

The Florida Middle School Mock Trial Virtual Competition Packet



**The Justice Teaching Center for Civic Learning
Florida Southern College**



Florida Middle School Mock Trial Virtual Competition
Justice Teaching Center for Civic Learning
Florida Southern College
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Questions regarding case or competition rules, contact justiceteaching@flsouthern.edu

SCHOOL MOCK TRIAL COMPETITION 2019-2020

Dear Educator,

Thank you for your interest in the Middle School Mock Trial Competition sponsored by Florida Southern College Justice Teaching Center. This mock trial program is tailored to meet the needs of middle school students and to take place within two or more class periods with the final product being a sixty-minute recorded trial simulation. Educators have the option of requesting an attorney volunteer to aid in conducting the mock trial. We will do our best to fulfill these requests. When you are ready to videotape your trial, you may conduct the trial in your classroom or you may consider taping the simulation in a real courtroom. The trials will be judged in accordance with the attached rules and rubric utilizing the score sheet provided. Teachers should review the score sheet with students to prepare them for the judging requirements in the simulation. Projects must be submitted by midnight on February 24, 2019. You will have several months to prepare using these case materials.

Awards will be provided to the top three teams. Further details are included below. The program objectives are as follows:

- Increase student understanding of and interest in the legal system;
- Generate interest in law-related careers; and
- Improve civic and literacy skills including critical thinking, public speaking, and legal reasoning.

Thank you for considering participating in the middle school mock trial program. The program will help you meet the seventh-grade civics benchmarks:

SS.7.C.2.6 Simulate the trial process and the role of juries in the administration of justice.

SS.7.C.3.10 Identify sources and types (civil, criminal, constitutional, military) of law.

SS.7.C.3.11 Diagram the levels, functions, and powers of courts at the state and federal levels

Please review the rules carefully and watch the video clips on our website under Middle School Mock Trial Competition.

<https://www.flsouthern.edu/arts-centers/centers-institutes/justice-teaching-center/justice-teaching-other-programs/middle-school-mock-trial-competition.aspx>

Instructions

1. Read the Virtual Middle School Mock Trial Rules of Competition (enclosed) and sign the form acknowledging that you have read and understand the rules of competition.

As part of your civics or law instruction, differentiate between civil and criminal trials; trial and appellate courts; court procedures; and the role of the jury in the administration of justice. We recommend using the Steps of a Trial lesson provided on the Florida Southern College Justice Teaching Center Middle School Mock Trial page <https://www.flsouthern.edu/arts-centers/centers-institutes/justice-teaching-center/justice-teaching-other-programs/middle-school-mock-trial-competition.aspx> as well as other lessons from the free Civics Curriculum, outlined below. A supplementary vocabulary guide will also be provided. Thoroughly review the stipulations and jury instructions. For additional classroom materials, contact the Florida Southern College Justice Teaching Center at justiceteaching@flsouthern.edu.

a. Suggested lessons:

- i. Seeking the Source: Sources and Types of Law (Section 6 or Getting to the Point Benchmark SS.7.C.3.10)
- ii. Sorting Out the Courts: Levels, Functions, and Powers of Courts (Section 6 or Getting to the Point Benchmark SS.7.C.3.11)

2. Contact the Justice Teaching Center to request an attorney volunteer if needed at justiceteaching@flsouthern.edu. Assign students to roles and work to prepare opening and closing arguments, develop questions for direct and cross examination, and practice the simulation. This project includes roles for attorneys, witnesses, jury members, the bailiff, etc. Your attorney coach, a local lawyer, or a county or circuit judge may serve as the presiding judge during your simulated trial.

3. After practicing the simulation, videotape the trial, and submit the link through the online form available on the Middle School Mock Trial page of the Justice Teaching Center website. This video will serve as your entry into the Florida Middle School Mock Trial competition and will be assessed based on the attached rubric and score sheet to determine a winner. Videos are limited to a maximum of 60 minutes per Rule XV of the Virtual Middle School Rules of Competition. Teams will be limited to 2 minutes for student introductions in addition to the 60 minutes for trial presentation.

a. *YouTube videos automatically upload as public videos. To learn how to make your video private, view the following tutorial: <https://support.google.com/youtube/answer/157177?hl=en> Instructions for sharing a private video are also provided at the link above. You will also need to upload your photo and video release forms.

