary School and my father works at the local doctor's office.

I don't really mind going to Wellington High. The other students are nice enough and I like pretty much all of my classes. I haven't always been the best student. I've gotten in trouble for skipping class and once for smoking a cigarette in the school bathroom. Besides that, though, I've really done my best to turn my act around and try to get into a good college. I hope to grow up to be a doctor just like my father. My best

friend at school is Jordan Day. He's a senior like me and we get along pretty well. I think that is because we are both kind of misunderstood. For some reason we are seen as troublemakers at Wellington. I really think that Principal Hughes has it out for us. He somehow got it in his head that we were drug users and has been trying to catch us doing something wrong for a while now. He has been cracking down on the drug policy at school because of some fights breaking out. Really, Wellington doesn't have a drug problem. I mean, its not like there are gangs fighting over cocaine or anything. The worst drug floating around Wellington is Adderall and that's not even a big deal.

Speaking of Adderall, this whole situation started when Jordan and I were trying to find some to help us study for a big history exam we had coming up. Jordan doesn't really have time to study since he takes care of his younger brothers a lot and I have been under a lot of pressure from my dad to get my grades up. That being said, we had heard that Sam Smith had extra Adderall that he was willing to sell. I guess now is as good of a time as any to explain what happened between Jordan, Sam, and I a few weeks before this incident. Jordan and I were hanging out at his locker like we usually do during passing periods when Sam came up to us. I could immediately tell that he was really mad, and to be honest he was sort of scary looking. Sam slammed Jordan's locker shut and began to yell at us about stealing pills from his locker. I was shocked! I mean, Jordan and I weren't necessarily friends with Sam but we had never gotten into an altercation like this before, and we certainly hadn't stolen from him. We told Sam that he was mistaken and he told us that if we ever stole from him again we were going to be sorry. He even put his hands on Jordan when he was yelling at him. He didn't hit him or anything, but he

was definitely trying to intimidate us. After telling Sam that we definitely didn't take any pills from his locker, once again, he stormed off in a fury.

Anyways, a few weeks later Jordan and I were desperate for some study aides and decided to make a deal with Sam to buy some of his Adderall. We had agreed to meet in the school parking lot after school and pay him \$100 for a bottle of his leftover Adderall. On January 27 of last year I met Jordan at his locker during our lunch period and we discussed how nervous we were for the meeting. Jordan offered me something to "calm my nerves". Jordan told me that it was just some of his step-mom's Xanax and that it would help calm us down. Being kind of nervous for our meeting with Sam, I agreed and we each took the Xanax.

That afternoon I, once again, met Jordan at his locker. We got the cash and began to walk towards the school parking lot. I was quite nervous for the exchange because of how Sam had acted a few weeks earlier. Jordan and I got to the parking lot and saw Sam Smith standing a few feet from his car. We also saw his girlfriend, Marsha Young, sitting in the passenger seat. As we walked closer to Sam we saw him taking something out of his back pocket. I immediately realized that this might be a set up and that Sam might be acting on his threat from two weeks earlier. In self-defense I pulled out the knife that I carry with me for protection. As we got closer to Sam he began to yell at us about stealing from him once again. We immediately can tell that this is not going to be the civil exchange that we expected. Sam began to run at Jordan and I and we held up our pocket knives in self-defense. Jordan and I try to grab the pepper spray that Sam is holding towards us and we accidentally cut his arm in the process. Sam falls to the

ground and I am petrified that Marsha is on the phone calling the cops. Realizing that I am going to be in a lot of trouble if I stick around, I grab Jordan and we run out of the parking lot and away from the school. In retrospect, I know that buying another student's Adderall is wrong but I was desperate to impress my father and do well on the big history exam. I feel bad that Sam got hurt but I was only doing what was necessary to protect myself. He started the whole thing and had been planning his attack for weeks.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
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JORDAN DAY,

Defendant,

ALEX JONES

Defendant,

_____ /

SWORN STATEMENT OF DR. QUINN RUTHERFORD

My name is Dr. Quinn Rutherford and I am a licensed psychiatrist at Georgia Hospital. I have Bachelor's degrees in psychology and chemistry from Indiana University and my medical degree from Indiana University. After obtaining my degrees I completed four years post-doctoral training in a residency program. I then completed 36 months of required psychiatric training. Then I passed the United States Medical Licensing Examination and obtained Board Certification from the American Board of Psychiatry and Neurology. I have been practicing psychiatry for approximately fifteen years and have testified in more than 45 trials as an expert witness.

I was contacted by the defense in order to determine if Xanax would have had an effect on the defendants. I have reviewed all of the evidence, including witness

statements and the police and medical facts. My professional opinion is that someone high on Xanax is not responsible for the poor decision-making that immediately follows taking a high dose of Xanax. I have reached this conclusion because it is medically documented and proven that Xanax decreases judgment and the ability to reason. By Alex Jones' own admission he admits to taking four Xanax pills a mere two hours before the events of January 27, 2014. This is more than double the recommended dose for someone his age. Therefore, it is my professional opinion that the defendants should not be held responsible for the poor decision-making that followed.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
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Case No. 11-0011-H

JORDAN DAY,

Defendant,

ALEX JONES

Defendant,

_____ /

SWORN STATEMENT OF SAWYER EMERSON

My name is Sawyer Emerson. I am eighteen years old and am a senior at Wellington High School. I have lived in Atlanta all of my life and have attended Wellington for four years. I live with my mother, who teaches economics at the high school, and my younger sister. My sister is eleven and a fifth grader at Wellington Elementary. When I am not in school I have a part-time job at the auto-repair shop on Massachusetts Blvd. I have had this job for three years and have a good relationship with my employer. My responsibilities include changing tires, ordering parts, and making sure all of the orders get filled.

I don't mind going to school at Wellington. Some of my friends that I hang out with have been talking about how the school is getting stricter and is cracking down on

our freedoms but I think this is necessary. In my opinion, things have gotten kind of out of hand at Wellington. There has been a real problem with drugs at the school and a lot of times fights will break out because of this. A lot of the guys I hang out with have been involved in all of these troubles, but I have tried to stay clear of it. Two of my close friends are Jordan Day and Alex Jones. I feel bad for them because I think they are pretty misunderstood at school. They've been in trouble before but never for anything major. Just little things like skipping class or being tardy.

One day I was getting my math book out of my locker when I overheard a conversation between Jordan and Alex and another student, Sam Smith. I don't know Sam very well but I have always heard that he is into the drug scene. He dates a nice girl, Marsha Young, so I didn't really know if the rumors about him using drugs were true or not. However, I didn't doubt it after the conversation that I overheard. My locker is only about five away from Jordan's and I saw Sam go storming up to Jordan and Alex as they were standing there talking. He was being pretty loud and I heard him accuse Jordan and Alex of stealing pills from him. I also heard him say, "If you ever steal from me again, you'll be sorry." It sounded like he was really mad. The next day I was talking to Jordan and Alex and asked them about what had happened. They explained to me that they hadn't stolen anything from Sam and they were fearful that he was going to hurt them.

