

CASE BRIEF

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CASE BRIEF
People v. Woodson

People v. Woodson is the trial of Jesse Woodson, a resident of Pikesville. Woodson is charged with assault with a deadly weapon and with violating a new anti bullying and cyber bullying statute.

The prosecution alleges that Jesse Woodson is the leader of a gang responsible for bullying a new Pikesville resident, Angel Sterling. The prosecution further states that Jesse made online threats toward Angel using online social networking sites such as "FacePlace" and "Buddylink." As a result of these communications, Angel became extremely distraught and was unable to attend school. After some time had passed, Angel returned to school, and the prosecution alleges that Jesse followed Angel home and attacked Angel with a brick in an alleyway. Jesse was arrested for attacking Angel with a brick and violating the anti-bullying and cyber-bullying statute.

The defense alleges that Jesse is a good citizen who is responsible, attends school, and helps to care for Jesse's younger sister Harriett. The defense further argues that Angel is overly sensitive, depressed, and angry about moving to Pikesville, and Angel has exaggerated the issues at school. Lastly, the defense argues Jesse did not physically harm Angel and that in fact other suspects had the means, motive, and opportunity to attack Angel.

The pretrial issue is whether the new California (hypothetical) anti-bullying and cyber-bullying statute violates the First Amendment freedom of speech and expression. The statute bans harassing, threatening, and intimidating language made to students.

The defense argues that the statute unlawfully prohibits protected speech. It argues the statute bans speech that extends beyond threats alone and is therefore overbroad and vague. As a matter of law, the statute cannot be applied to Jesse's conduct.

The prosecution argues that the statute is constitutional as it only prohibits language that falls within categories of speech that are unprotected by the First Amendment. The prosecution also argues that the statute is limited as it only applies to students and communications that interfere with the education of that student. Because the statute does not violate the First Amendment, the statute should be deemed constitutional, and the charge against Jesse should not be dropped and the trier of fact (trial court) should be able to determine whether Jesse is guilty as charged.

Close Window

CALIFORNIA MOCK TRIAL FACT SITUATION

The city of Pikesville, Calif., has been having a difficult time lately. The economic downturn has caused many residents to lose their jobs and has resulted in a dramatic rise in crime. In many neighborhoods, there has been a rise in the number of groups of young people who spend most of their time together, outside on the streets.

One such group has formed near Powell Avenue. The group refers to itself as the Pirates, taking the name of the local community college sports team. Most of the Pirates attend the same school, Paul Laurence Dunbar Middle School. An 18-year-old named Jesse Woodson sometimes associates with this group.

In the past nine months, many home burglaries have occurred in Pikesville. The fact pattern is nearly identical in each case. The burglar or burglars enter through a window in the middle of the night and steal the prescription medication found in the bathroom and kitchen. The police have investigated the burglaries extensively, but no arrests have been made.

Angel Sterling recently moved with Angel's mother to Pikesville from Nebraska. They live with Angel's maternal grandparents. Angel has had a difficult time adjusting to the new home, especially with making friends at Dunbar Middle School. The Pirates and Angel have had problems with each other right from the start, and Angel has complained to school officials about the Pirates. Sydney Campbell, the vice principal has spoken to the Pirates about the situation.

Angel spends most of the time on the computer to keep in touch with friends from Nebraska and to meet new friends online. Angel likes to use Buddylink, an instant messenger service, and FacePlace, a popular social networking site. Angel has also spoken with Campbell about Angel's adjustment to Pikesville.

On February 21, 2010, Angel was up late talking online when Angel discovered two people wearing ski masks in Angel's grandparent's bathroom. The two were rifling through the medicine cabinet and tossing pills into a backpack. Surprised, one of the intruders dropped the bag and spilled its contents onto the ground. The other grabbed Angel's hair and whispered menacingly to Angel, "If you ever tell anyone about this, I'll brick ya good." The two then ran out the front door. When the police investigated, they found a student identification card belonging to Madison Jackson lying on the bathroom floor.

The police interviewed Madison at school the next day, February 22. Madison denied all charges, and the police eventually let Madison return to class. When Madison entered the classroom, Madison's teacher Chris Draper believed that Madison made a threat against Angel. Because of Madison's alleged threat

1 against Angel, Madison was suspended from school on February 23 for one
2 week.

3
4 Beginning the afternoon of February 22, Angel began to receive a string of
5 messages through Buddylink from unrecognized users. Some messages accused
6 Angel of being a snitch and others threatened to harm Angel. Angel blocked
7 each person, but the messages continued to flood in from new accounts. Angel
8 also discovered that a FacePlace page had been set up titled "Clip Angel's
9 Wings." Jesse Woodson appeared as the name of the person who set up the
10 page. The page contained postings from other students whose names Angel
11 recognized as members of the Pirates.

12
13 Angel's mother made Angel delete all of Angel's Internet profiles and abstain
14 from Internet usage. She also decided to keep Angel out of school for a while
15 until the situation calmed down. During the next few weeks, Angel's mother
16 retrieved all of Angel's homework from school, but Angel was still in such
17 emotional distress that Angel barely completed any assignments, and Angel's
18 grades plummeted.

19
20 On Friday, March 12, Angel's mother made Angel return to school for a half-
21 day. Angel left school at noon after Chris Draper's computer class. Draper
22 escorted Angel to the entrance of the school. When the pair opened the door,
23 they saw Jesse Woodson leaning against a building across the street. Jesse
24 walked off when Draper approached, and Angel left to go home.

25
26 Angel was later discovered at 1 p.m., lying in an alleyway next to a run-down
27 apartment building. The alleyway is located between the school and Angel's
28 home. Angel had suffered a major injury to the back of the head. The alleyway
29 had several red bricks lying on the ground. A brick was lying a few inches from
30 Angel's head with congealed blood and hair on one of the corners.

31
32 At the hospital, Angel's mother told the police about the online messages
33 against Angel. The investigating officer, Detective Cooper, went to interview
34 Jesse Woodson later that day. During the interview Detective Cooper saw red
35 dust under Jesse's fingernails and shirt and took samples. The police later
36 traced the Internet messages to a computer in Dunbar Middle School.

37
38 Angel suffered a concussion, and the wound required 16 stitches to close.
39 Angel also slipped into unconsciousness and remained that way for two days.
40 When Angel awoke, Angel said the last thing Angel remembered was a voice
41 say "Gotcha now!" Angel said the voice sounded like Jesse Woodson's voice.

42
43 Jesse was arrested and charged with assault with a deadly weapon in violation
44 of Section 245(a)(1) of the California Penal Code. Jesse was also charged with
45 violating Section 626.3 of the California Penal Code, the recently enacted Anti
46 Bullying and Cyber-bullying of Students Act (The ABC'S Act), which makes it
47 a crime to harass or cyber-harass a student to an extent that it substantially

1 interferes with his or her education. The governor signed the ABC's Act into
2 law in 2008 in response to a series of high profile suicides of students who had
3 been regularly bullied, including one case where the parents of the bully
4 actively encouraged their child and participated in the bullying by sending text
5 messages and e-mail to the victim.

1 **CHARGES**

2 The prosecution charges Woodson with:

- 3 Count One: Assault with a deadly weapon (California Penal Code § 245(a)(1))
4 Count Two: Bullying and Cyber-bullying of Students (California Penal Code §
5 Section 626.3)

6
7 **PHYSICAL EVIDENCE**

8 Only the following physical evidence may be introduced at trial. The
9 prosecution is responsible for bringing:

- 10 1. A faithful reproduction of Exhibit A, a diagram of the area around Powell
11 Avenue.
12 2. A faithful reproduction of Exhibit B, a diagram of Angel Sterling's injury.
13 The reproductions should be no larger than 22 inches x 28 inches
14

15 **STIPULATIONS**

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

- 18 1. Each of the witnesses can be of either gender.
19 2. If the defense's pretrial motion is granted, Count Two, violation of the
20 ABC'S Act, will be dropped in its entirety.
21 3. The arrest warrant was based on sufficient probable cause and properly
22 issued.
23 4. The contents of the Blackwatch log are accurate.
24 5. The building next to the alleyway where Sterling was found was
25 undergoing extensive repairs and was uninhabited.
26 6. Dr. Holloway and Dr. Crane are qualified expert witnesses and can testify
27 to each other's statements and relevant information they would have
28 reasonable knowledge of from other witness statements.
29 7. Detective Cooper is a qualified expert in computer forensics and can testify
30 to relevant information that Cooper would have reasonable knowledge of
31 regarding the computer investigation from Chris Draper's testimony.
32 8. Both doctor's reviewed and analyzed all relevant reports.
33 9. The absence of lab reports may not be questioned.
34 10. The absence of photographs may not be questioned.
35 11. All physical evidence and witnesses not provided for in the case are
36 unavailable and their availability may not be questioned.
37 12. The blood and hair sample taken from the brick belong to Angel Sterling.
38 13. Beyond what's stated in the witness statements, there was no other forensic
39 evidence found in this case.
40 14. All witness statements were taken in a timely manner.
41 15. Physical descriptions of the victim, the defendant and of the witnesses are
42 accurate and may not be questioned.
43 16. Jesse Woodson is right-handed and Madison Jackson is left-handed
44 17. Angel Sterling did not respond to any of the messages posted on Buddylink
45 or FacePlace.
46
47

1 **PRETRIAL MOTION AND CONSTITUTIONAL ISSUE**

2
3 This section contains materials and procedures for the preparation of a pretrial
4 motion on an important legal issue. The judge’s ruling on the pretrial motion
5 will have a direct bearing on the charges in this trial and the possible outcome
6 of this trial. The pretrial motion is designed to help students learn about the
7 legal process and legal reasoning. Students will learn how to draw analogies,
8 distinguish a variety of factual situations, and analyze and debate constitutional
9 issues.

10
11 The pretrial issue turns on the First Amendment’s provisions governing
12 freedom of speech and expression. Although First Amendment protection
13 extends to a wide range of activities, the Supreme Court has defined categories
14 of speech not protected by the Constitution. For example, the government can
15 prohibit obscene material or speech that presents a “clear and present danger”
16 to the public. The court has also found that the protections of the First
17 Amendment can be curtailed inside schools. Student speech that substantially
18 disrupts the school environment and workings of the classroom is unprotected.

19
20 Additionally, the government may regulate speech that would otherwise be
21 constitutionally protected if the regulation serves a compelling governmental
22 interest, and it is narrowly tailored to serve that interest. In other words, once
23 an important enough interest is articulated, the least restrictive means must be
24 employed to serve that interest. If the regulation could restrict legitimate speech
25 without serving the articulated interest, it will be deemed unconstitutionally
26 overbroad.

27
28 In this case, the question is whether the statute prohibiting harassing,
29 threatening, and intimidating language made to students is constitutional. If the
30 statute only bans speech that fits within a category of speech unprotected by the
31 First Amendment, the statute is constitutional. If the statute bans speech outside
32 an unprotected category, it may still be constitutional if the ban serves a
33 compelling interest and is narrowly tailored to fit that interest. But if the statute
34 bans protected speech, and no compelling interest for the ban can be justified or
35 the statute is not narrowly tailored to that interest, the statute is
36 unconstitutional.