4. The online registration link is available on the Middle School Mock Trial page of our website at <https://www.flsouthern.edu/arts-centers/centers-institutes/justice-teaching-center/justice-teaching-other-programs/middle-school-mock-trial-competition.aspx>. You will need to complete the form online, including the YouTube link, by midnight on February 24, 2020..

5. Winners will be announced at the beginning of April.

6. The top 2 teams will be invited to participate in an in-person competition to be hosted at a location to be announced at a later date based on the geographic location of the participating teams.

Checklist for Completing the Online Form

- Registration Form to be completed online
- Student Release forms (e-mail to justiceteaching@flsouthern.edu)
- Link to the YouTube video to post in the online registration form
- Photo of Participants (e-mail to justiceteaching@flsouthern.edu)
- Evaluation Form (complete online registration link)

Parental Consent Form for Student Videos/Photographs

Student's Name (PLEASE PRINT):

School Name (PLEASE PRINT):

Parent/Guardian's Name (PLEASE PRINT):

Your child has chosen or been chosen to participate in the **Florida Middle School Mock Trial Virtual Competition**. This competition requires that students be filmed in their classroom competing against one another and their faculty sponsor must upload the video to Youtube.com. Additionally, students will be featured in appropriate newsletter publications, websites, and social media platforms.

Please take a moment to let us know your preferences regarding our use of videos and/or photographs taken of your children while participating in this competition:

YES. I grant permission to the Justice Teaching Center to use and publish photos and videos of my child on Youtube.com, websites, and other social media platforms for competition and program-related purposes only. I understand that YouTube's privacy settings vary and the general public may be able to access the video of my child competing.

-OR-

NO. Please do NOT take or use any videos or photographs of my child. I understand that if I have checked this box my child cannot participate in the Florida Middle School Mock Trial Virtual Competition.

Parent/Guardian's Signature:

Date:

TRIAL OVERVIEW

- I. The presiding judge will ask each side if they are ready for trial.
- II. Presiding judge announces that all witnesses are assumed to be sworn.
- III. Opening Statements - no objections allowed. No rebuttals allowed.
- IV. Cases presented. All witnesses must be called per side.
- V. Closing Statements - no objections allowed. Plaintiff/prosecution may reserve time for a rebuttal.
- VI. No jury instructions need to be read at the conclusion of the trial.
- VII. A total time of 60 minutes will be allotted for the trial presentation. See Rule XV in the Virtual Middle School Rules of Competition.

2019-2020 Middle School Mock Trial Case:

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CASE SUMMARY

The case summary is offered as an overview and may not be used as evidence in the case.

Jules Simpson and Riley Butler met freshman year of high school and immediately became best friends. During their junior year of high school, Riley and Jules attended a party and, following the party, Riley took pictures of Jules with his/her smartphone next to the rival school's mascot, Wally Gator. The next day, Wally Gator was found vandalized. The destruction of the mascot resulted in an inconclusive criminal investigation and caused significant tension in the community.

As junior year came to an end, Jules and Riley started to become distant because of changing interests. Jules was elected to the position of Student Government President and gained a lot of popularity. As a result, Jules began spending less time with Riley. Riley spent more time focused on his/her passion of writing and producing music.

One night after a fight with Jules, Riley posted the pictures from the prior year onto MyFace, a popular social media site. Jules was tagged in several pictures, including photos that showed Jules with the rival school's mascot the night it was vandalized. The photos were made public and as a result, Jules was removed from SGA and placed on probation from the soccer team. Additionally, Jules became the new focus of the criminal investigation of the vandalism of the rival school's mascot. Riley maintains that the pictures were not posted with malicious intent, but simply as a mass upload of pictures from junior year.

Additionally, Riley frequently posts lyrics on his/her MyFace fan site. Jules believes that these lyrics contain threatening messages. Jules became alarmed by the lyrics and distressed over the pictures being posted for the public to see. Jules reported Riley. Riley was arrested and charged with aggravated stalking -

cyberstalking under Florida Statute 784.048 and photo cyberharassment under Florida Statute 784.0489, a **fictional** Florida statute based on Florida Statute 784.049.

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT IN AND FOR SPRING
COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,
Prosecution,
v.
Riley Butler,
Defendant.