Now, I don't want to rat on my friends or anything, but I have been around Jordan and Alex when they've been talking about using drugs. I think that this has led to a lot of problems for them. I don't know for sure or not if they had stolen pills from Sam but I do know that they were really mad about this incident. In fact, later in the conversation they

began to get mad that Sam had embarrassed them like that in front of people at school. Jordan and Alex decided that Sam would have to pay for embarrassing them and for risking Principal Hughes overhearing talk of drugs at school. They decided that they would show him what it was like to actually be robbed. I didn't feel comfortable participating in this conversation with them so when the conversation shifted to this nature I excused myself. However, before I left I overheard them saying that they were going to plan a drug deal with Sam and then turn the tables on him and rob him. I'm not sure what happened that day in January but I do know there had been prior talk of planning to rob Sam Smith.

APPLICABLE STATUTES

O.C.G.A. 39-1-1 (2010)

39-1-1. Age of legal majority; residence of persons in state for purpose of attending school

(a) The age of legal majority in this state is 18 years; until that age all persons are minors.

O.C.G.A. 16-3-21 (2010)

16-3-21. Use of force in defense of self or others; evidence of belief that force was necessary in murder or manslaughter prosecution

(a) A person is justified in threatening or using force against another when and to the extent that he or she reasonably believes that such threat or force is necessary to defend himself or herself or a third person against such other's imminent use of unlawful force; however, except as provided in Code Section 16-3-23, a person is justified in using force which is intended or likely to cause death or great bodily harm only if he or she reasonably believes that such force is necessary to prevent death or great bodily injury to himself or herself or a third person or to prevent the commission of a forcible felony.

(b) A person is not justified in using force under the circumstances specified in subsection (a) of this Code section if he:

(1) Initially provokes the use of force against himself with the intent to use such force as an excuse to inflict bodily harm upon the assailant;

(2) Is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony; or

(3) Was the aggressor or was engaged in a combat by agreement unless he withdraws from the encounter and effectively communicates to such other person his intent to do so and the other, notwithstanding, continues or threatens to continue the use of unlawful force.

O.C.G.A. 16-3-23.1 (2010)

16-3-23.1. No duty to retreat prior to use of force in self-defense

A person who uses threats or force in accordance with Code Section 16-3-21, relating to the use of force in defense of self or others, Code Section 16-3-23, relating to the use of force in defense of a habitation, or Code Section 16-3-24, relating to the use of force in defense of property other than a habitation, has no duty to retreat and has the right to stand his or her ground and use force as provided in said Code sections, including deadly force.

O.C.G.A. 16-5-24 (2010)

16-5-24. Aggravated battery

(a) A person commits the offense of aggravated battery when he or she maliciously causes bodily harm to another by depriving him or her of a member of his or her body, by rendering a member of his or her body useless, or by seriously disfiguring his or her body or a member thereof.

(b) Except as provided in subsections (c) through (h) of this Code section, a person convicted of the offense of aggravated battery shall be punished by imprisonment for not less than one nor more than 20 years.

(g) Any person who commits the offense of aggravated battery upon a student or teacher or other school personnel within a school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 shall, upon conviction thereof, be punished by imprisonment for not less than five nor more than 20 years.

O.C.G.A. 16-8-40 (2010)

16-8-40. Robbery

(a) A person commits the offense of robbery when, with intent to commit theft, he takes property of another from the person or the immediate presence of another:

(1) By use of force;

(2) By intimidation, by the use of threat or coercion, or by placing such person in fear of immediate serious bodily injury to himself or to another; or

(3) By sudden snatching.

(b) A person convicted of the offense of robbery shall be punished by imprisonment for not less than one nor more than 20 years

O.C.G.A. 16-11-127.1 (2010)

16-11-127.1. Carrying weapons within school safety zones, at school functions, or on school property

(a) As used in this Code section, the term:

(1) "School safety zone" means in or on any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in or on the campus of any public or private

technical school, vocational school, college, university, or institution of postsecondary education.

(2) "Weapon" means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.

(1) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25.

(2) Any license holder who violates this subsection shall be guilty of a misdemeanor. Any person who is not a license holder who violates this subsection shall be guilty of a

felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both.

(3) Any person convicted of a violation of this subsection involving a dangerous weapon or machine gun, as such terms are defined in Code Section 16-11-121, shall be punished by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both.

(4) A child who violates this subsection may be subject to the provisions of Code Section 15-11-63.

(c) The provisions of this Code section shall not apply to:

(1) Baseball bats, hockey sticks, or other sports equipment possessed by competitors for legitimate athletic purposes;

(2) Participants in organized sport shooting events or firearm training courses;

(3) Persons participating in military training programs conducted by or on behalf of the armed forces of the United States or the Georgia Department of Defense;

(4) Persons participating in law enforcement training conducted by a police academy certified by the Georgia Peace Officer Standards and Training Council or by a law enforcement agency of the state or the United States or any political subdivision thereof;

(5) The following persons, when acting in the performance of their official duties or when en route to or from their official duties:

(A) A peace officer as defined by Code Section 35-8-2;

(B) A law enforcement officer of the United States government;

(C) A prosecuting attorney of this state or of the United States;

(D) An employee of the Georgia Department of Corrections or a correctional facility operated by a political subdivision of this state or the United States who is authorized by the head of such correctional agency or facility to carry a firearm;

(E) A person employed as a campus police officer or school security officer who is authorized to carry a weapon in accordance with Chapter 8 of Title 20; and

(F) Medical examiners, coroners, and their investigators who are employed by the state or any political subdivision thereof;

JURY INSTRUCTIONS

AGGRAVATED BATTERY

To prove the crime of Aggravated Battery, the State must prove the following elements beyond a reasonable doubt:

1. JORDAN DAY AND ALEX JONES intentionally touched or struck SAM SMITH against his/her will, or intentionally caused bodily harm to SAM SMITH,
2. JORDAN DAY AND ALEX JONES, in committing the battery, intentionally or knowingly caused great bodily harm, permanent disability, or permanent disfigurement to SAM SMITH, or used a deadly weapon.

The first element is the definition of battery. Regarding the second element, a weapon is a “deadly weapon” if it is used or threatened to be used in a way likely to produce death or great bodily harm.

ROBBERY

To prove the crime of Robbery, the State must prove the following element beyond a reasonable doubt.

1. JORDAN DAY and ALEX JONES when, with intent to commit theft, took property of another from SAM SMITH or the immediate presence of another:

- (1) By use of force;
- (2) By intimidation, by the use of threat or coercion, or by placing such person in fear of immediate serious bodily injury to himself or to another; or
- (3) By sudden snatching.

CARRYING A WEAPON ON SCHOOL PROPERTY

To prove the crime of Carrying a Weapon on School Property, the State must prove the following elements beyond a reasonable doubt.

1. JORDAN DAY and ALEX JONES carried a weapon within a school safety zone, at a school function, or on school property.

“School safety zone” means in or on any real property owned by or leased to any public or private elementary school, secondary school, or school board and used for elementary or secondary education and in or on the campus of any public or private technical school, vocational school, college, university, or institution of postsecondary education.

“Weapon” means and includes any pistol, revolver, or any weapon designed or intended to propel a missile of any kind, or any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any weapon of like kind, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. This paragraph excludes any of these instruments used for classroom work authorized by the teacher.