37
38 The outcome of the pretrial motion will have a direct bearing on the retention
39 or dismissal of the defendant’s charge under that statute. The sources cited
40 below will help you determine the statute’s constitutionality. All relevant facts
41 and witness statements may be used in making pretrial arguments.

42 **Arguments**

43
44
45 The prosecution will assert that the statute is constitutional. First, it will argue
46 that the statute only prohibits language that falls within categories of speech

1 that are unprotected by the First Amendment such as threats. Moreover, the
2 prosecution will argue that the statute only applies in the context of a school, a
3 forum where the protections of the First Amendment are weaker than those
4 compared to other public discussions. Finally, it will argue that even if the
5 statute restricts constitutionally protected speech, the statute serves a
6 compelling interest of protecting the educational process for children, is
7 narrowly tailored to that interest, and sufficiently specifies the types of
8 activities that are prohibited.

9
10 The defense will assert that the statute is unconstitutional. First, the defense
11 will argue that the speech prohibited by the statute is protected speech. It will
12 argue that the statute bans speech that extends beyond threats alone and is
13 therefore unconstitutional. The defense will also argue that the limitations
14 imposed on the First Amendment inside schools only apply to students, leaving
15 the type of speech described in the statute protected. Finally, the defense will
16 argue that the statute does not serve a compelling state interest, is overbroad in
17 serving any articulated interests, and is also unconstitutionally vague.

18 19 **Legal Authorities**

20 21 *Constitutional*

22 23 **U.S. Constitution, Amendment I**

24
25 Congress shall make no law respecting an establishment of religion, or
26 prohibiting the free exercise thereof; or abridging the freedom of speech, or of
27 the press; or the right of the people peaceably to assemble; and to petition the
28 Government for a redress of grievances.

29 30 **U.S. Constitution, Amendment XIV**

31
32 Section 1. All persons born or naturalized in the United States, and subject to
33 the jurisdiction thereof, are citizens of the United States and of the States
34 wherein they reside. No State shall make or enforce any law which shall
35 abridge the privileges or immunities of citizens of the United States; nor shall
36 any State deprive any person of life, liberty, or property, without due process of
37 law; nor deny to any person within its jurisdiction the equal protection of the
38 laws.

39
40 **[Note:** The First Amendment states that Congress may not deny the
41 fundamental freedoms of speech, the press, assembly, the right to petition the
42 government, and religion. The due process clause of the 14th Amendment
43 extends this protection to state and local governments.]

44 45 *Statutory*

46 47 **California Penal Code § 245 (a) (1)**

1 § 245 (a) (1) —Any person who commits an assault upon the person of
2 another with a deadly weapon by any means of force likely to produce great
3 bodily injury is guilty of a crime resulting in a punishment of more than one
4 year imprisonment.

5
6 **California Penal Code § 626.3. Anti-Bullying and Cyber-bullying of**
7 **Students Act (The ABC’S Act)**

8 § 626.3—Every person who with the intent to harass, threaten, or intimidate
9 any elementary, middle school or high school student, knowingly delivers or
10 causes to be delivered communications that cause a substantial interference
11 with the education of that student, is guilty of a crime resulting in a punishment
12 of no more than one year imprisonment.

13
14 (a) For purposes of this section, “harass, threaten, or intimidate” means a
15 knowing and willful course of conduct directed at a specific person that
16 seriously alarms, annoys, torments, or terrorizes the person, and that serves no
17 legitimate purpose. The course of conduct must be such as would cause a
18 reasonable person to suffer substantial emotional distress, and must actually
19 cause substantial emotional distress to the person. “Course of conduct” means a
20 pattern of conduct composed of a series of acts over a period of time, however
21 short, evidencing a continuity of purpose.

22
23 (b) For purposes of this section, “communications” shall encompass all oral
24 statements and written statements, including statements issued through
25 electronic communicative devices like computers and phones.

26
27 (c) For purposes of this section, “a substantial interference with the education
28 of a student” may be shown by communications that directly cause the student
29 to suffer psychological damage, be repeatedly absent from school, forego with
30 student activities the student would normally be inclined to attend or has
31 attended in the past, or cause a substantial decline in the academic performance
32 of the student.

33
34 [Note: This is a hypothetical statute. It does not exist in California.]

35
36 ***Jury Instructions***

37
38 **Judicial Council of California Criminal Jury Instructions (CAL-CRIM**
39 **220)**

40 **General Legal Concepts**

41 A defendant in a criminal case is presumed to be innocent. This presumption
42 requires that the People prove a defendant guilty beyond a reasonable doubt.

43
44 Proof beyond a reasonable doubt is proof that leaves you with an abiding
45 conviction that the charge is true. The evidence need not eliminate all possible
46 doubt because everything in life is open to some possible or imaginary doubt.

1 In deciding whether the People have proved their case beyond a reasonable
2 doubt, you must impartially compare and consider all the evidence that was
3 received throughout the entire trial. Unless the evidence proves the
4 defendant[s] guilty beyond a reasonable doubt, (he/she) are entitled to an
5 acquittal and you must find (him/her) not guilty
6

7 **Judicial Council of California Criminal Jury Instructions (CAL-CRIM**
8 **875)**

9 **Assault With Deadly Weapon or Force Likely to Produce Great Bodily**
10 **Injury (Pen. Code, § 245 (a) (1))**
11

12 The defendant is guilty of assault with deadly weapon or force likely to
13 produce great bodily injury if the People have proved that (he/she) did an act
14 with a deadly weapon that by its nature would directly and probably result in
15 the application of force to a person
16

17 The terms *application of force* and *apply force* mean to touch in a harmful or
18 offensive manner. The slightest touching can be enough if it is done in a rude or
19 angry way. Making contact with another person, including through his or her
20 clothing, is enough. The touching does not have to cause pain or injury of any
21 kind. The touching can be done indirectly by causing an object to touch the
22 other person.
23

24 The People are not required to prove that the defendant actually intended to use
25 force against someone when (he/she) acted. No one needs to actually have been
26 injured by defendant's act. But if someone was injured, you may consider that
27 fact, along with all the other evidence, in deciding whether the defendant
28 committed an assault.
29

30 *Great bodily injury* means significant or substantial physical injury. It is an
31 injury that is greater than minor or moderate harm.
32

33 *A deadly weapon* is any object, instrument, or weapon that is inherently deadly
34 or dangerous or one that is used in such a way that it is capable of causing and
35 likely to cause death or great bodily injury.
36

37 ***Supreme Court Cases***
38

39 **Chaplinsky v. State of New Hampshire, 315 U.S. 568 (1942)**
40

41 **Facts:** One afternoon, Chaplinsky stood on a street corner distributing leaflets
42 for his religion. He also gave a speech denouncing other religions as a "racket."
43 A large crowd gathered around him and started a scene. The police removed
44 him from the area. He then called a city marshal a "damned racketeer" and a
45 "damned fascist." He was arrested for violating New Hampshire's Offensive
46 Conduct law that made it illegal for anyone to address another person with "any
47 offensive, derisive or annoying word to anyone who is lawfully in any street or

1 public place...or to call him by an offensive or derisive name.” Chaplinksy
2 appealed, stating that the law was “vague” and violated his First Amendment
3 right to free speech.
4

5 **Issue:** Were defendant’s statements protected by the First Amendment?
6

7 **Holding:** No. The court ruled that one’s freedom of speech is “not absolute at
8 all time and under all circumstances.” The court developed specific categories
9 of speech that did not have the protection of the First Amendment since the
10 speech has minimal social value so that any benefit from the speech is clearly
11 outweighed by the desire to keep society ordered and function. Those
12 categories included obscenity, profanity, libel, and fighting words. The court
13 ruled that the defendant’s statements were constitutionally unprotected fighting
14 words, words that “by their very utterance inflict injury or tend to incite
15 immediate breach of the peace.”
16

17 **Watts v. US, 394 U.S. 705 (1969)**
18

19 **Facts:** A man was arrested for making a threat on the life of the president after
20 he claimed in reference to the Vietnam draft, “If they ever make me carry a
21 rifle the first man I want in my sights is [the president].”
22

23 **Issue:** Was the statement protected by the First Amendment?
24

25 **Holding:** Yes. The Constitution does not protect true threats, but threats must
26 be carefully distinguished from protected speech especially if the speech carries
27 criminal penalties. True threats are those statements where the speaker
28 communicates a serious intent to harm another individual which causes the
29 listener to fear imminent injury. The speech here was political in nature and
30 part of a larger context that did not indicate seriousness on behalf of the
31 speaker.
32

33 **Tinker v. Des Moines, 393 U.S. 503 (1969)**
34

35 **Facts:** Students wore black armbands to school to protest the Vietnam War.
36 The school had in place a policy that prohibited the armbands from being worn.
37 When asked to remove the armbands, the students refused and were suspended.
38

39 **Issue:** Is the wearing an armband to school to express a viewpoint protected by
40 the First Amendment?
41

42 **Holding:** Yes. The court found a delicate relationship between a student’s
43 freedom of speech and the right of the school to control conduct in the school
44 environment. The court ruled that the school has the power to control and
45 regulate student behavior that substantially disrupts the school environment.
46 The court found that wearing the armbands did not cause a substantial
47 disruption of the school environment as the students were only silently

1 expressing an opinion, and no violent disturbances had occurred at school
2 because of the armbands.

3
4 **Texas v. Johnson, 491 U.S. 397 (1989)**

5
6 **Facts:** A political protester burned an American flag outside the Republican
7 National Convention as other protesters chanted. The protester was later
8 arrested and charged with a violating a state law that made it a crime to
9 desecrate a flag.

10
11 **Issue:** Is the burning of the flag expression that is constitutionally protected by
12 the First Amendment?

13
14 **Holding:** Yes. The court ruled that the burning of a flag was expressive
15 conduct for purposes of the First Amendment since the context of the event
16 indicated that the flag was burned to convey a political message. Statutes that
17 seek to proscribe protected speech must survive strict scrutiny. The statutes
18 must further a compelling governmental interest and be narrowly tailored so as
19 not to chill legitimate speech. The court ruled that the reason presented by the
20 government in this case, to preserve the flag as a symbol of national unity, was
21 not a compelling governmental interest so as to justify a restriction on the
22 protester's freedom of speech.

23
24 **City of Chicago v. Morales, 527 U.S. 41 (1999)**

25
26 **Facts:** Chicago enacted a city ordinance that prohibited street gang members
27 from loitering with one another in public. The ordinance defined loitering as
28 "remaining in any one place with no apparent purpose."

29
30 **Issue:** Does the ordinance violate the due process of law by being
31 unconstitutionally vague?