Case No. 19-0011-H

INFORMATION

In the name, of and by the authority of the State of Florida:

L. Atticus Finch, State Attorney for the Twenty-First Judicial Circuit of the State of Florida, charges that in Spring County, Florida the above-named Defendant committed the following crimes.

COUNT I

On or about March 21, 2019, in violation of Stalking by Cyberstalking pursuant to section 784.048 (3), Florida Statutes, Riley Butler willfully, maliciously, and repeatedly engaged in cyberstalking, publishing communications that established a credible threat towards the victim.

COUNT II

On or about March 21, 2019, in violation of Photo Cyberharassment pursuant to section 784.0489¹, Florida Statutes, Riley Butler posted photos of the victim with the intent to cause substantial emotional distress.

Jake Tyler Brigance

Jake Tyler Brigance, Assistant State Attorney
STATE OF FLORIDA, SPRING COUNTY
ATTICUS FINCH, STATE ATTORNEY
TWENTY-FIRST JUDICIAL CIRCUIT

¹Fictional Florida Statute based on Florida Statute 784.049

STIPULATIONS

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

1. Florida Middle School Mock Trial Rules of Evidence and Procedure apply.
2. All of the exhibits referred to above are authentic and accurate copies of the documents. No objections as to the authenticity of the exhibits may be made. Exhibits may still be objectionable under the Florida Middle School Mock Trial Rules of Evidence and Procedure and will require a proper foundation for admission. A foundation must be made for the submission for each piece of evidence, and the documents are not automatically admissible.
3. All witness statements were given under oath.
4. All charging documents were signed by the proper parties.
5. Jurisdiction and venue are proper.
6. The arrest warrant was based on sufficient probable cause and properly issued.
7. The school guidance counselor is a qualified expert witness and can testify to each other's statements and relevant information they would have reasonable knowledge of from other witness statements.
8. The absence of photographs may not be questioned, although the total number of photographs that were posted (55) may be mentioned.
9. All physical evidence and witnesses not provided for in the case are unavailable and their availability may not be questioned.
10. Neither party can challenge the authenticity of the exhibits.
11. The identity of the person(s) named in the photo exhibits may not be challenged. Faces are not visible in order to allow students to portray the characters. Jules Simpson is in every picture in Exhibit A and Exhibit B
12. Beyond what's stated in the witness statements, there was no other forensic evidence found in this case.
13. All witness statements were taken in May 2019.

WITNESS/EXHIBIT LISTING

Prosecution:

1. Jules Simpson
2. Campbell Ramsey
3. Dr. Charlie Kimball

Defense:

1. Riley Butler
2. Jackie Thompson
3. Dr. Dakota Ross

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

**Witnesses may be male or female.

EXHIBIT LIST

Only the following physical evidence may be introduced at trial:

2. Exhibit A: MyFace page of Riley Butler
3. Exhibit B: Pictures posted by Riley Butler
4. Exhibit C: MyFace Fan page of Riley Butler
5. Exhibit D: Sunshine Police Department Crime Scene Photos

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
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Riley Butler,
Defendant

Case No.: 19-0011-H

_____ /

SWORN STATEMENT OF JULES SIMPSON

My name is Jules Simpson. I am seventeen (17) years old and I live with my mother and father on 222 Hiawasse Trail. I have lived in Park City, Florida all of my life. I am currently a senior attending Park City High School and am preparing to head to college.

Upon starting high school, the first person I talked to was Riley Butler. Riley had just moved to Park City, Florida, so s/he didn't know anybody. Thinking back now, we met at high school orientation. Both of us were excited, but at the same time nervous. It felt like we became best friends overnight.

When I met Riley, it really seemed as if we knew each other, all of our lives. Riley and I made the soccer team together and pretty much did everything together. However, Riley always seemed to excel more in music and the arts. Riley writes and composes all of her/his own music. When I first met Riley, most of her/his music was acoustic, and had a happy beat. To bring attention to her/his music, Riley uploads all of her/his songs and lyrics onto her/his "MyFace" page.

From freshman through junior year of high school, Riley and I continued to do everything together. We were both there for each other through soccer competition losses, and through the stresses of our classes. Riley was more introverted than I was and pretty much kept to him/herself. In February 2018 during a soccer practice where Riley got in some trouble. Campbell Ramsey was messing with Riley and told him/her to loosen up. Campbell then said something negative

about Riley's mom. Riley lost it. S/he punched Campbell in the face and a small brawl broke out. I had never seen Riley act like that. Campbell Ramsey was one of the best players on the soccer team and one of the most popular kids in school. I knew that because of Riley, Campbell would probably never talk to me again.