State v. Bengé

158 S.E.2d 70

Facts:

Defendant admits shooting victim with a pistol and admits that he never saw a weapon in victim's hand.

There is other evidence which suggests that defendant's repeated firing was unnecessary to his own self-defense and that defendant followed victim outside his habitation and shot him at least three times as he lay on the ground.

Procedural History:

Defendant argues that the court erred in denying his motion for nonsuit at the close of evidence.

Issue(s) Presented:

Did the trial judge err by overruling the defendant's motion for nonsuit at the close of evidence?

Holding:

No.

Legal Reasoning:

"Ordinarily, when a person who is free from fault in bringing on a difficulty, is attacked in his own home or on his own premises, the law imposes on him no duty to retreat before he can justify his fighting in self-defense, regardless of the character of the assault, but is entitled to stand his ground, to repel force with force, and to increase his force, so as not only to resist, but also to overcome the assault and secure himself from all harm.

This, of course, would not excuse the defendant if he used excessive force in repelling the attack and overcoming his adversary.” *State v. Francis, State v. Frizzelle*

In order to claim self-defense, the force used must be exerted in good faith to prevent the threatened injury. It must not be excessive or disproportionate to the force being used by the attacker. However, the question of excessive force is one for the jury.

Disposition:

No error.

State v. Bush

34 F.3d 44

Facts:

On October 30, 1990, Wallie Howard, a Syracuse police officer working undercover for the DEA was shot and killed during a cocaine “buy-bust”.

Davidson was the head and supplier of a cocaine conspiracy that began in Syracuse in or around 1988.

Parke was a chief lieutenant of Davidson’s. Parke and Morales frequently delivered cocaine to customers who had called them on beepers to place orders.

Lawrence was a seller at one of the conspiracy’s drug apartments. He was also “muscle” for the conspiracy.

Stewart had dealt cocaine for the conspiracy in the past, and owed the group a debt for cocaine he had purchased three weeks earlier which turned out to be “bad.”

He was invited to participate in the events of the 30th as a means of paying off the debt he owed.

A sale between the conspiracy, Agent Howard, and CI Luther Gregory was scheduled for October 30, 1990.

On the morning of October 30th, the DEA drug task force met to schedule the buy-bust.

Because more than \$40,000 in case was being exchanged the agents were concerned about a possible robbery. They attempted to arrange the purchase in a public location.

Davidson had made plans to rob Gregory because he felt Gregory had robbed him in the past.

The defendants met the morning of the 30th as well. Davidson laid out his plan to rob Gregory. Parke supplied Lawrence with a .357 caliber revolver. Stewart was armed with a .22 caliber handgun.

Morales was to negotiate the deal and act as the driver. Lawrence and Stewart were to conduct the robbery. Davidson and Parke remained behind.

Morales met with Agent Howard and Gregory at Gregory's apartment and they agreed to do the deal in a parking lot of Mario's Big M.

Morales told Gregory to go with him to his apartment to check the quality of the cocaine. When they arrived at Morales's apartment, Lawrence and Stewart emerged with guns. They bound and gagged Gregory, breaking his wrist.

Morales, Lawrence, and Stewart returned to Mario's Big M.

Lawrence and Stewart, both armed, approached Gregory's vehicle where Agent Howard was seated.

Stewart had the loaded .22 in his hand and tried to shoot but no round was in the chamber.

Agent Howard got three shots off, one hitting Stewart in the shoulder.

Lawrence fired the .357 from behind Howard and killed him.

Procedural History:

Appellants appeal their convictions after a jury trial conducted in the Northern District of New York on various charges stemming from the drug-related killing of an undercover police officer.

After a two-month jury trial held in January and February of 1993, the defendants-appellants were found guilty as charged.

Issue(s) Presented:

Did the district court err in not specifically charging the jury that it was the government's obligation to prove the absence of self-defense beyond a reasonable doubt?

Holding:

No.

Legal Reasoning:

Some courts have held that the failure to instruct the jury of the government's obligation infers that the defendant must prove self-defense.

Given the jury's finding that the defendant's committed the killing of Agent Howard in an attempt to rob him, the defendants were not entitled, as a matter of law, under the circumstances, to rely on the defense of self-defense.

The defendants were not entitled to the defense of self-defense because their need to defend themselves arose out of their own armed aggression.

One who commits or attempts a robbery armed with deadly force, and kills the intended victim when the victim responds with force to the robbery attempt, may not avail himself of the defense of self-defense.

One who is the aggressor in a conflict culminating in death cannot invoke the necessities of self-preservation.

Disposition:

No error.

The judgments of conviction are affirmed.

State v. Deck

203 S.E.2d 830

Procedural History:

Defendant's counsel requested the Court to instruct on self-defense and the Court refused to do so.

Issue(s) Presented:

Did the trial court err by refusing to instruct the jury on the law of self-defense?

Holding:

Yes, the evidence in this case was sufficient to require the trial judge to state and apply the law of self-defense to the facts of the case.

Legal Reasoning:

The right to act in self-defense is based upon necessity, real or apparent, and a person may use such force as is necessary or apparently necessary to save himself from death or great bodily harm.

The reasonableness of his belief is to be determined by the jury from the facts and circumstances as they appeared to the accused at the time of the killing.

When supported by competent evidence, self-defense unquestionably becomes a substantial and essential feature of a criminal case.

Disposition:

The defendant is entitled to a new trial.

State v. Hall

366 S.E.2d 527

Facts:

Defendant went to his estranged wife's home after reading a note that she had left him at his residence.

The note asked defendant to bring her a gun so she could protect herself and her children from victim.

Defendant placed a single-barrel shotgun in his truck and drove to wife's mobile home.

When defendant arrived he met wife running out of the mobile home.

Wife told defendant that victim had a knife and that the victim was going to hurt him. She told defendant to get back in his van.

Defendant walked back to his van and got the shotgun.

Defendant approached victim with the shotgun. The two men were ten to twelve feet apart.

Defendant and victim argued for around ten minutes.

Defendant asked victim to leave several times.

The evidence indicated that victim had an open knife in his pocket and at one point told defendant that he would put away the knife if he put down the gun.

Defendant never saw the knife in the possession of victim.

Victim turned as if to leave but abruptly turned back towards defendant and stepped in his direction.

It appeared to defendant that victim was reaching for something. Defendant fired the gun.

Procedural History:

Defendant was indicted for assault with a deadly weapon inflicting serious injury.

Defendant appeals.

Issue(s) Presented:

Did the evidence require an instruction on self-defense?

Did the evidence require an instruction on defense of family?

Holding:

No.

No.

Legal Reasoning:

Defendant refused his wife's request to get back into his van. He admitted to returning to the van to get the shotgun.

Defendant approached victim with the gun.

Defendant was not without fault in bringing on the affray and "voluntarily and aggressively took himself into a situation in which he well knew that he or the other man would probably use deadly force" *State v. Brooks*

There is no evidence that, at any time, defendant withdrew from the fight.

"As defendant entered into the affray voluntarily and without lawful excuse or provocation, he is considered the aggressor and was therefore not entitled to a charge on self-defense."