32
33 **Holding:** Yes. Vagueness may invalidate a law if it fails to provide sufficient
34 notice so that people of ordinary intelligence understand what type of conduct
35 is prohibited. The court ruled that the term "loiter" and its definition of "no
36 apparent purpose" were vague as an ordinary citizen would not know if they
37 had an "apparent purpose" when they were out in public with a group. Without
38 additional specification of the criminal behavior, citizens would not be able to
39 conform their conduct to the law and may avoid partaking in completely
40 legitimate conduct out of fear of being arrested.

41
42 **U.S. v. Williams, 553 U.S. 285 (2001)**

43
44 **Facts:** A man was charged with violating the Prosecutorial Remedies and
45 Other Tools to end the Exploitation of Children Today (PROTECT) Act, which
46 criminalizes the solicitation of child pornography. The statute, in part, reads:
47 "Any person who...knowingly...advertises, promotes, presents, distributes, or

1 solicits through the mails...any material or purported material in a manner that
2 reflects the belief, or that is intended to cause another to believe...that [the
3 material] contains...a visual depiction of an actual minor engaging in sexually
4 explicit conduct...shall be punished....” The defendant appealed. The appellate
5 court held that the phrase “in a manner that reflects the belief, or that is
6 intended to cause another to believe” was unconstitutionally vague. The
7 prosecution appealed to the U.S. Supreme Court.

8
9 **Issue:** Does the statute violate the due process of law by being
10 unconstitutionally vague?

11
12 **Holding:** No. The due process clause does not require perfect clarity or precise
13 guidance. The court held that the statute provided fair notice to a person of
14 ordinary intelligence as to what kind of behavior is prohibited. Courts and
15 juries are permitted to make judgments about reasonableness and a defendant’s
16 state of mind, and they do so every day. Vagueness is concerned with making
17 the kind of behavior or fact that will be incriminating easily determinable. The
18 statute is clear on what types of facts are incriminating—if the defendant
19 believed or a reasonable person would have believed that the material depicted
20 child pornography, the defendant is guilty.

21
22 **Morse v. Frederick, 551 U.S. 393 (2007)**

23
24 **Facts:** A high school temporarily let out its students and staff to watch as the
25 Olympic torch runner passed outside. During the event, one of the students
26 unrolled a large banner that read, “BONG HiTS 4 JESUS.” The student
27 claimed the words had no meaning, and he was just trying to attract media
28 attention. The school principal, however, believed the banner promoted drug
29 use and confiscated it. The student was later suspended for 10 days.

30
31 **Issue:** Did the confiscation of the banner violate the students First Amendment
32 rights?

33
34 **Holding:** No. The court held that the school had not violated the student’s free
35 speech rights by confiscating the banner. The speech occurred within the realm
36 of the school, as it was a school-sponsored activity that occurred during school
37 hours. The court stated that due to the special situation of the school
38 environment, the rights of students inside public schools are not necessarily
39 equal to the rights adults in public. Schools cannot act to simply avoid
40 discomfort and unpleasantness that results from the expression of an unpopular
41 viewpoint, but they can proscribe activity that presents a tangible and serious
42 danger. Given that drug use is a major social problem inside schools and poses
43 a threat to student safety, and the principal believed that the banner promoted
44 drug use, the principal’s confiscation of the banner did not violate the student’s
45 First Amendment rights.

46

1 **Lower Court Cases**

2

3 **U.S. v. Dinwiddie, 76 F.3d 913 (1996)**

4

5 **Facts:** Defendant opposed abortion and had protested outside abortion clinics
6 for years. Defendant would accost and threaten patients as they entered the
7 clinic and on one occasion used force against the staff of the clinic. Defendant
8 would regularly use a bullhorn to inform the doctors and staff of the clinic that
9 they would end up like other doctors who had been murdered by abortion
10 opponents. She was charged with violating the Freedom of Access to Clinic
11 Entrances Act, which makes it a crime to intentionally intimidate, interfere
12 with, or injure a person attempting to enter the clinic by means of force or a
13 threat of force.

14

15 **Issue:** Does the Freedom of Access to Clinic Entrances Act violate the
16 defendant's freedom of speech?

17

18 **Holding:** No. The court recognized that a statute cannot punish speech simply
19 because it is forceful or aggressive, but held that the only speech banned by the
20 statute was unprotected threats of violence. The court ruled that the defendant
21 had made threats because the statements were unconditional and made directly
22 to the victim. Furthermore, the court ruled that the statute was not overbroad, as
23 it did not reach a substantial number of impermissible applications.

24

25 **Mardis v. Hannibal Public School Dist., 684 F.Supp. 2d 1114 (2010)**

26

27 **Facts:** While talking to another student via an instant messaging service, a high
28 school sophomore stated that he was going to get a gun and kill certain
29 classmates. The comments were made during the night from the student's home
30 computer and sent to another student's private computer. The other student
31 believed the message sender might enact the plan and informed the police. The
32 student was arrested and later suspended for the rest of the year by the school.

33

34 **Issue:** Were the statements true threats and unprotected by the First
35 Amendment?

36

37 **Holding:** Yes. A threat need not be made directly to the victim nor does the
38 speaker actually have to possess the means to carry out the threat for it to be
39 unprotected speech. It is sufficient if the threat is made to a third party who
40 reasonably believes the statement. The court applied a totality of the
41 circumstances test to determine if a reasonable person who heard the statements
42 would believe that they were true threats. The listener here knew about the
43 speaker's temperament and past history, and the statements were specific
44 enough to create believability so that she reasonably believed the threats.

45

1 **In re Ryan D., 100 Cal. App. 4th 854 (2002)**

2

3 **Facts:** A student was arrested by a police officer for drug possession. The
4 student subsequently turned in an art project that depicted the student shooting
5 the officer in the back of the head. The student also admitted that the drawing
6 was likely to be seen by the officer. The student was charged with violating
7 California Penal Code Section 422, which criminalizes a threat provided that it
8 is communicated with the intent to be a threat.

9

10 **Issue:** Was the drawing intended to be conveyed as a criminal threat?

11

12 **Holding:** No. The drawing did not clearly establish that the minor was
13 threatening the officer since artwork often uses exaggeration and symbolism to
14 express an idea and often leaves the ultimate message ambiguous. The
15 student's action of turning in the drawing for homework rather than delivering
16 the drawing directly to the officer further demonstrate that the drawing was not
17 meant to instill fear in the officer and was thus not a criminal threat.

18

19 **Wisniewski v. Board of Education, 494 F.3d 34 (2007)**

20

21 **Facts:** A student created a personal icon for an instant messaging program that
22 depicted a handgun firing a bullet into a human head and named the picture
23 after one of his teachers. The student sent messages using the icon to 15
24 students at the school. The police determined the incident to be an attempted
25 joke gone bad, and the school suspended the student for a entire semester.

26

27 **Issue:** Was the icon protected under the First Amendment?

28

29 **Holding:** No. The icon was not protected because of the substantial risk that it
30 presented to disrupting the work and discipline of the school. The fact that the
31 icon was created off-campus does not render the speech protected. Off-campus
32 conduct that creates a foreseeable risk of substantial disruption within a school
33 is not protected under the First Amendment

34

35 **J.S. ex rel. H.S. v. Bethlehem Area School District, 569 Pa. 638 (2002)**

36

37 **Facts:** A student created a website at home called "Teacher Sux." The website
38 contained pages of offensive, derogatory, and threatening comments about the
39 student's algebra teacher and principal. One page contained a depicted the
40 teacher with her head cut off. The student also showed the website to several
41 other students while at school by using a school computer to access the site.
42 The school permanently expelled the student.

43

44 **Issue:** Was the website and its content protected under the First Amendment?

45

46 **Holding:** No. The website posed a foreseeable risk of substantially disrupting
47 the school environment. Since the school was the particular audience targeted

1 by the site, there was a strong likelihood the website would be noticed in that
2 environment. The student further ensured that the website would be accessed
3 and discussed on campus by telling other students about the site and showing it
4 to another student on a school computer.
5

6 **Evans v. Bayer, 684 F.Supp. 2d 1365 (2010)**
7

8 **Facts:** A high school student created a Facebook page titled “Ms. Sarah Phelps
9 is the worst teacher I’ve ever met.” The page was meant to be a forum for
10 students and others who knew Phelps to express their feelings of hatred about
11 her. The student created the page from her home computer and made all of the
12 posts from home. The student deleted the page after three days but school
13 officials still later became aware of it and disciplined her.
14

15 **Issue:** Was the Facebook page and its content protected under the First
16 Amendment?
17

18 **Holding:** Yes. The website did not pose a foreseeable risk of substantially
19 disrupting the school environment. Student speech concerns under the First
20 Amendment arise when off-campus conduct and speech are brought on
21 campus, and the student never brought the conduct to school. While on campus,
22 the student neither referenced the page nor accessed it. Additionally, the page’s
23 targeted audience extended beyond the school to others who knew Phelps and
24 was thus protected off-campus speech.

WITNESS STATEMENTS

1

2

3 **Prosecution Witness: Angel Sterling**

4

5 My name is Angel Sterling. I am 13 years old, and I live with my mother and
6 grandparents on 288 Gilmore Avenue, one block south of Powell Avenue. I've
7 lived there since November 2009, when my mother and I moved from
8 Nebraska. I now attend Paul Laurence Dunbar Middle School.

9

10 It's been difficult for me to adjust to Pikesville and make new friends. For
11 some reason, the other kids at school started picking on me immediately. My
12 old school wasn't like this at all. Everyone was friendly and knew each other.
13 Here the kids make fun of how I talk and the words I use. I sometimes feel like
14 being intelligent is viewed as a negative personality trait.

15

16 The bullying is done by the Pirates. They're a little gang at school, and I'm
17 their favorite target. They like to punch me in the shoulder when I'm carrying
18 my books and to slam me into the lockers. The ringleader of the group is Jesse
19 Woodson. Jesse is older and works with the school computer club run by Chris
20 Draper, one of my teachers. Jesse will hang around the outside the school
21 sometimes on other days, waiting for the Pirates to get out of school I guess. I
22 have made complaints about them. Jesse has come up to me a few times and
23 told me to quit making trouble for Madison and the rest of the Pirates, as if it
24 was my fault.

25

26 Another problem for me is living in Pikesville. It is completely different from
27 Nebraska. We didn't have to lock our doors in Nebraska, but there's no telling
28 what might happen to you in Pikesville. There are muggings and even murders.
29 Shortly after I arrived, my grandparents told me that a lot of apartments and
30 homes were being broken into.

31

32 I was getting by, however, and things had started to get better until the burglary
33 at our home. I've always been a good student and had no trouble fitting in
34 academically. I was getting straight A's in all my classes. Chris Draper even
35 wanted me to join the computer club, but there was no way I would ever join
36 with Jesse around.

37

38 Vice Principal Campbell talks to me every so often to see how things are going.
39 Campbell started to talk to me in early December. Campbell told me I needed
40 to find a social group at the school and wanted me to join the computer club to
41 meet new friends. I told Campbell that I'm fine with my online friends.