Despite the incident, Riley and I made the varsity soccer team our junior year. Before our first game we were invited by some of the seniors to a house party on March 23, 2018 to celebrate our achievement. Specifically, Campbell Ramsey, came up to us to personally invite us. I was so surprised, but I knew if we wanted to fit in with Campbell and his/her crew, Riley and I had to attend. Riley said s/he was over the past and it was just one bad day – no grudges held. Both Riley and I attended the party at Campbell's house on March 23, 2018, and while I was having a good time, Riley seemed to stay on the side not talking to anyone. While still at the party, Campbell thought it would be fun to pay a visit to the rival school's mascot, Wally Gator. I couldn't believe that Campbell was actually including us in his/her plans, so I told Riley that we had to go. Riley mentioned that s/he had music practice or something in the morning so s/he couldn't stay long if we went. I rode with Riley to Hurricane High School where we met up with Campbell, Campbell's best friend Jay Cross, and some other people from the soccer team. I grabbed my stuff out of Riley's car and we made our way into the stadium. When we got to the mascot, we all decided to take our picture with it on Riley's phone. Before Riley left, Riley took a picture of me with the mascot so I would never forget this night. Campbell, Jay and I stayed around a little longer just to hang out before they drove me home. I didn't hear from Riley the rest of the evening. That same night, Wally Gator was vandalized at Hurricane High School. I immediately started freaking out because I knew we saw Wally Gator the night it was vandalized, and I had taken pictures with it! I called Riley the next day and told him/her not to post the pictures on MyFace as they were for our own enjoyment and were taken solely as a private joke. I couldn't even imagine what I would do if those pictures somehow were released. S/he asked me if I had anything to do with it. Of course, I didn't. I was angry that Riley would even ask that. I could get kicked off of the soccer team, suspended from school, or even arrested for something I didn't do!

A criminal investigation followed the destruction of "Wally Gator". The school resource officer and local police officers interviewed all of the members of the soccer team. I remember still being nervous knowing that there were pictures of me out there with Wally Gator. Campbell kept reassuring me that since we didn't do anything, there was nothing to be afraid of. Junior year finished, and I was hopeful that the whole thing was behind us. However, beginning

senior year, things began to change between me and Riley. I was elected to the position of Student Government President and began to make friends with my fellow Executive Members. I was also named Captain of the soccer team. Riley kept making fun of me and saying that was a position just for bragging rights, but for me it felt like so much more. Both of these positions made me a leader, and I was enjoying the attention these leadership positions were providing me.

Because I had to campaign for the position, I had to get my name out there and developed a lot more friends. Riley seemed to become even more jealous and s/he sometimes would stop responding to my text messages. Oftentimes, s/he would cancel our plans. Riley started calling me a “Campbell-wannabe.” S/He kept accusing me of being somebody else.

One evening, in particular, at the beginning of January 2019, things got pretty heated between Riley and me as I called her/him out for constantly blowing me off. Riley freaked out on me and told me I had become too cool” for her/him and I was the one who had disappeared. I had never seen Riley this mad before – even when Riley flipped on Campbell. I’m glad that was a conversation I had over the phone – who knows what Riley would have done to me.

That evening, I logged onto MyFace and immediately the pictures of me with Wally Gator popped up on the screen. Riley posted the pictures from our junior year on MyFace for the world to see. People were commenting and “favoriting” the pictures. To make matters worse, my face was tagged in the pictures, so it came up on my profile page for all to see! Even my parents! I honestly have no words to explain how mortified I was. One of our classmates, Tony Ferrari, posted a comment earlier that evening about who might be responsible for vandalizing Wally Gator. Riley replied to the comment with, “Hm, I wonder who destroyed the Hurricanes’ mascot, Wally Gator!?” (Wink face)”. Based on the timeline, that was right before the pictures were posted. And it’s not like Riley didn’t know what s/he was posting – you have to select individual pictures to upload them. Everyone who uses MyFace knows that.