A family member has the right to come to the defense of a fellow family member when that member is faced with an assault. *State v. Moses*

Unless there is evidence that defendant had a reasonable belief that an assault was about to be committed by another on the family member, he is not entitled to an instruction on defense of that person.

“...the assistant’s act may not be in excess of that which the law would allow the assisted party.” *State v. Moses*

In this case the wife’s statements showed concern for defendant’s safety. She did not indicate that she felt she was about to be assaulted.

Disposition:

No error.

State v. McAvoy

417 S.E.2d 489

Facts:

On September 7, 1988, defendant was working as a bartender at the Winner's Circle Club.

Around 11:30 or 11:45 p.m. Gary Gray was in the club and told Annette Underwood and Michelle Williams that his wife and defendant were "seeing each other".

Gray said that he wanted to take pictures of his wife and the defendant to use as evidence in a custody battle if he and his wife ever divorced.

Gray followed the defendant to the back of the bar and exchanged words with defendant. Defendant pushed Gray back into the hallway.

Gray went around to the front of the bar and continued talking to defendant.

More words were exchanged and defendant pulled out a gun and aimed it at Gray's head.

Gray slapped at the gun once and stood on the edge of the bar yelling, "Shoot me. Go ahead shoot me."

After Gray's challenge, defendant shot Gray in the head and then asked someone to call the police.

The arresting officer testified that he did not smell any alcohol on the defendant.

According to the defendant, Gray confronted him two weeks to a month before the shooting and accused the defendant of going out with his wife.

Gray told defendant if he ever caught him going out with his wife, he would kill him.

According to the defendant, Gray told him, "Well, I'm going to tell you right now, I'm going to kill you."

Gray reached for defendant's shirt and defendant stepped away.

As the defendant stepped back from Gray, he noticed that Gray was carrying a weapon on his side.

Defendant testified that Gray screamed, "Shoot me or I'm going to kill you."

After Gray shouted his first threat, defendant drew a pistol from his belt. Gray then reached back toward his hip to grab what defendant thought was a pistol.

Defendant testified that he shot Gray because he thought Gray was going to shoot him.

Defendant said he only meant to hurt Gray, not kill him.

Procedural History:

Defendant was tried in a non-capital trial and charged with first-degree murder.

The jury returned a verdict of guilty as charged and the trial court sentenced defendant to a term of life imprisonment.

Issue(s) Presented:

Did the trial court err in failing to dismiss the charge of murder?

Did the trial court err in failing to instruct the jury that a person attacked in his place of business has no duty to retreat and may use force in self-defense, including deadly force, when appropriate?

Did the trial court err by giving the jury conflicting instructions on self-defense?

Holdings:

No, the trial court did not err in failing to dismiss the charge of murder.

No, the trial court did not err in failing to instruct the jury regarding a duty to retreat.

No, the trial court did not give the jury conflicting instructions on self-defense.

Legal Reasoning:

Substantial evidence showed that even though Gray could not reach defendant behind the bar and did not have a weapon, defendant responded to Gray's verbal threats by pulling out a gun and shooting Gray in the forehead.

Evidence also showed that defendant made no effort to assist Gray.

A jury could reasonably conclude that defendant did not believe it necessary to kill the deceased in order to save himself from death or great bodily harm and the State had carried its burden of disproving self-defense.

The instruction regarding a duty to retreat is to be used following the usual self-defense instructions where there is evidence raising the issue of retreat.

In this instance, there was no evidence of an assault by the victim upon the defendant at the time in question.

The evidence is sufficient to support an instruction on self-defense upon the theory that the defendant had a reasonable belief that it was necessary to kill the victim in order to protect himself from death or great bodily harm. However, it does not support a finding that the victim made an assault upon the defendant.

The defendant's contention that his honest, while unreasonable, belief that killing the victim was necessary to protect himself from imminent death or great bodily harm negates malice is contrary to the principles enunciated in a long line of decisions by the Court regarding self-defense.

Disposition:

The Court finds defendant's trial free of prejudicial error.

State v. Mize

340 S.E.2d 439

Facts:

Defendant (Edgar Earl Mize) and the victim had been friends for several years until a disagreement over payment that victim owed defendant.

On March 31, 1984 victim's girlfriend was visiting with friends. Included in this group was the defendant.

Victim arrived and demanded that his girlfriend return to their shared home. The girlfriend was afraid that victim would beat her up (as he had done before) so she asked defendant and his girlfriend to follow her.

Victim and his girlfriend got into a physical fight. Defendant came into the room with a pocketknife drawn to break up the fight. Victim cut his hand trying to take the knife away.

Defendant and his girlfriend then left. They parked the car and engaged in sexual relations. There is conflicting testimony on whether it was consensual. The girlfriend claims that defendant threatened her with a knife and raped her.

Girlfriend related her version of this event to victim.

On April 3, 1984 girlfriend and victim went to the mill where victim and defendant both worked so they could confront defendant.

Defendant had gone home early because he had heard that victim was "out to get him".

Over the period of several hours defendant consumed half of a fifth of vodka, several beers, and injected himself with the powder to nine Percodan pills.

Defendant was in the bedroom when he heard victim and others looking for him. He also heard them yelling for victim to get the bumper jack, which victim used as a weapon. After defendant's sister and grandmother told the group to leave, defendant took some "nerve pills".

Defendant then went next door carrying his shot gun with him. A neighbor testified that defendant repeatedly expressed his intention to go next door and kill victim after he finished drinking his beer. Others testified that defendant had told them that he had taken the drugs and drank alcohol so it would appear that he had committed the murder because he was on drugs.

Five minutes after defendant left, a neighbor heard four shots. Defendant then returned and said, "[t]ell Ruth I got him."

Defendant testified that he did not aim the shotgun to kill victim. He testified that he killed victim "because he was out to get me".

Defendant was not aware of any guns McDonald kept in the trailer and McDonald never directly threatened to kill defendant.

A psychiatrist testified that the Percodan likely made defendant more aggressive and the alcohol decreased his capacity for reasoning and judgment, therefore intensifying defendant's fear.

Procedural History:

The defendant requested the Court to instruct the jury on self-defense but the Court refused.

Defendant was convicted of first degree murder and sentenced to life in prison.

Issue(s) Presented:

Did the trial court err in not submitting the defense of self-defense to the jury pursuant to the defendant's request?

Holdings:

No, the Court holds that there is no evidence of self-defense.

Legal Reasoning:

A defendant is entitled to an instruction on perfect self-defense as an excuse for a killing when it is shown that, at the time of the killing, the following four elements existed:

- (1) it appeared to defendant and he believed it to be necessary to kill the deceased in order to save himself from death or great bodily harm; and
- (2) defendant's belief was reasonable in that the circumstances as they appeared to him at the time were sufficient to create such a belief in the mind of a person of ordinary firmness; and
- (3) defendant was not the aggressor in bringing on the affray, i.e., he did not aggressively and willingly enter into the fight without legal excuse or provocation
- (4) defendant did not use excessive force, i.e., did not use more force than was necessary or reasonably appeared to him to be necessary under the circumstances to protect himself from death or great bodily harm

Disposition:

No error.