42

43 I spend a lot of my time on the computer chatting with my old friends. I use the
44 site FacePlace. It allows you to create a personal profile listing your likes and
45 interests. You can also write public or private messages to people on your
46 friends' list. I also use Buddylink, for instant messaging. I probably spent
47 around five or six hours a night on average talking online. My mom doesn't

1 like it much, but I really feel that my online friends are the only ones who
2 understand me.

3
4 In mid-December, I was called into Campbell's office about the Pirates. I guess
5 Draper saw the Pirates messing with me. I told Campbell that the Pirates make
6 fun of me and where I'm from and even push me around in the hallway.
7 Campbell promised to speak to the Pirates and said that Campbell's office was
8 always open if I had any problems. I don't know what Campbell said to the
9 Pirates, but it seemed to work for a while.

10
11 On the night of February 21, I was up late chatting to a new friend from
12 Australia. I heard noise coming from the bathroom. It was late, and my mom
13 and grandparents were both asleep. Curious about the noise, I went to the
14 bathroom and turned on the light. I saw two people wearing ski masks standing
15 in my bathroom. They had a backpack open and were tossing my grandfather's
16 medicine into it. I know I surprised them because they dropped the bag when I
17 turned the light on. Everything in the bag spilled onto the floor. One of them
18 started tossing things back in the bag, but the other one grabbed my hair. The
19 one that had my hair said, "If you ever tell anyone about this, I'll brick ya
20 good." The voice was muffled by the ski mask, but it sounded like Jesse
21 Woodson. The two then ran out the front door.

22
23 I was quite scared. I didn't sleep that night and instead waited on the couch.
24 When my mother woke up, she saw the mess in the bathroom and called the
25 police. My mom kept me from school that day to help calm me down. I didn't
26 say who I thought the two people in the bathroom were, because I didn't want
27 to have the Pirates really come down on me. But if you ask me, I think Jesse
28 and Madison had something to do with the burglary.

29
30 That afternoon on Buddylink, I started to accept messages from new people,
31 who turned out not to be friends. I guess the Pirates found out I'm a Buddylink
32 user from computer lab. I'm always forgetting to log out of my account. I have
33 seen Madison, Jesse, and other Pirates in the computer lab before. When I see
34 them, I leave immediately.

35
36 The messages were scary. They called me a "dirty snitch," and one of the
37 messages by someone named "Jolly Roger" said, "I got a brick that wants to
38 meet the back of your head." This sounded like something Jesse would say, and
39 I was terrified. A classmate had told me a story once about Jesse hitting another
40 kid with a brick, so I knew Jesse was serious. I also discovered that the Pirates
41 had a page on FacePlace about me. It was called "Clip Angel's Wings," and
42 Jesse had created it. Every page lists the page's creator. A lot of nasty things
43 were written there. One comment from Jesse said, "Someone should teach that
44 kid a lesson. Anyone got a brick? LOL!"

45
46 I still didn't want to say anything, but I figured that since I never told about the
47 robbery but was being blamed anyway, there was no reason to keep it to

1 myself. I told my mom about the messages, and she freaked out. She talked to
2 Campbell on the phone, told about the messages, said that I wouldn't be going
3 to school until this all blew over, and that I would have to quit all my online
4 accounts for the time being.
5

6 It was a terrible time. I was stuck inside the house all day and all night and
7 couldn't talk to anyone else. I didn't know what the Pirates were thinking and
8 getting ready to do to me either. I got real sick and would throw up and have
9 other stomach problems. I wasn't able to focus on my homework and did very
10 poorly for myself. I think the drop in my grades is what made my mom decide
11 it was time for me to go back to school. She made me go to school for a half-
12 day on a Friday as a test, just to test the water, so to speak.
13

14 That was March 12. It wasn't as bad as I thought it would be, but I was still
15 pretty scared. I got nasty looks, but no one tried to attack me. At lunchtime,
16 which is at noon at my school, I waited in Chris Draper's room until the halls
17 had cleared. Draper then led me to the main entrance of the school. When the
18 door opened, I immediately saw Jesse Woodson waiting across the street. I
19 don't know how Jesse knew I'd be there, but there was Jesse, waiting for me.
20 Jesse walked off when Draper approached, but I was still terrified.
21

22 It normally only takes me five minutes to get home, but I wanted to let Jesse
23 get far enough ahead in case Jesse decided to wait for me. I ducked into a
24 convenience store. I looked through a bunch of magazines to buy time, and I
25 must have been in there about 20 minutes or so before leaving. As I continued
26 back home, I kept looking for Jesse. I felt like I was an animal being stalked.
27

28 There's an alleyway on Powell Avenue that cuts over to my street. I've never
29 gone down it because of the crime in this city, but when I peered down and saw
30 that it that it was empty, I decided to risk it. I must have only gotten about ten
31 steps in when I heard a voice behind me say, "Gotcha now!" It sounded just
32 like Jesse Woodson's voice. I wasn't able to do anything—not turn around, not
33 run, not even yell—before something hard struck the back of my head, and
34 everything went black.
35

36 The next thing I remember is waking-up in the hospital with a massive
37 headache and my head wrapped in bandages. I've never seen my mom cry as
38 much as when I woke up. I had a concussion and 16 stitches in my head. I had
39 even been sleeping for two days! When the police came, I told them everything
40 I could remember. The Pirates already think I'm a snitch, so whatever. The
41 police arrested Jesse Woodson later that day. I say good riddance.

1 **Prosecution Witness: Detective Frankie Cooper**

2
3 My name is Frankie Cooper. I'm 43 years old and a detective with the
4 Pikesville Police Department. I graduated from the Pikesville Police Academy
5 18 years ago and have been a detective for 13 years. Over the years, I have
6 received instruction on police procedures for securing crime scenes,
7 interviewing suspects, and conducting criminal investigations. I also have
8 received training in computer forensics, which is a specialty of mine.

9
10 Every year I attend the Academy of American Forensic Sciences' national
11 convention. The convention features speakers on cutting-edge techniques in the
12 field. I had the honor of giving a lecture at the 2008 convention on computer
13 forensics. Computer forensics typically involves the tracing of e-mails and
14 recovery of data. It's very useful for investigations of modern white-collar
15 crimes, but can also be a key part of murder investigations. I have testified as
16 an expert witness in more than 50 trials.

17
18 On March 12, 2010, I received a call about a possible attempted murder. I was
19 in transit when the call came in, so I arrived before the ambulance. The victim
20 was a 13-year-old student named Angel Sterling who had been hit in the head.
21 The incident occurred in an open-ended alleyway between 135 Powell Avenue
22 and 137 Powell Avenue. The victim was located near the entrance of the
23 alleyway from Powell Avenue. The victim was found face down with the
24 victim's feet directed toward Powell Avenue. I saw a fairly severe wound on
25 the back of the victim's head. Angel was breathing but nonresponsive. The
26 paramedics came and moved Angel onto a stretcher. I began examining the
27 crime scene.

28
29 The alleyway had several red bricks lying around. One brick was 19 inches
30 from the left side of where the victim's head had been. Upon examining the
31 brick, I noted it was spattered with a brownish red substance. Based on my
32 training and experience, I concluded that the substance was most likely blood.
33 The blood contained strands of hair. I obtained samples of both the blood and
34 the hair and marked the brick as evidence. Based on my discovery of the brick
35 and the positioning of the body, I formed the opinion that the victim was struck
36 from behind in the head with the brick with considerable force.

37
38 The building at 135 Powell Avenue was a brick apartment building. The
39 building's bricks were the same red color as the brick located near the victim. I
40 circled the building and discovered that it was fairly dilapidated and currently
41 undergoing renovation. The main door was secured with a steel chain and a
42 deadbolt lock that was intact. On the other side of the building, part of the wall
43 had caved in. I seized a loose brick from the wall for comparison to the bricks
44 in the alleyway.

45
46 I then proceeded to Pikesville Hospital. I learned from the doctor's report that
47 Angel had suffered a deep laceration to the back left side of the head that

1 required 16 stitches to close. The injury had also caused a concussion, and
2 Angel was still unconscious.

3
4 I met with Mrs. Rosa Sterling, the mother of the victim, Angel Sterling. Mrs.
5 Sterling informed me that Angel had been receiving threats from a group of
6 students at Angel's middle school called the Pirates. Mrs. Sterling told me that
7 the Pirates had accosted Angel at school and through online programs like
8 FacePlace and Buddylink. She said the abuse had intensified after their home
9 was broken into. It had gotten so bad that Angel had been kept out of school for
10 several weeks and only had returned that very day.

11
12 Mrs. Sterling told me that the leader of the group was a kid named Jesse
13 Woodson and that Jesse had specifically threatened to strike Angel with a
14 brick. I knew of Jesse Woodson from my days in patrol. I arrested Jesse once,
15 back sometime in 2005, for throwing a brick at a younger boy and striking him
16 in the chest. Apparently the boy had struck Jesse's younger sister, and Jesse
17 had become upset. Jesse was never criminally charged.

18
19 After finishing at the hospital, I proceeded to the Woodson residence. Jesse
20 denied knowing anything about the incident. Jesse was wearing a white shirt.
21 During the interview, I noticed a red dust-like substance on both sides of the
22 shirt near the hips. The same substance was also clearly visible under Jesse's
23 fingernails. I obtained samples from both the shirt and the fingernails for
24 further testing by our forensics lab and ended the interview.

25
26 That same day, I also investigated other possible suspects, including the Pirates.
27 I found no evidence linking them to the assault.

28
29 The next day I began to investigate the electronic messages received on the
30 victim's computer through the instant messaging service Buddylink. The
31 specific message was from a user named "Jolly Roger" and said, "I got a brick
32 that wants to meet the back of your head." Like other instant messaging
33 services, Buddylink allows users to create a unique profile and then directly
34 connect to other available users. Each user has a specific list of friends to easily
35 access. A user can, however, also use a search engine to find any user
36 regardless of whether they are friends or not.

37
38 When users send messages through Buddylink, each computer links their IP
39 addresses, and a record of the message is stored on each computer. It's similar
40 to how phone tracing works. I used a tracing program on Angel's computer to
41 discover that the message in question came from a computer at Paul Dunbar
42 Middle School.

43
44 Through my investigation, I discovered the school uses a software program
45 called Blackwatch, which I'm very familiar with. Blackwatch supervises
46 Internet content for children. It also requires anyone who wishes to use the
47 computer to log in. Blackwatch keeps a record of all logins stored in the

1 database on the computer. That database is completely inaccessible to all users
2 except the one who has the master user login. In this case, the computer
3 teacher, Chris Draper, had the master login. I requested the logs, all access
4 codes, and the master user login from Chris Draper. I used it to retrieve the
5 Blackwatch log and discovered that when the computer sent the message to
6 Angel's computer (3:45 p.m.), Jesse Woodson's access code was logged in to
7 that computer.
8

9 Two days after being hit on the head, Angel Sterling regained consciousness. I
10 asked Angel what had occurred in the alleyway, and Angel told me that right
11 before blacking out, a voice from behind shouted, "Gotcha now." Angel
12 believed the voice to be Jesse Woodson's.
13

14 Later that day, I received the forensics lab report. The hair and blood on the
15 brick found at the scene did come from Angel Sterling. Furthermore, the brick
16 was coated with a material called calcium silicate, which can easily rub off on
17 contact with the brick. The samples I collected from Jesse Woodson's shirt
18 were both shown to be calcium silicate.
19

20 Based on all the available evidence I had probable cause to arrest Jesse
21 Woodson for the assault of Angel Sterling, and I arrested Jesse Woodson that
22 evening.