The next day at school, the school resource officer, a couple of police officers, and the principal pulled me out of calculus class and questioned me regarding Wally Gator. They told me that they had not found the actual person who had done it, however, they suspected from the beginning that it was somebody on the soccer team. The police informed me that they are going to do a serious investigation to see if I was the culprit. The principal confronted me with the pictures of me with Wally Gator and said that I was being removed from my position as SGA president and put on probation from the soccer team. I didn’t even get the chance to explain. I completely broke down. Riley ruined my life. This has affected

my college applications and my college scholarships have been rejected because of this accusation.

And then it got worse. I noticed that Riley's lyrics had been changing on his MyFace profile. Riley was working at the local sporting goods store, but I heard that s/he was recently fired. I am beginning to worry that Riley's latest song "Oh Jude" is part of her/his plan to frame me for vandalizing Wally Gator. Riley was a big Beatles fan and told me a story about how the song "Hey Jude" was originally written for John Lennon's son, Julian, who was known as "Jules", just like me!!! The other song lyrics have made me feel threatened and I am so scared of what Riley is going to do to me next. My grades are slipping, my parents won't look at me, and the whole school sees me differently. I just can't take much more.

I have been in a really bad place, so I met with the school guidance counselor. I told him/her everything and how Riley's lyrics have changed. The counselor told me that anything I told her in secrecy would stay that way unless I decided otherwise. The school guidance counselor has been helping but I am still struggling. I feel so hurt. I trusted Riley and now s/he's ruining my life. Riley continues to post lyrics and songs about me – the song that Riley was going to post next was called "If I Tell". There is no doubt in my mind that Riley wrote those songs to intimate and bully me. I had no choice but to go to the police and tell them what was going on.

/s/ Jules
Simpson

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SPRING COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,
 Prosecution

v.

Riley Butler,
 Defendant

Case No.: 19-0011-H

_____ /

SWORN STATEMENT OF CAMPBELL RAMSEY

My name is Campbell Ramsey. I'm nineteen (19) years old and I am a freshman studying at Southeast Florida University. I recently graduated from Park City High School. At Park City High School, I was Captain of the soccer team, Treasurer of the Student Government, voted onto the Homecoming and Prom Court for the last two years, and got "Most Popular" for Senior Superlatives. I guess you could say I was pretty much a "boss" at Park City High School. People call me that sometimes.

When I graduated, Jules Simpson, a senior at Park City High School, was named Captain of the Soccer Team. Jules is a year younger than me and proved to be qualified for the part when s/he joined the Varsity Soccer Team. I'm glad Jules got rid of her/his little sidekick Riley as Riley never quite fit in with the rest of the Soccer Team, or really anybody else at school. I told Jules to watch out for her/him – the kid is weird. S/he was always giving me these crazy looks, trying to show me up on the soccer field, and one time even told me I needed to stop "brainwashing" her/his friend. Then there was the time I made a joke about Riley's mom. I was just messing around with Riley and the kid wouldn't crack a smile. Then Riley hauled off and punched me in the face. We fought it out, coach pulled us apart, and then filed an incident report against Riley. I had a bloody nose and a black eye. Whatever – it was a one-time thing and Riley did apologize a few weeks after it happened, but I watched my back.

For as long as I can remember, it has been a tradition at Park City High School to celebrate the new Varsity members on the soccer team. When I was Captain, I knew I had to continue the tradition. On March 23, 2018, I decided to throw a party to get to know all of them. Of course, I invited Jules - I knew s/he would be a great asset to our team and probably the person that would take my place as Captain when I graduated. It started as a small get-together for soccer members only. Well, like most parties, it quickly got way bigger than intended and all kinds of people started showing up. People started drinking and smoking. Not my scene really, but I just rolled with it – no big deal. I have to admit, I was a little thrown off when I saw that lunatic, Riley, walk through the door with Jules at the party, but whatever. I was only really talking to Jules about coming to the party, but I guess Jules's shadow just had to tag along.

Towards the end of the evening I got this idea to pay a visit to our rival high school, Hurricane High School, and show our new teammates their stupid mascot, Wally Gator. Jules, Jay Cross, Tony Ferrari, and a few other people came with us, too. I really didn't want to invite Riley as s/he made me uneasy, but I knew Jules wouldn't go without her/him. Luckily, Riley said s/he had to leave early so I knew s/he wouldn't be there for long. Riley and Jules drove together, and the rest of the crew rode with me. As soon as we got there, we parked outside of the stadium and walked right in to where Wally Gator was. Once we got inside, we started climbing on Wally Gator and messing around on the bleachers. Riley snapped some pictures of us and then left. We hung around for about 15 minutes just talking. Because it's tradition to mess with the newbies on the team, Jay and I skipped out and left a few of them at HHS without a ride. We went up to the convenience store, got a drink, and then came back and got them. We were probably gone 15 minutes – just enough time to get them riled up. When we got there, Jules was sitting in the parking lot alone. S/He said the others had gotten mad we left them and called someone to come get them. Jules didn't want to get in the car because the guy driving had been drinking, so I took Jules home.