State v. Norris

279 S.E.2d 570

Procedural History:

The trial judge instructed the jury it could find defendant guilty of murder in the first degree, murder in the second degree, voluntary manslaughter, or not guilty. The judge instructed the jury that in order to find the defendant guilty of first-degree murder the State must prove that defendant intentionally and without justification or excuse, and with malice shot victim with a deadly weapon.

The judge defined the term “without justification or excuse” as follows: “Members of the jury, when I say without justification or excuse, I have reference to self-defense which will be fully explained hereafter.”

Issue(s) Presented:

Did the trial court err in its charge of self-defense?

Holdings:

Yes, there was error.

Legal Reasoning:

The expression “without justification or excuse” was used as the equivalent of “self-defense” throughout the charge, with respect to murder in the first degree, second degree, and voluntary manslaughter.

The Court views “without justification or excuse” as an element of murder to mean the absence of either of the first two elements of self-defense. Either the defendant did not believe it was necessary to kill the victim in order to save herself from death or great bodily harm; or, if she did believe this, her belief was unreasonable.

The instruction given to the jury required the jury to find all four elements of self-defense and deprived the defendant of her imperfect right of self-defense.

A killing resulting from the use of excessive force in the exercise of the right of self-defense is manslaughter.

If defendant believed it was necessary to kill the deceased in order to save herself from death or great bodily harm, and if defendant's belief was reasonable but defendant, without murderous intent, was the aggressor or used excessive force the defendant only has the imperfect right of self-defense. In this case the defendant is guilty of voluntary manslaughter.

Disposition:

The judgment is vacated and the case remanded to the Superior Court of Buncombe County.

The defendant is entitled to a new trial.

State v. Potter

244 S.E.2d 397

Facts:

Ferd Snyder died as a result of a gunshot wound in his chest inflicted at close range on September 25, 1976.

Defendant intentionally inflicted this wound with a dead weapon, that is, a pistol.

The defense was self-defense.

Multiple witnesses testified that defendant had previously discussed shooting victim.

State's witness testified that immediately after the shooting defendant came to her home and told her he had shot victim. After this witness asked if he was dead, defendant replied, "that he hoped that the God damned son of a bitch was dead" and that victim had "been giving him trouble for a long time."

Defendant testified that on September 25, 1976 he had been riding around and drinking beer in a friend's car with that friend since noon.

Victim's car approached the car that defendant was in.

There was only room on the road for one car. Victim stopped his truck and blocked the path of defendant.

Victim got out of his car and opened the passenger door. He began cursing and calling the defendant vulgar names.

Victim punched at defendant through the window.

Defendant became angry, grabbed his friend's pistol, and left the car.

Victim began wrestling with defendant. Victim had his hands around defendant's throat and was choking him.

Defendant hit victim with the gun but that did not stop victim.

Defendant shot victim in the chest, got back in the car, and went down to his house.

Defendant was five feet nine inches and weighed 135 to 140 pounds. He was 50 years old.

The deceased was five feet seven inches, weighed 146 pounds, and was an elderly man.

State's rebuttal witness testified that he had stopped his car in victim's driveway before he observed victim approaching.

While they were stopped he observed victim approaching. Victim stopped roughly 20 feet in front of the car.

Defendant took the pistol off of the car seat, got out of the vehicle, and shot into the dash of the car.

After defendant was walking back towards his car, victim got out of the car, grabbed defendant by the neck, and they started to fight. They fought for some minutes when defendant shot victim.

State's witness testified that at no time did victim approach the car.

Issue(s) Presented:

Did the trial court err in telling the jury that it must find beyond a reasonable doubt "that the defendant was not the aggressor."?

Holding:

No.

Legal Reasoning:

If there was error in this situation it was harmless beyond a reasonable doubt because defendant was convicted of first-degree murder. Therefore, the jury never reached the question of if the defendant was the aggressor. If it did, the answer would have been immaterial.

It would have been proper to tell the jury that the killing of Ferd Snyder would be excused altogether as being in self-defense if all four elements of a perfect right to self-defense were met.

[A] defendant, persecuted for homicide in a difficulty which he has himself wrongfully provoked, may not maintain the position of perfect self-defense unless, at a time prior to the killing, he had quitted the combat..." *State v. Crisp* (1916)

Disposition:

The Court finds no error entitling defendant to a new trial.

United States v. Jordan Danks

221 F.3d 103

Facts:

In April 1998, Danks shot at a car which was parked within 1,000 feet of an elementary school.

Procedural History:

A federal grand jury charged Danks with possessing a firearm within 1,000 feet of a school, in violation of 18 U.S.C. Statute 922(q)(2)(A).

Danks moved to dismiss the indictment, arguing that the statute is an unconstitutional use of Congress's Commerce Clause power.

The District Court denied his motion, finding that the amended Act was constitutional and that the firearm had moved in interstate commerce.

Danks pleaded guilty to the offense and the District Court sentenced him to a two-year term of probation.

Danks appeals the order denying his motion to dismiss.

Issue(s) Presented:

Is the amended Act still an unconstitutional use of Congress's Commerce Clause under Lopez?

Holding:

No.

Legal Reasoning:

Because section 922(q) contains an interstate-commerce requirement, i.e., the firearm in question must have been shipped or transported in interstate commerce, the statute

ensures through case-by-case inquiry that the firearm in question affects interstate commerce.

Disposition:

The Court affirms.

United States v. Belen Nieves-Castano

480 F.3d 597

Facts:

Nieves-Castano lived in a third-floor apartment with her mother, her mother's school-age child, and her own two minor sons.

On August 30, 2005, a joint FBI and Puerto Rico police operation was investigating drug activity at the housing project, and law enforcement officials obtained and executed a search warrant at Nieves-Castano's apartment.

An officer posted outside the building saw Nieves-Castano slide an old, black golf bag off of the rear balcony of her apartment.

The officer retrieved the bag, which contained an AK-47 rifle.

Procedural History:

Belen Nieves-Castano was convicted of two weapons charges after a jury trial.

One conviction was for unlawful possession of a machine gun and the other was for the unlawful possession of a firearm in a school zone.

Nieves-Castano appeals both convictions.

Issue(s) Presented:

Is the school-zone statute unconstitutionally void for vagueness under the Fifth Amendment's Due Process Clause because it fails to specify how to measure the 1000 foot distance from a school that marks the boundary of a school zone?

Holding:

No.

Legal Reasoning:

The school-zone statute is based on congressional findings that firearms had increasingly been found in and around schools. The concern is that these firearms could deter parents from sending their children to school and could increase the occurrence of violent crimes in school zones.

The occurrence of violent crimes in school zones had resulted in a decline in the quality of education. This, therefore, has an adverse impact on commerce.

Courts, including this Court, have consistently rejected due process vagueness challenges to other firearm provisions.

The statute gives fair notice to people potentially subject to it and adequately guards against arbitrary and discriminatory enforcement.

Disposition:

The Court affirms the conviction on the second count and rejects the constitutional void-for-vagueness attack.

Tinker v. Des Moines Independent Community School District

393 U.S. 503

Facts:

In 1965, Des Moines, Iowa residents John F. Tinker (15) and his siblings along with one of their friends decided to wear black arm bands to school in protest of the Vietnam War.