1 **Prosecution Witness: Dr. Sam Holloway**

2
3 My name is Sam Holloway. I'm 50 years old and a forensic pathologist with
4 Pikesville Police Department. I've been in this field for 19 years. I received my
5 medical degree from the University of Sunnylands and a B.A. in forensic
6 science from the University of Pikesville, graduating summa cum laude. In
7 addition, I've kept up with the latest advancements in forensic science by
8 continually reviewing forensic science journals and attending conferences. I
9 have testified as an expert witness in more than 60 trials.

10
11 I was asked to analyze the Sterling case. I began by examining the police
12 reports on the incident, the medical reports, and photographs of Angel
13 Sterling's injuries. I examined the brick found at the scene believed to be the
14 attack weapon, and I chemically analyzed suspicious materials found on a
15 suspect's body and clothing.

16
17 From the reports, it is clear that Angel had a deep laceration about 2 inches
18 above and 2 inches behind the left ear. The wound was approximately a
19 quarter-inch at its deepest point. The wound proceeded along a downward
20 straight line for approximately two and half inches.

21
22 The injury was highly suggestive of blunt force trauma from an object with
23 straight edge. Blunt force trauma can cause loss of memory. The amnesia can
24 be either anterograde (the inability to create new memories after the trauma),
25 retrograde (the inability to recall events that took place before the trauma), or
26 both. Post-traumatic amnesia may sometimes occur immediately following a
27 traumatic head injury. The victim may be confused and unable to remember
28 events. Anterograde amnesia may lead the victim to a partial or complete
29 incapacity to recall the recent past, while memories from before the trauma
30 remain intact. Retrograde amnesia may lead the victim to a partial or complete
31 incapacity to recall events that occurred before the trauma. Angel shows no
32 evidence of either form of amnesia. Of most importance in this case is Angel's
33 memory of the voice before being struck with the brick. Angel remembers the
34 past and remembers being struck with something hard in the head in addition to
35 recalling hearing a voice immediately prior to the trauma. It does not appear
36 from the medical reports that Angel suffers from retrograde amnesia.

37
38 The brick was a standard-size red house brick. It was eight inches long, four
39 inches wide, two and one-quarter inches deep and weighed just less than six
40 pounds. There was a patch of dried blood on one of the corners with a visible
41 strand of hair. It was the only blood on the whole brick. I took samples of the
42 blood and hair from the brick and compared them to samples taken from the
43 victim. The DNA of the blood and the hair both matched the samples taken
44 from Angel Sterling. The chances a match happening randomly are about one
45 in 7,000. I concluded that the brick was indeed the instrument of the assault. I
46 also tested the brick for fingerprints but was unable to find anything. This is not

1 unusual as the surface of a brick is too porous and irregular for a fingerprint to
2 be discernable.
3

4 I chemically tested the composition of the brick. The results showed that the
5 particular brick was a concrete mix that had been coated with calcium silicate.
6 Coating bricks helps protect from the weather and outside forces. Calcium
7 silicate is an extremely common choice as a brick coating. A second brick
8 given to me by Detective Cooper was also coated in calcium silicate and made
9 of concrete.
10

11 I also tested the dust samples Detective Cooper provided to me. The samples
12 consisted of a reddish powder found on the defendant's fingernails and shirt.
13 Each sample was revealed to be calcium silicate residue. I concluded that the
14 samples were consistent with the coating on the assault weapon. This evidence
15 is consistent with the theory that the chemical composition of the red dust taken
16 from Jesse Woodson's clothing matches the chemical composition of the brick
17 that caused Angel Sterling's injuries.
18

19 I've read Dr. Crane's report and disagree with of number of Crane's
20 conclusions. Crane believes that the victim's injuries were caused by a left-
21 handed attacker or the brick may have fallen from a nearby building. I believe
22 these theories to be inaccurate. The theory that the attacker was left-handed
23 rests on two major assumptions. First, it relies on the idea that the attacker
24 struck from directly behind Angel. If the attacker was positioned more toward
25 the side, or Angel happened to have turned at the last moment, the hypothesis
26 has almost no standing. And second, it rests on the assumption that the attack
27 was caused by a swing. If the brick was thrown, the same false assumptions
28 apply. The brick would have just as likely struck the right or left side of
29 Angel's head regardless of which hand the assailant threw from.
30

31 My opinion is that the evidence is consistent with the theory that the assailant
32 approached Angel Sterling from behind in the alleyway and either swung the
33 brick into or threw the brick at Angel's head, striking Angel and causing
34 Angel's injuries. The velocity of a swung brick or of a brick thrown from a
35 short distance would be close to the same and would cause similar injuries.
36

37 Dr. Crane does not offer any proof that the victim's injuries were caused by a
38 falling brick. The odds are much against the chance of a brick falling from a
39 building at the very moment Angel was passing by. Such an event is not
40 impossible, but statistically improbable.
41

1 **Prosecution Witness: Chris Draper**

2
3 My name is Chris Draper. I'm 33 and an 8th grade math and computer teacher
4 at Paul Laurence Dunbar Middle School. I graduated from Freemont University
5 with a dual degree in mathematics and computer science and then went on to
6 get my master's in education from Cortez University.
7

8 I've been at Dunbar for seven years now. I've really enjoyed my time there
9 though things have gotten more difficult in recent years. A lot of the students'
10 parents have lost their jobs, and that kind of thing will always affect their
11 children. The students are acting up more, and the number of detentions and
12 suspensions has increased. Bullying has also become quite prevalent. I take
13 bullying seriously and try to make sure my classroom is a safe environment for
14 all students, but it's impossible to catch everything. I'm happy the state
15 legislature stepped up with that anti-bullying law last year.
16

17 Angel Sterling joined my class earlier this school year and right from the start
18 had trouble fitting in. Some kids in school call themselves the Pirates and try to
19 act tough. In mid-December, I observed the Pirates making fun of Angel's
20 family and where Angel came from. I sent these students to see Campbell.
21

22 Jesse Woodson used to be a student of mine. I've always thought Jesse was
23 pretty much a good kid. When Jesse applied for an internship with our
24 computer lab, I was happy. Jesse has always been something of a natural when
25 it comes to computers. Jesse comes in three days a week to help me with the
26 after-school computer club and shows up now and again at other times to use
27 the computer lab.
28

29 Angel is also gifted with computers and math and was easily one of my top
30 students. I even tried to get Angel to join the computer club, but Angel claimed
31 not to be interested.
32

33 The school computer lab adjoins my main room. Except for when I conduct my
34 computer class twice each day, the room is open to anyone in the school,
35 provided they respect the equipment. The computers are all monitored by a
36 software program called Blackwatch, which makes sure the students aren't
37 looking up inappropriate material. Social networking sites like FacePlace had
38 been previously allowed, but after this whole incident they've been added to
39 the banned sites list.
40

41 Blackwatch requires the students to log in with a personal access code created
42 for each student. The code is good throughout that student's time at Dunbar and
43 expires on graduation. When Jesse began the internship, I created an access
44 code to use the school's computers. When students stop using the computer
45 they're supposed to log out. The computer also logs out automatically after
46 being idle for half an hour. The students routinely forget to log out, and since
47 so many students go in and out of the lab all the time, the automatic logouts

1 aren't always activated. Often students are using a computer that might be
2 logged in under a different student's access code.
3

4 One day in late February, the police interrupted my class. They had found
5 Madison Jackson's school identification card at the scene of a burglary the
6 night before. The police spoke to Madison, but no arrest was made. When
7 Madison returned to class, I heard Madison tell a classmate, "Angel snitched on
8 me and now I'm going to have to hunt that little rat down after school." I
9 immediately sent Madison to Sydney Campbell's office. I'm not sure what
10 happened, but I did see Madison in computer club after school. Jesse was
11 helping the students with their projects. I assumed that the vice principal gave
12 Madison a warning, but I learned the next day that Madison was suspended
13 from school for a week.
14

15 I also learned from Campbell that Angel would be out of school for an
16 extended amount of time, and I should drop off all my assignments in the main
17 office for Angel's mother. When Angel's assignments were returned to me, I
18 was shocked by how bad they were. Angel's work had fallen off considerably,
19 with most of the work receiving D's or even F's.
20

21 Vice Principal Campbell also informed me that Angel's mom had told him that
22 Jesse was connected to the Pirates. Campbell told me that we should tell Jesse
23 not to work at school until this was all sorted out. I told Jesse not to come to the
24 computer class for the time being.
25

26 I was relieved to see Angel finally back in school in mid-March, even though
27 Angel looked tired and nervous. At lunchtime, Angel asked to wait in my
28 classroom for a few minutes and then for me to walk Angel to the main door.
29 When I escorted Angel out, I opened the main door and saw Jesse Woodson
30 leaning against a brick building on the other side of the parking lot. I think
31 Angel saw Jesse too because Angel looked scared. Jesse was carrying
32 something. I'm not sure what it was, but it was red. I don't remember what
33 Jesse was wearing. I started to walk toward Jesse, but I was distracted by
34 another student, and when I turned around I saw Jesse walk east down Payson
35 Avenue. I encouraged Angel to come to class just to be cautious, but Angel
36 insisted on going home and waited a few moments before walking off in the
37 same direction. I heard later that day that Angel had been attacked on the way
38 home with a brick and that Jesse Woodson was a suspect.
39

40 The day after the incident, I received a request from Pikesville Police
41 Department for the Blackwatch logs the master login code. The request stated
42 that the information was needed in the investigation of the attack on Angel
43 Sterling. At the time, I had no idea what the computers had to do with the
44 attack on Angel.
45
46
47

1 **Defense Witness: Jesse Woodson**

2

3 My name is Jesse Woodson. I'm 18 years old and live at 445 Gilmore Avenue.
4 I attended high school for a year, but decided it wasn't for me and got my GED
5 instead. I attend a local junior college part-time. I worked at a grocery store for
6 a while and then at a restaurant, but both jobs were cut back. Until recently, I
7 had an internship working as an assistant in a computer club after school from
8 3:00-4:00 at my old middle school, Dunbar, a few times a week. I spend the
9 rest of my time now helping out at home and taking care of my little sister
10 Harriet who is 13 and in seventh grade at Dunbar.

11

12 People think I'm a troublemaker, but I've only really been in trouble once. A
13 few years ago this boy kept bugging my sister Harriet, even after I told him to
14 stop. One day, I saw him push her to the ground and hit her. Without really
15 thinking, I grabbed a brick and threw it at him. I only meant to scare him, but
16 the brick hit him in the chest. The cops arrested me, but I was never charged.