The news the next day showed that the mascot, Wally Gator, had been vandalized. The soccer team knew better than to do anything that stupid. I had already gotten in trouble for shoplifting my sophomore year in high school and I was open with the team about how terrible a decision that was and that it was critical we all stay out of trouble. When the police came to the school on March 26, 2018, Jules seemed to be so nervous about the whole thing, I told her/him s/he didn't have anything to worry about. Jules said something about Riley and I just told her/him that the best thing to do was to get rid of her/his weird sidekick, Riley. Evidently, Riley must have heard what I said because right after that, at that

moment, Riley walked past and said to me, “You should watch yourself, boss.” I decided to take my own advice and steer clear of Riley.

Jules seemed to listen to everything I told her/him. S/he became Student Body President at Park City High School during senior year. S/He was making the soccer team proud and I knew s/he was going to be a great Captain and keep up the reputation of the team. However, it doesn’t look like s/he took my advice about her/his friend as I recently saw that Riley put all of these pictures of Jules up on her/his MyFace page. I’m not even “Friends” with Riley on MyFace but I saw all of the pictures on Jules’s page. When I clicked on Riley’s MyFace page, I saw that it was public so that I could also see all of the pictures of Riley with Wally Gator the night it was vandalized.

Luckily, I am long gone from Park City High School but Jules told me that the police and the principal pulled her/him out of class because of what happened to Wally Gator and because of the pictures from the night of the party. Because of Riley, Jules got removed as SGA President and put on probation for the soccer team.

I knew Riley was trouble. I think s/he’s just jealous because Jules was Captain and was popular at school. I think Riley just wanted revenge. I feel bad for Jules, though because if I can see the pictures, I’m sure others in college can see them, too. I know a bunch of people at Sunshine have seen them as I keep getting phone calls about it. Everybody is talking about them.

Recently, I clicked again on Riley’s page to see what other mean things s/he had done to Jules. One of her/his song lyrics is titled, “Oh Jude” I immediately called Jules worried for her/him as I know Riley wrote that song about her/him, and I am honestly afraid that Riley may try to harm Jules. There are even some lyrics on there that make me a little uncomfortable – it made me think Riley is targeting me, too. “Hey boss, you need to be demoted. Click, click, boom,” in his song, “But I Won’t” - what the heck is that supposed to mean? It was written around the time he told me that I should “watch out boss”. Should I be worried that Riley is after me, too? A protective order isn’t sounding like a bad idea based on that. Thankfully I am no longer at Park City High School, or I’m sure s/he’d come after me, too!

/s/Campbell
Ramsey

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
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STATE OF FLORIDA,
Prosecution

v.

Riley Butler,
Defendant

Case No.: 19-0011-H

_____ /

SWORN STATEMENT OF DR. CHARLIE KIMBALL

My name is Dr. Charlie Kimball. I'm fifty-five (55) years old and am a school psychologist with Park City High School. I've been in this field for twenty-seven (27) years. I received my Doctoral and Master's degrees from the University of Sunville, and a B.A. in psychology from Sunhill University, graduating summa cum laude. In addition, I've kept up with the latest research in children's psychology, specifically teenage psychology, through continually reviewing mental health medical journals and attending conferences. I have testified as an expert witness in approximately ten (10) trials.

My involvement began when Jules Simpson, one of my students at Park City High School, was elected as the SGA President. As the sponsor of this program I have had the privilege of working with Jules on a weekly basis. Jules is a hard-working, kind, popular, and proactive student. Jules is an upbeat personality with so much to offer this student body. The only negative trait I can speak to about Jules is her/his need to please people. Jules cares a lot about what others think and wants to impress everyone.