The principals of the schools learned of their plan and met to create a policy that stated that school children wearing an armband would be asked to remove it immediately.

Students who violated the policy would be suspended and allowed to return to school only after agreeing to comply with the policy.

The participants still decided to wear the armbands and the older participants were suspended until their protest had been scheduled to end.

Procedural History:

The Iowa Civil Liberties Union approached the Tinker family and the ACLU agreed to help the family with the lawsuit.

The parents filed suit in U.S. District Court, which upheld the decision of the Des Moines school board.

The U.S. Court of Appeals for the 8th Circuit reached a tie vote which meant that the U.S. District Court's decision continued to stand.

The Tinkers appealed to the Supreme Court directly.

Issue(s) Presented:

Does the First Amendment apply to public schools?

Holding:

Yes.

Legal Reasoning:

“It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.”

In order for the Court to justify censoring speech, they "must be able to show that [their] action was caused by something more than a mere desire to avoid the discomfort and unpleasantness that always accompany an unpopular viewpoint," allowing schools to forbid conduct that would "materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.”

The actions of the Tinkers in wearing the armbands did not cause disruption and held that their activity represented constitutionally protected symbolic speech.

Disposition:

The Court affirms.

West Virginia State Board of Education v. Barnette

319 U.S. 624

Facts:

On January 9, 1942 the West Virginia State Board of Education adopted a resolution ordering that the salute to the flag become “a regular part of the program of activities in the public schools,” that all students and teachers “shall be required to participate in the salute honoring the Nation represented by the Flag; provided, however, that refusal to salute the Flag be regarded as an Act of insubordination, and shall be dealt with accordingly.”

After some modifications, a “stiff-arm” salute became required which required the saluter to keep the right hand raised with the palm turned up while the Pledge is repeated.

Failure to comply with this resolution was considered insubordinate and resulted in expulsion.

The expulsion then exposed the student and parents to criminal prosecution.

On the advice of their attorney, the Barnettes had their expelled girls return to school each day even though the school would send them home.

Jehovah’s Witnesses teach that the obligation imposed by the law of God is superior to those enacted by temporal government.

They consider the flag to be an image that falls under the command, “Thou shalt not make unto thee any graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; thou shalt not bow down thyself to them nor serve them.”

Procedural History:

The Barnettes brought suit in the United States District Court for themselves and others in similar situations asking its injunction to restrain enforcement of the laws and regulations against Jehovah's Witnesses.

Issue(s) Presented:

Does the Free Speech Clause of the First Amendment protect students from being forced to salute the American flag and say the Pledge of Allegiance in school?

Holding:

Yes.

Legal Reasoning:

The Court criticized previous opinions that put national symbols, like the flag, on a pedestal.

It also denied previous argument that flag-saluting ceremonies were an appropriate way to build "cohesive-sentiment" that national unity depended on.

The conflict in this case is between authority and the individual. The founders intended the Bill of Rights to put some rights out of reach of the majorities.

Disposition:

The Court overturned the resolution.

Bethel School v. Fraser

478 U.S. 675

Facts:

Matthew Fraser was suspended from school for making a speech full of sexual double entendres at a school assembly.

After appealing through the grievances process at the school, Fraser was still found to be in violation of several school policies against disruptive behavior and the use of vulgar and offensive speech.

Later in the trial, obscenity was included in these violations. However, Fraser said that at the initial hearing obscenity was not listed as part of the grounds for the punishment.

Fraser was suspended from school for three days, was prohibited from speaking at graduation, and his name was removed from the ballot used to choose graduation speakers.

Fraser was still selected to speak through a write-in vote, but school officials prohibited this from happening.

Procedural History:

With help from his parents and an ACLU lawyer, Fraser filed a lawsuit against the school authorities claiming that his First Amendment right to free speech had been violated.

U.S. District Court ruled in his favor.

The school district appealed to the US Ninth Circuit Court of Appeals which ruled in Fraser's favor.

The school district took the case to the US Supreme Court.

Issue(s) Presented:

Did Fraser's suspension violate the First Amendment?

Holding:

No.

Legal Reasoning:

The Court distinguished this from its opinion in *Tinker v. Des Moines* because the students' actions in that case were non-disruptive and could not be seen as connected with the school.

This case limits the scope of that ruling and prohibits certain styles of expression that are sexually vulgar.

Disposition:

The US Supreme Court reversed the Court of Appeals decision and voted to reinstate the suspension.

Analysis/Conclusion

The lengthy process that is involved in putting together a mock trial packet is one that has enabled me to acquire a vast array of knowledge. Not only have I gained a clear understanding of the legal process and criminal procedure, but I have also learned about the historical evolution of the term self-defense. This project is one that merged creative work with a historical, research aspect. My work has merit in the fact that it is a comprehensive look at the self-defense claim and will aid in future students learning. The product that I have produced will serve as an educational tool for years to come and has also aided in my education as a Pre-Law student. In creating this product I have read many federal as well as Supreme Court cases in order to compile a complete picture of the evolution of self-defense. In addition to conducting historical research, this project allowed me to conduct legal research as well. The result is a complex interaction between the historical basis of the self-defense claim with the legal ramifications of such an ideal. With an ideal as complex as self-defense, the research is never-ending. My project will serve as a starting point for students studying Pre-Law to begin their research in an area as complex as this. In years to come there will be new cases revolving around self-defense that further the claims made in this project.

Reflection

There is an immense amount of research and creative work that goes into putting together a mock trial. Before completing this project I had a basic understanding of the legal system and criminal procedure. After completing this project I now find myself yearning to learn as much as I can. In order to assemble a comprehensive mock trial packet I conducted a vast amount of research on legal issues such as self-defense, a duty to retreat, components of a self-defense claim, and what falls outside the realm of self-defense. I found myself drawing from multiple areas and disciplines while working on this project and I can relate what I learned to many parts of my educational career.

First and foremost, completing this honors project solidified my belief that I want nothing more than to pursue a career in the legal field. I believe that a key component of such a project is to let a student know whether or not they are pursuing goals that are truly what they wish to do one day. I have no qualms about my goal of going to law school upon graduation and pursuing a career in criminal law. By completing this honors project I was able to experience firsthand the type of legal research that I will be expected to conduct throughout my law school career. Therefore, the first way that this project affected my education is that it exposed me to legal research and better prepared me for law school.

Second, my honors project not only affected my education, but it will have an impact on future University of Indianapolis students as well. Before I embarked on this journey I knew that one component I wanted to incorporate into my project was aiding future Pre-

Law students' education. I believe that learning is a reciprocal process whereby students learn from professors and mentors, but the professors and mentors learn from the students as well. Upon reflecting back on my project and the process that I went through in completing it, I wanted to create something that will have a lasting impression once I graduate and leave UIndy. It brings me great pride that something I created will be used in a classroom and by future students who may not even be attending UIndy yet.