17

18 Because I'm at Harriet's school a lot, I get to be like a parent or mentor to a lot
19 of the students, including a group called the Pirates. I give them advice and
20 help them out in a way no one ever did for me. They even call me the
21 "Captain," and I really like how that sounds. One of the things I do for the
22 Pirates and other kids is teach them all about computers. I never did well in
23 school, but I've always understood how to use computers. Everyone is always
24 coming up to me with questions and asking for help with making their
25 homework and projects look better. I really like making fake websites and
26 messing around with the designs. I'm also really into graphic design on the
27 computer. I often leave my school assigned access code logged in so I can
28 teach the students about a new program I found or an interesting website.

29

30 So one day in early December, the Pirates came up to me and said that this kid
31 named Angel Sterling was causing problems for them and even got some of
32 them in trouble. I didn't know what was going on. A lot of my friends were
33 having problems with Angel so I spoke to Angel myself a few times to make
34 sure Angel didn't cross the line. I think Angel is trying to get attention by
35 stirring up drama.

36

37 Then in February, Angel tried to frame Madison for all those burglaries
38 happening around town. Madison didn't get arrested, but got suspended from
39 school instead. The same day that Madison's suspension began (February 23),
40 Chris Draper tells me not to come around to the computer club anymore. A lot
41 of the Pirates wanted to beat Angel up, but the last thing I wanted was for any
42 of them to end up in juvenile detention. Madison in particular was really upset,
43 and I was worried Madison might do something without thinking it through.

44

45 I decided to set up a page on FacePlace. FacePlace is a social networking site
46 where friends can post messages to each other and discuss topics in forums
47 called threads. I thought that if the Pirates had a place to go and vent about

1 Angel, then maybe it would calm them down. I gave it a provocative title to get
2 them to sign up and soon everyone was on there talking about what they'd like
3 to see happen to Angel.

4
5 I even said some things too, like how someone should teach the angel a lesson
6 and posted, "Someone should teach that kid a lesson. Anyone got a brick?
7 LOL!" I was just kidding, though. My friends tease me about my previous
8 incident with a brick, so it would be kind of like an inside joke. It was pretty
9 stupid given how things turned out. Someone must have taken things too
10 seriously and ended up going after Angel with a real brick. All I know is I had
11 nothing to do with it.

12
13 I was at the club on the day the Buddylink messages were sent, but I did not
14 send Angel any messages. I used to use Buddylink, but now I find it a little
15 juvenile. Although I don't use Buddylink, I often show students how to use it. I
16 do not have an active Buddylink account.

17
18 The day Angel got hurt started out as a pretty typical one for me. I woke
19 Harriet up and made her breakfast while she got ready. I walked her to school,
20 and I came back home, stopping first at the grocery store for a few things. I
21 watched TV and cleaned up the place. At some point, I got a call from Madison
22 to ask me what I was up to that night. Madison had pretended to be sick and
23 wasn't in school that day. We talked about seeing a movie later, but we didn't
24 know what was playing.

25
26 I saw Harriet's lunch box on the counter. She often forgets to bring her
27 backpack or lunch or even her homework to school. It seems like I'm
28 constantly at school bringing her things she leaves at home. On that day, she
29 forgot her lunch for the hundredth time this year. Good thing my schedule is
30 flexible, and I'm often free during the day so I can drop things off for her at
31 school. On that day, I walked to the school around noon to deliver Harriet her
32 lunch and wait for her to come out and get it.

33
34 The lunchbox is red and made of plastic. Harriet was late coming out that day.
35 Sometimes she skips lunch and just reads in the library. I started to think that's
36 what was going on, but I just waited across from the school to make sure,
37 leaning up against a wall while I waited. I saw Chris Draper and Angel open
38 the door, and Draper immediately started coming my way. There was
39 something in Draper's look, like I was in trouble or something. A lot of adults
40 give me that look even though I'm not doing anything wrong. Who needs it?
41 Draper had even yelled at me just a few weeks before. I was tired of it all. I
42 turned and walked away before Draper could say anything.

43
44 I was back home just a few minutes when Madison called again about the
45 movies that were playing. That call must have been between 12:15 and 12:30.
46 We decided to see *The Martian Dragon*, a movie about the kid and his time-
47 traveling dragon from outer space. I also told Madison about what happened

1 outside the school. Madison was interested in hearing that Angel was back
2 around. Madison even said, "So Angel's finally in the open again." After that, I
3 ate Harriet's lunch myself so as not to waste it, and then I took a nap on the
4 couch.

5
6 Detective Cooper woke me up a few hours later. The officer wanted to know
7 where I had been that day and what I was doing. The officer asked if I knew
8 anything about an assault on Angel Sterling. I told the officer the truth, which
9 was that I knew nothing about it. The detective was really interested in dust
10 under my fingernails and on my shirt. It had rubbed off from the brick wall I
11 was leaning against. You get that stuff on you so often around here that you
12 stop noticing it. The detective left, and I thought that the whole thing would
13 drop since I hadn't done anything. But a couple of days later, they came back
14 and arrested me. To make matters worse, the school has fired me permanently
15 from my position. I never touched Angel, and all I want is to get back home
16 and take care of my friends and family again.

1 **Defense Witness: Madison Jackson**

2
3 My name is Madison Jackson. I'm 13 years old and in the eighth grade at Paul
4 Laurence Dunbar Middle School. People like to call me "Mad Jack" because
5 they think I'm crazy. I'm not really crazy though: I've just got style.
6

7 I belong to the Powell Avenue Pirates, a bunch of friends from Dunbar. We've
8 gotten an unfair reputation, all of us Pirates. We're just friends looking out for
9 one another.
10

11 Jesse Woodson has an undeserved reputation too. Jesse has never actually done
12 anything physical except that one time when someone went after Jesse's little
13 sister Harriet. Jesse is protective of Harriet and walks her to and from school
14 everyday. I have also seen Jesse bring Harriet her lunch in a silly red lunch box
15 that we make fun of all the time. Jesse is really smart too, especially with
16 computers. Jesse is great at making web pages and graphic designing. Jesse
17 also knows computer programs and teaches us all about them in computer club.
18 Some students use Buddylink, but I don't have an account. I don't understand
19 why anyone would use Buddylink; I prefer to call my friends. I did not send
20 Angel a Buddylink message.
21

22 Angel Sterling moved to town last winter. I knew Angel was going to be a
23 problem right from the start. Angel has no respect for anyone and doesn't
24 understand how to make it in Pikesville. Angel likes to show off in class and
25 will smirk when other students don't know the answers to questions. I've said
26 some things to Angel about it, but Angel just mocked me. One time after we
27 were in the same group for an assignment, Angel looked at me and said "Good
28 job *this* time. I'm impressed that *you* knew the answer." It was really snide. All
29 of us Pirates feel the same way. We don't want anything to do with Angel, and
30 we make that feeling known.
31

32 I wouldn't call any of it bullying, but even if it was, it's not like it was ever
33 serious. Angel did rat on us about it anyway, and Draper sent us to the vice
34 principal's office. Campbell warned us to leave Angel alone and gave us
35 detention. Campbell also said we would be suspended if the bullying continued.
36 I don't understand what the big deal was. If you ask me, I would say that Angel
37 is particularly sensitive.
38

39 I thought everything was cool, but in late February, I got called into the vice
40 principal's office again. The police were there, and they wanted to talk about a
41 break-in at Angel's house. They seemed to think I had something to do with it.
42 I thought they were crazy. I've never been near that house. They had my school
43 identification card, but I don't know how or where they got it. I had lost that
44 card weeks earlier. It had been in my bag at school, but it just vanished one
45 day. At the end of the interview, the police just let me go back to class, because
46 they had nothing.
47

1 I really couldn't believe what was happening. I figured that Angel was trying to
2 get back at me for the cold shoulder, but the whole mess was so unbelievable. I
3 was worried about what would happen if Angel kept on making up stories.
4 Angel is this star student and everyone thinks I'm a thug, who are adults going
5 to believe in the end?
6
7 So the incident made me really mad. I told the other Pirates and Jesse about it
8 all that night and they were pretty mad too. We all got together and started this
9 burn page about Angel on FacePlace. I knew that Angel liked to use those sites
10 too, and I was hoping Angel would see the posts and regret making up stories
11 about me. We all just wrote down what we thought of Angel and things we'd
12 like to do to Angel. It was just talk, and we never were going to act on it. I
13 mean if you did act on it after writing it all down first, you'd have to be some
14 kind of moron, right? Everyone was involved and said things, everyone in the
15 Pirates that is. I think it had an effect. When I came to school the next day, I
16 found out I was suspended for a week. Draper thought I said something about
17 Angel after I got back from the cops, but I swear I didn't. Later the Pirates told
18 me Angel missed school that day and the next and then the whole week.
19
20 The day Angel got hurt I was at home sick. My parents work days so I had to
21 spend the time home alone. I called Jesse on the phone at about 12:15, and we
22 talked about seeing a movie that night if I was feeling better. Jesse told me that
23 Angel was back in school. Jesse had seen Angel while going to drop off
24 Harriet's lunch. By that point, neither of us cared about Angel at all, and we
25 discussed other things instead. That night, the other Pirates told me that Angel
26 had been hit with a brick while walking home and that the cops were looking at
27 Jesse.
28
29 I think this whole thing is a bunch of bunk. I know Jesse, and Jesse's not cold
30 enough to do this to Angel or anybody. Jesse would have to be personally
31 provoked first. And just because Angel got hit with a brick, it does not mean
32 Jesse did it. That is crazy. The whole city is made out of those bricks so anyone
33 could have done it. And everyone said mean things about Angel on the
34 computer, including myself, to be completely honest. The cops just want to pin
35 it on Jesse because that's the easiest thing to do.

1 **Defense Witness: Doctor Brook Crane**

2

3 My name is Dr. Brook Crane. I am 55 years old, and I am currently the head of
4 the Forensic Science Department at Wilshire University where I oversee the
5 department and teach toxicology and other subjects. I received my
6 undergraduate degree in biochemistry and forensic science from Hearst
7 University and my M.D. from Rose University. I completed my residency and
8 fellowship in Forensic Pathology at Rose Medical Center. I worked as a
9 forensic pathologist for over 20 years with the New York Police Department
10 before returning to academia. I have published in numerous journals and co-
11 wrote the current textbook used at Wilshire University and other leading
12 forensic science programs. I am also currently serving my second term as a vice
13 president in the Academy of American Forensic Sciences. I have testified at
14 more than 70 trials as an expert witness.

15

16 I was contacted by the defense and agreed to take this case pro bono. I
17 reviewed all the case materials, including witness statements, the stipulated
18 facts, and the police and medical reports. I have come to the opinion, based on
19 several reasons, that the evidence does not strongly support a conclusion that
20 Jesse Woodson assaulted Angel Sterling.