Third, this project impacted my work and experience at my current internship with the Marion County Prosecutor's Office. While working as an intern for the past 9 months I have drawn much of my inspiration for this project from things I hear and see in the office as well as in the courtroom. I truly believe that this project would not have turned out the same without this firsthand experience in a Major Felony courtroom. A student can conduct all of the research in the world about an issue such as self-defense and the criminal justice system but until it is experienced in a real-world setting the information is just abstract. The combination of the classroom-type research that I have spent the last two semester conducting with my experience in a courtroom is what helped me to create this project.

In turn, the same way that my internship and experience in a legal setting aided me in this process, completing this project enhanced my experience at my internship. One example of this is a conversation I had with one of my superiors a couple of months back. We had just been assigned a new murder case in our court and it turned out to be a case where

self-defense was claimed. I was overjoyed at the opportunity to put what work I had done on my honors project to use in a real legal setting. I asked my supervisor if I could help on the case and explained to them the work that I was doing for my honors project. The prosecutors were thrilled to hear that I was applying aspects that I learn in the office to my school work and allowed me the opportunity to work with them on the case. This experience allowed me to ask questions and attempt to piece together my understanding of a self-defense claim. It was an invaluable experience putting what I had learned in my research to use in a real criminal case. Not only was I able to gain the perspective from a prosecutor really working a self-defense case, but I was able to offer them insight and understanding of what I had learned in school. Personally, this is the true benefit that I gained from conducting the process that is creating an honors project. I did not just do research and then write a “story”. In actuality, I was able to apply what I had learned through my experience as an honors student to a setting where it was relevant and concrete.

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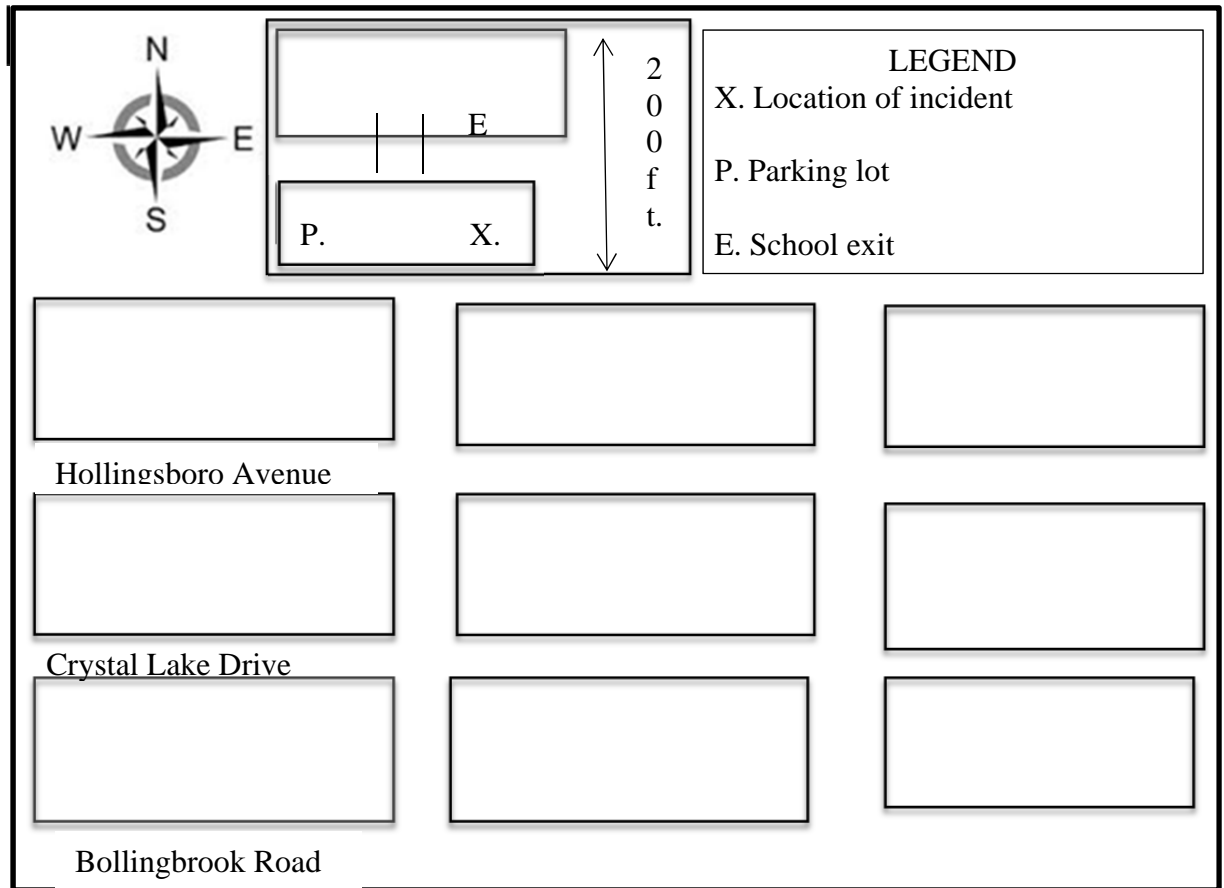
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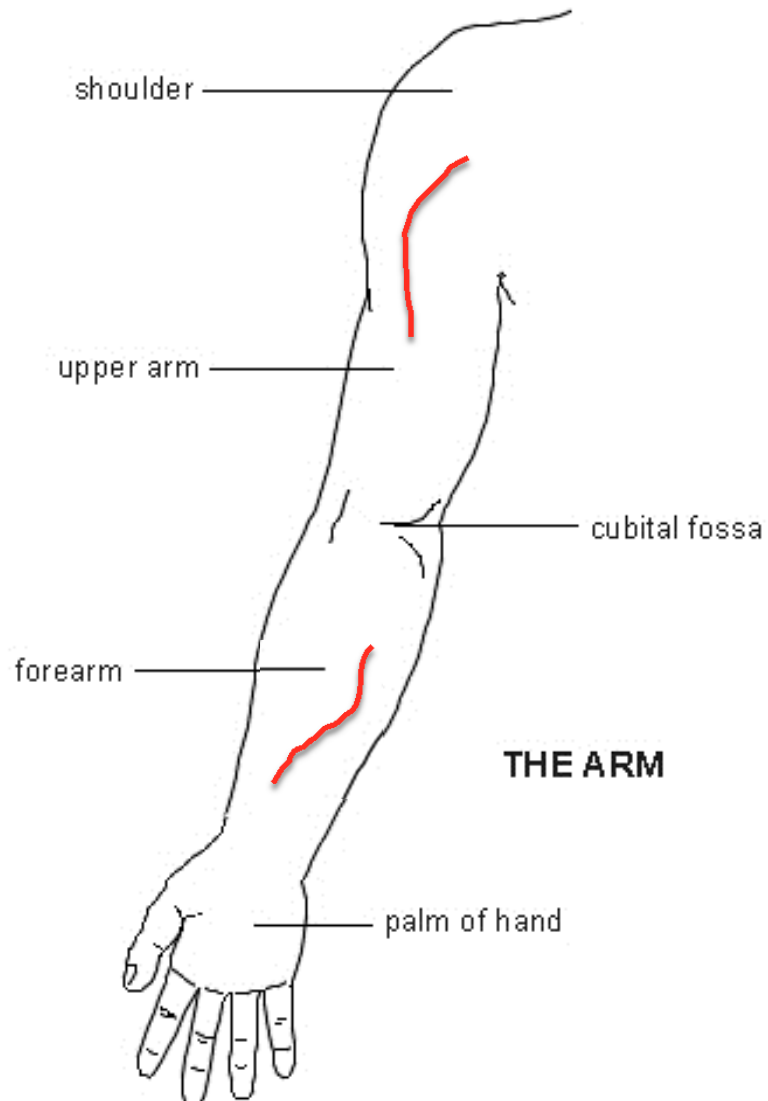
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Appendices

Appendix A: Diagram of the area around Wellington High School




Appendix B: Diagram of Sam Smith's injury



Appendix C: Facebook profile of Jordan Day

Jordan Day <https://www.facebook.com/?sk=welcome>

Jordan Day

 **Jordan Day** [Update Info](#)

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Went to Wellington High School
Attended from 2010 to 2014

In a relationship

From Atlanta, Georgia
Born on January 2, 1996 (19 years old)

SPORTS

What teams do you like?


MUSIC

What music do you like?


MOVIES


What movies have you watched?


TV SHOWS

 **Jordan Day**
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In a Relationship
Today

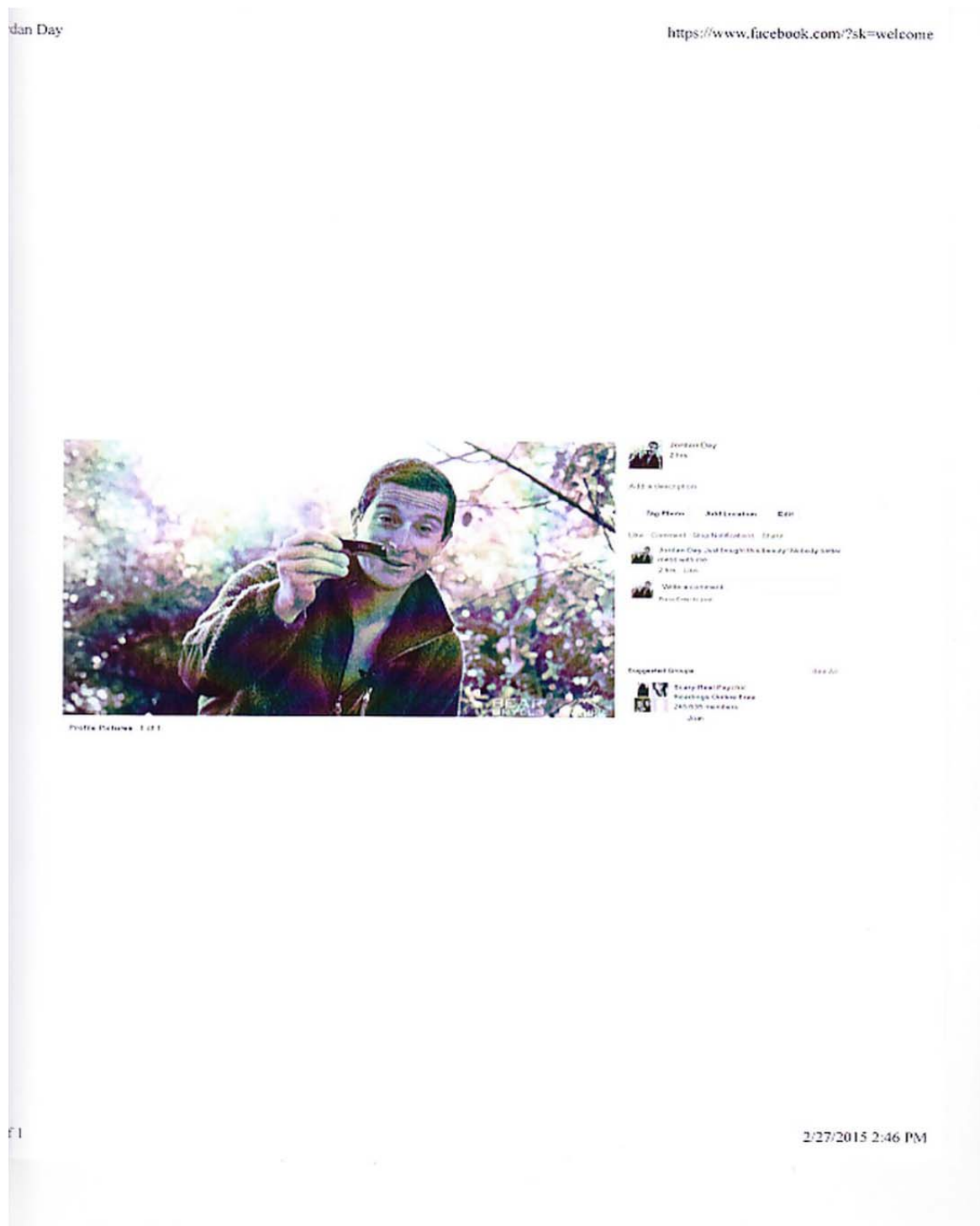
 Write a comment...
Press Enter to post

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2 hrs · [Like](#) · [Comment](#)

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1 of 2 2/27/2015 2:45 PM

Appendix D: Facebook picture of Jordan Day



Appendix E: CITI Training

COLLABORATIVE INSTITUTIONAL TRAINING INITIATIVE (CITI PROGRAM)
COURSEWORK REQUIREMENTS REPORT*

* NOTE: Scores on this Requirements Report reflect quiz completions at the time all requirements for the course were met. See list below for details. See separate Transcript Report for more recent quiz scores, including those on optional (supplemental) course elements.

• **Name:** Maria Metaxas (ID: 4489233)
 • **Email:** metaxasm@uindy.edu
 • **Institution Affiliation:** University of Indianapolis (ID: 473)
 • **Institution Unit:** Political Science
 • **Phone:** 3173316577

• **Curriculum Group:** Human Research
 • **Course Learner Group:** Group 2 Social / Behavioral Research Investigators and Key Personnel.
 • **Stage:** Stage 1 - Basic Course
 • **Description:** The social behavioral track is applicable when you conduct epidemiologic, genetic, prevention/ screening, psychosocial and/or quality of life studies.

• **Report ID:** 14437369
 • **Completion Date:** 10/29/2014
 • **Expiration Date:** 10/28/2016
 • **Minimum Passing:** 75
 • **Reported Score*:** 86

REQUIRED AND ELECTIVE MODULES ONLY	DATE COMPLETED
Introduction	10/28/14
Students in Research	10/28/14
History and Ethical Principles - SBE	10/28/14
Defining Research with Human Subjects - SBE	10/28/14
The Federal Regulations - SBE	10/28/14
Assessing Risk - SBE	10/28/14
Informed Consent - SBE	10/29/14
Privacy and Confidentiality - SBE	10/29/14
Research and HIPAA Privacy Protections	10/29/14
Conflicts of Interest in Research Involving Human Subjects	10/29/14

For this Report to be valid, the learner identified above must have had a valid affiliation with the CITI Program subscribing institution identified above or have been a paid Independent Learner.

CITI Program
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 Phone: 305-243-7970
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