21

22 The first reason is that the wound suffered by Angel suggests an attack by a
23 left-handed assailant, and Jesse Woodson is right-handed. If we assume for the
24 moment that the brick was swung and not thrown, several key facts support this
25 idea. First, the laceration was on the left side of the back of Angel's head. Next,
26 the laceration was deepest at the top, suggesting that that the top was the initial
27 point of impact. Finally, the laceration proceeded downward on a relatively
28 straight line.

29

30 The most natural way people swing objects is with their dominant hand. For
31 instance, a right-handed attacker would swing from the right. The most natural
32 target for a right-handed attacker would be the right side of Angel's head. A
33 right-handed attacker could have directed the swing to hit the left side of
34 Angel's head, but in that case the swing would not have felt as natural, and
35 would likely not have been as powerful. The wound would have some angle to
36 it as the arm retracted back to the right. None of this is visible in Angel's
37 wound. The wound is much more consistent with an assault from a left-handed
38 attacker attacking from behind the victim.

39

40 If the brick were thrown, the wound is also more likely to have been caused by
41 a left-hander, for similar reasons. It is also possible the brick was not thrown at
42 all, but fell. With gravity as the only applicable force, a falling brick from
43 almost any height could easily have gained enough speed to cause Angel's
44 injuries. That apartment in the alleyway was dilapidated and undergoing
45 renovation at the time of the incident, making it more likely than normal that a
46 brick could fall of its own accord, or caused by the vibration from a truck
47 passing nearby. Indeed the police detective who secured the crime scene stated

1 that many bricks were lying on the ground in the alleyway. My opinion is that
2 the evidence does not allow one to conclusively rule out the theory that a brick
3 fell from the building and accidentally struck Angel.

4
5 Another issue we must consider is memory reliability. The victim in this case
6 received a severe blow to the head causing loss of consciousness (LOC). Such a
7 trauma could have serious effects on the brain, including visual impairment,
8 loss of hearing, or irregular short-term memory. Irregular short-term memory
9 loss means the victim may have trouble accurately recalling recent events
10 immediately before or after the trauma. The injury could also cause the victim
11 not to remember his or her name, where he or she is, or even the date. There are
12 two types of amnesia: retrograde amnesia (loss of memories that were formed
13 shortly before the injury) and anterograde amnesia (problems with creating new
14 memories after the injury has taken place). Given the severe injury to Angel's
15 head, that Angel was unconscious for two days, and Angel's heightened fear of
16 being attacked, it is likely that Angel's memory of the voice before the attack is
17 not a real memory at all, but a created memory of something that did not occur.

18
19 Finally, I don't place much faith in the test results of the powder on Jesse's
20 shirt and fingernails. Calcium silicate was commonly used to coat the bricks
21 that make up the buildings of Pikesville. There is no way to trace that powder
22 to a specific brick. It could have come from any brick in the city.

23
24 There is no scenario that can be conclusively be eliminated by the evidence, but
25 my opinion is that the most likely scenario is that the brick fell from above and
26 struck Angel Sterling by accident. The next most likely scenario is that the
27 brick was swung into Angel's head, and as I stated earlier, if this was the case,
28 the assailant was almost certainly left-handed. The least likely scenario is that
29 the brick was thrown. My opinion is that the evidence does not support the
30 theory that a right-handed assailant struck Angel Sterling from behind.

1 **Defense Witness: Sydney Campbell**

2

3 My name is Sydney Campbell. I am 44 years old, and I'm a vice-principal and
4 dean of discipline at Paul Laurence Dunbar Middle School. I received my
5 master's in education from the University of Mattison. I have been in my
6 current position for 11 years.

7

8 I have various responsibilities at the school. My chief function is to ensure the
9 overall well-being, safety, and security of the students, teachers, and staff. I
10 help enforce the student code of conduct and other disciplinary rules. I'm also
11 responsible for making the final decision for corrective action administered by
12 the school. I also provide support to students about personal issues affecting
13 their life at school. I help set up additional academic and financial assistance
14 and other services for students who have special needs.

15

16 When Angel Sterling transferred to our school, I offered to give Angel an
17 orientation of the school before starting classes. That's a standard procedure for
18 new students. It helps with their adjustment to Dunbar. Angel's mother
19 declined the orientation. Angel started classes at Dunbar on Nov. 4, 2009.
20 Angel seemed to be very bright and friendly, so I initially thought Angel
21 wouldn't have any problem attending our school.

22

23 In early December, I contacted Angel's mother to check in with Angel's
24 adjustment to Dunbar. I felt this was important especially since Angel and
25 Angel's mother did not attend the standard school orientation.

26

27 Angel's mother told me Angel was having a tough time all around. She said
28 that Angel didn't like living in a city and was constantly anxious about
29 something bad happening. She also said that Angel was spending several hours
30 a night on the computer, sometimes as much as seven or eight hours. This
31 concerned me greatly, because it sounded like Angel had not made any friends
32 at Dunbar, which could negatively affect Angel's adjustment to our school.

33

34 I decided to have Angel briefly check in with me so I could monitor Angel's
35 adjustment at school. When I met with Angel, it was immediately clear to me
36 that Angel was having problems living in Pikesville. Angel expressed a fear
37 that in Pikeville Angel or Angel's mother "could be robbed or murdered at
38 anytime." Angel even articulated a desire to flee from Pikesville when Angel
39 told me, "You just don't understand. I'll do anything to get back to Nebraska.
40 Anything. Even if it was against the law or I had to lie, I'd still do it."

41

42 I tried to provide social alternatives to Angel. When I suggested that Angel join
43 the school's computer club to meet new friends, Angel told me "What's the
44 point? The Internet is all I have. I'd be lost without it." All I could do was
45 advise Angel's mother to seek counseling and try and interest Angel in other
46 activities.

47

1 In mid-December, Chris Draper referred several students to me for detention,
2 after observing these students making fun of Angel and Angel's family. I spoke
3 to the students involved. They're a group of students who call themselves the
4 Pirates. Angel claimed that physical contact had taken place and I take all
5 incidents of physical contact at the school very seriously. I spoke to each Pirate
6 and warned them that any kind of violent behavior was strictly prohibited by
7 school policy as was bullying. They all denied having done anything to Angel
8 and told me that they understood the school rules. I sent them to detention.
9

10 I issued a memorandum to the teachers reminding them of our school policy
11 and asking them to be vigilant about bullying. I also wrote a letter to the parents
12 of our students, asking for their assistance in eliminating any incidents of
13 bullying they might witness among students outside of school.
14

15 Since that time, Madison Jackson was once referred to my office by Chris
16 Draper for saying a comment about Angel "snitching" and about hunting Angel
17 down after school. That happened the day Madison was questioned by the
18 police in late February for possibly breaking into homes around the
19 neighborhood. Madison has always been a bit of a problem child. I've had to
20 send Madison to detention on several previous instances for disrupting class.
21 The threat about "hunting down" Angel, combined with Madison's supposed
22 involvement in a criminal act, took things to a whole new level. The principal
23 and I discussed the matter and agreed to suspend Madison from school for a
24 week.
25

26 The next day, Angel's mother contacted me to inform me that Angel wouldn't
27 be attending classes for the near future. She told me that Angel was afraid of
28 Jesse as well as the Pirates. I wasn't sure what had happened. I knew Jesse and
29 thought Jesse was a good kid. Jesse had got a GED, looked after Harriett and
30 was a good intern. I tried to make further inquiries, but Angel's mother didn't
31 provide me any more details or return my later phone calls. Because this was a
32 matter of concern, I took the step of ordering Chris Draper to stop Jesse from
33 working in the computer club until we sorted all this out.
34

35 I've followed this case closely since it broke as it involves students I look after
36 and the overall school environment. Like everyone else, I have been trying to
37 figure out what exactly happened and what can be done in the future to prevent
38 further incidents from happening.

EXHIBIT A

Diagram of Area Around Powell Avenue

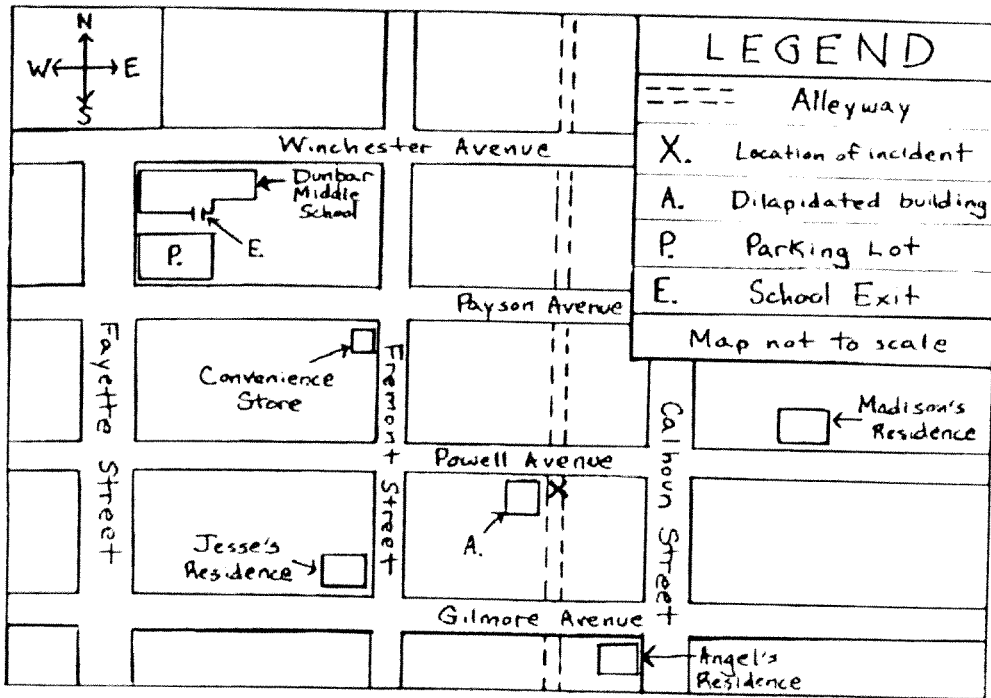
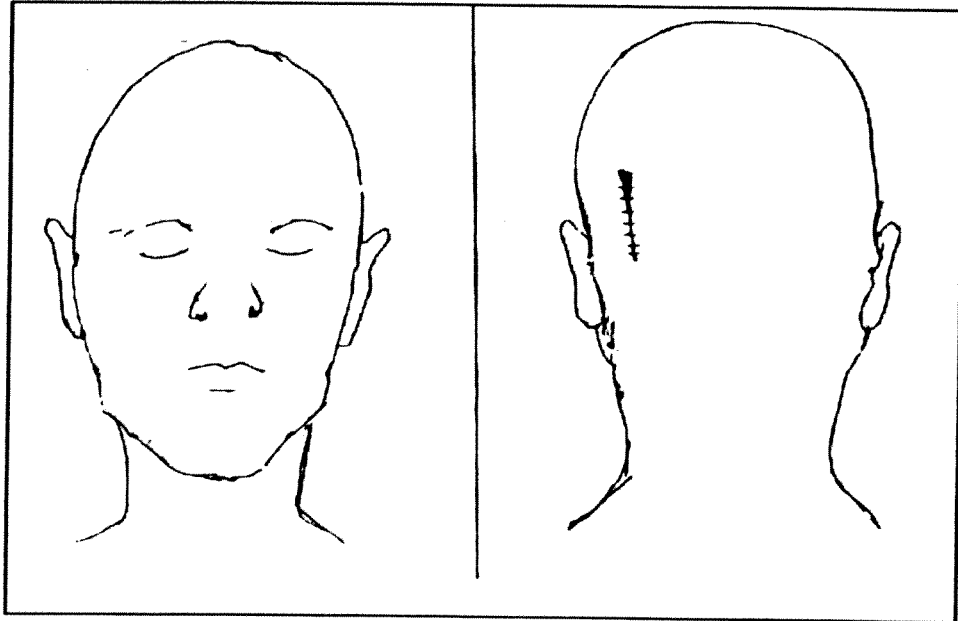


EXHIBIT B
Diagram of Angel Sterling's Injury



THE FORM AND SUBSTANCE OF A TRIAL

The Elements of a Criminal Offense

The penal (or criminal) code generally defines two aspects of every crime: the physical aspect and the mental aspect. Most crimes specify some physical act, such as firing a gun in a crowded room, and a guilty, or **culpable**, mental state. The intent to commit a crime and a reckless disregard for the consequences of one's actions are examples of a culpable mental state. Bad thoughts alone, though, are not enough. A crime requires the union of thought and action.

The mental state requirement prevents the conviction of an insane person. Such a person cannot form **criminal intent** and should receive psychological treatment rather than punishment. Also, a defendant may justify his or her actions by showing a lack of criminal intent. For instance, the crime of burglary has two elements: (1) entering a dwelling or structure (2) with the intent to steal or commit a felony. A person breaking into a burning house to rescue a baby has not committed a burglary.

The Presumption of Innocence

Our criminal justice system is based on the premise that allowing a guilty person to go free is better than putting an innocent person behind bars. For this reason, defendants are presumed innocent. This means that the prosecution bears a heavy burden of proof; the prosecution must convince the judge or jury of guilt beyond a **reasonable doubt**.

The Concept of Reasonable Doubt

Despite its use in every criminal trial, the term "reasonable doubt" is hard to define. The concept of reasonable doubt lies somewhere between probability of guilt and a lingering possible doubt of guilt. A defendant may be found guilty "beyond a reasonable doubt" even though a possible doubt remains in the mind of the judge or juror. Conversely, triers of fact might return a verdict of not guilty while still believing that the defendant probably committed the crime. Reasonable doubt exists unless the triers of fact can say that they have a firm conviction of the truth of the charge.

Jurors must often reach verdicts despite contradictory evidence. Two witnesses might give different accounts of the same event. Sometimes a single witness will give a different account of the same event at different times. Such inconsistencies often result from human fallibility rather than intentional lying. The trier of fact (in the Mock Trial competition, the judge) must apply his or her own best judgment when evaluating inconsistent testimony.

A guilty verdict may be based upon circumstantial (indirect) evidence. However, if there are two reasonable interpretations of a piece of circumstantial evidence, one pointing toward guilt of the defendant and another pointing toward innocence of the defendant, the trier of fact is required to accept the interpretation that points toward the defendant's innocence. On the other hand,

if a piece of circumstantial evidence is subject to two interpretations, one reasonable and one unreasonable, the trier of fact must accept the reasonable interpretation even if it points toward the defendant's guilt. It is up to the trier of fact to decide whether an interpretation is reasonable or unreasonable. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

TEAM ROLE DESCRIPTIONS

ATTORNEYS

The **pretrial-motion attorney** presents the oral argument for (or against) the motion brought by the defense. You will present your position, answer questions by the judge, and try to refute the opposing attorney's arguments in your rebuttal.

Trial attorneys control the presentation of evidence at trial and argue the merits of their side of the case. They do not themselves supply information about the alleged criminal activity. Instead, they introduce evidence and question witnesses to bring out the full story.

The **prosecutor** presents the case for the state against the defendant(s). By questioning witnesses, you will try to convince the judge or jury (juries are **not** used at state finals) that the defendant(s) is guilty beyond a reasonable doubt. You will want to suggest a motive for the crime and try to refute any defense alibis.

The **defense attorney** presents the case for the defendant(s). You will offer your own witnesses to present your client's version of the facts. You may undermine the prosecution's case by showing that the prosecution's witnesses are not dependable or that their testimony makes no sense or is seriously inconsistent.

Trial attorneys will:

- Conduct direct examination.
- Conduct cross-examination.
- Conduct re-direct examination, if necessary.
- Make appropriate objections: Only the direct and cross-examination attorneys for a particular witness may make objections during that testimony.
- Conduct the necessary research and be prepared to act as a substitute for any other attorneys.
- Make opening statements and closing arguments.

Each student attorney should take an active role in some part of the trial.

WITNESSES

You will supply the facts in the case. As a witness, the official source of your testimony, or record, is composed of your witness statement, all stipulations and exhibits, and any portion of the Fact Situation of which you reasonably would have knowledge. The Fact Situation is a set of indisputable facts that all witnesses and attorneys may refer to and draw reasonable inferences from. The witness statements contained in the packet should be viewed as signed statements made to the police by the witnesses.

You may testify to facts stated in or reasonably inferred from your record. If an attorney asks you a question, and there is no answer to it in your official testimony, you can choose how to answer it. You can either reply, "I don't know" or "I can't remember," or you can infer an answer from the facts you do officially know. Inferences are only allowed if they are *reasonable*. Your inference cannot contradict your official testimony, or else **you can be impeached** using the procedures outlined in this packet. Practicing your testimony with your attorney coach and your team will help you to fill in any gaps in the official materials.

It is the responsibility of the attorneys to make the appropriate objections when witnesses are asked to testify about something that is not generally known or that cannot be reasonably inferred from the Fact Situation or a Witness Statement.

COURT CLERK, COURT BAILIFF, UNOFFICIAL TIMER

We recommend that you provide two separate people for the roles of clerk and bailiff, but if you assign only one, then that person **must** be prepared to perform as clerk or bailiff in any given trial. As outlined in the rules, the unofficial timer may also be a defense attorney, the bailiff, or the defense team's clerk.

The clerk and bailiff have individual scores to reflect their contributions to the trial proceedings. This does NOT mean that clerks and bailiffs should try to attract attention to themselves; rather, scoring will be based on how professionally and responsibly they perform their respective duties as officers of the court.

The court clerk and the bailiff aid the judge in conducting the trial. In an actual trial, the court clerk calls the court to order and swears in the witnesses to tell the truth. The bailiff watches over the defendant to protect the security of the courtroom. For the purpose of the competition, the duties described below are assigned to the roles of clerk and bailiff.

Before each round of competition, the court clerks, bailiffs, and unofficial timers may meet with a competition staff person at the courthouse about 15 minutes before the trial begins. At this time, any questions about their duties will be answered and time sheets will be available for distribution.

Prosecution teams will be expected to provide the clerk for the trial; defense teams are to provide the bailiff.

Duties of the Court Clerk

When the judge arrives in the courtroom, introduce yourself and explain that you will assist as the court clerk.

In the Mock Trial competition, the court clerk's major duty is to time the trial. **You are responsible for bringing a stopwatch to the trial. Please be sure to practice with it and know how to use it when you come to the trials.**

An experienced timer (clerk) is critical to the success of a trial.

Interruptions in the presentations do not count as time. For direct, cross, and re-direct examination, record only time spent by attorneys asking questions and witnesses answering them. Do not include time when:

- witnesses are called to the stand.
- attorneys are making objections.
- judges are questioning attorneys or witnesses or offering their observations.

When a team has two minutes remaining in a category, call out "Two"; when one minute remains, call out "One," and when 30 seconds remains, call out "30." Always speak loud enough for everyone to hear you. When time for a category has run out, announce "Time!" and **insist the students stop**. There is to be **no allowance for overtime under any circumstance**. This will be the procedure adhered to at the state finals. After each witness has completed his or her testimony, mark down the exact time on the time sheet. **Do not round off the time.**

Duties of the Bailiff

When the judge arrives in the courtroom, introduce yourself and explain that you will assist as the court bailiff.

In the Mock Trial competition, the bailiff's major duties are to call the court to order and to swear in witnesses. Please use the language below. When the judge has announced that the trial is beginning, say:

"All rise, Superior Court of the State of California, County of ____,
Department ____,
is now in session. Judge ____ presiding, please be seated and come to order."

When a witness is called to testify, you must swear in the witness as follows:

"Do you solemnly affirm that the testimony you are about to give will faithfully and truthfully conform to the facts and rules of the Mock Trial competition?"

Summary Of Allowable Evidentiary Objections For The California Mock Trial

1. **Creating a Material Fact:** “Objection, your honor. The answer is creating a material fact that is not in the record,” or “Objection, your honor. The question seeks testimony that goes beyond the scope of the record.”
2. **Relevance:** “Objection, your honor. This testimony is not relevant to the facts of this case. I move that it be stricken from the record,” or “Objection, your honor. Counsel’s question calls for irrelevant testimony.”
3. **Foundation:** “Objection, your honor. There is a lack of foundation.”
4. **Personal Knowledge:** “Objection, your honor. The witness has no personal knowledge to answer that question,” or “Your honor, I move that the witness’s testimony about ___ be stricken from the case because the witness has been shown not to have personal knowledge of the matter.”
5. **Character Evidence:** “Objection, your honor. Character is not an issue here,” or “Objection, your honor. The question calls for inadmissible character evidence.”
6. **Lay Witness Opinion:** “Objection, your honor. The question calls for inadmissible opinion testimony (or inadmissible speculation) on the part of the witness.”
7. **Expert Opinion:** “Objection, your honor. There is lack of foundation for opinion testimony,” or “Objection, your honor. The witness is improperly testifying to defendant’s mental state in issue.”
8. **Hearsay:** “Objection, your honor. Counsel’s question calls for hearsay,” or “Objection, your honor. This testimony is hearsay. I move that it be stricken from the record.”
9. **Leading Question:** “Objection, your honor. Counsel is leading the witness.”
10. **Compound Question:** “Objection, your honor. This is a compound question.”
11. **Narrative:** “Objection, your honor. Counsel’s question calls for a narrative.”

12. **Argumentative Question:** “Objection, your honor. Counsel is being argumentative,” or “Objection, your honor. Counsel is badgering the witness.”
13. **Asked and Answered:** “Objection, your honor. This question has been asked and answered.”
14. **Vague and Ambiguous:** “Objection, your honor. This question is vague and ambiguous as to _____.”
15. **Non-Responsive:** “Objection, your honor. The witness is being non-responsive.”
16. **Outside Scope of Cross-examination:** “Objection, your honor. Counsel is asking the witness about matters that did not come up in cross-examination.”