It wasn't until the second semester of Jules 's senior year that s/he sought out my counseling services. As the guidance counselor and the SGA sponsor, I had been made aware of the situation involving both the vandalism of Wally Gator and the pictures posted of Jules. Jules had been removed from the Student Government Association and was placed on probation for soccer. SHS has a zero-tolerance policy regarding the consumption of alcohol by students, but I found it

hard to believe Jules would be engaging in this behavior. I was surprised when I saw the pictures on MyFace. I have an account and they were made public. Anyone could see them.

I had seen a change in Jules recently so I must say I was very glad s/he had sought me out. Jules seemed anxious and sad, I would go so far as to say depressed. Upon setting an appointment with Jules, I reviewed Jules's grades and I noticed a significant drop in her/his academic performance. During our session Jules expressed being upset and angry as s/he was just taken out of her/his class by a police officer and the school resource officer regarding a vandalism incident that occurred the year prior at another high school. Jules was humiliated by having all of the students and the teacher see the police come in for her/him and by the pictures that Riley had posted. Jules insisted those were to remain private and were only posted as a means of humiliating her/him and framing her/him for a crime s/he did not commit. Although I did not and cannot ask Jules about the events that occurred a year ago, Jules kept reiterating to me that s/he had been framed and wanted to see the person responsible held accountable. As a school guidance counselor, I do not issue complaints or discipline students, however, I am here to talk to students and try to assist the students that may need counseling services.

At our next session, Jules expressed anxiety due to the recent threats s/he received from Riley on Riley's MyFace page. MyFace is a social media site that has become quite popular with the students at my high school. MyFace allows the students to upload pictures, and virtually communicate with each other. While there are benefits to MyFace, like making connections with other students, lately it has also been shown to be a negative tool for students as students sometimes do not have control over what other students may post. I see and hear about all kinds of bullying and harassment through MyFace on a regular basis.

From what Jules has been telling me, it appears that Riley had been harassing Jules through her/his MyFace page. Jules informed me that Riley is really into music, especially the Beatles, and had been using her/his song lyrics to bully her/him and write mean things directed at her/him. Based on this information, I went to speak with our music instructor at Park City High School, Frankie Thompson. I told Ms./Mr. Thompson that a student was concerned about one of Riley Butler's song lyrics and s/he may want to look into it. Ms./Mr. Thompson told me s/he would look into the matter and talk with Riley. I did review the lyrics as provided by Ms./Mr. Thompson.

I found them to be potentially dark and threatening in nature. Although Jules was never specifically named, Riley did utilize the name “Jude” in her/his song. Any Beatles fan, like Riley Butler, would know that the song “Hey Jude” by the Beatles was written for the son of John Lennon, Julian, whose was known as “Jules”. This makes it clear that the target of this aggression used by Riley points to Jules Simpson.

After my sessions with Jules Simpson, I felt a meeting with Riley Butler was prudent. Prior to this incident, I had only ever spoken with Riley once. During Riley’s sophomore year, there was an altercation on the soccer field with Campbell Ramsey. When I talked to Riley, it was clear to me that s/he was having problems with Jules. Riley was very defensive when s/he was talking to me at our first meeting. S/He let me know that s/he did not need any help and did not appreciate me critiquing her/his music when “I did not have any idea what I was talking about” and “clearly had no appreciation for good music.” S/He told me that her/his influence was the music of the Beatles and knew everything there was to know about the Beatles.

S/He let me know that s/he was very hurt that people had been talking to her/him negatively about her/his music as it is therapeutic for her/him and helps her/him deal with her/his problems. I asked Riley if the songs were generated towards anybody in particular and s/he responded by saying that they were not. S/he said “I write my music based on my feelings and not toward anyone in particular”, and again mentioned the Beatles. When asked whether s/he knew the origins of the song “Hey Jude” and how it was written for John Lennon’s son, Julian, her/his response was that her/his father told her/him this was not a true story and none of her/his songs had anything to do with Jules Simpson. Riley also made it clear that it was also time that it is “about time that the truth got out.” When I asked her/him what s/he meant by that statement, s/he responded by saying, “You will see. I don’t feel like talking about it anymore anyway.” This conversation was the last time I spoke with Riley Butler.

I have come to the opinion that Jules’s distress is a direct result of Riley’s actions. I have also come to the opinion that Jules is still suffering anxiety and is constantly in fear that s/he may also be physically harmed by Riley. Further, I have come to the opinion that Riley Butler is currently showing signs of depression due to the fact that s/he and Jules are no longer friends. My assessment is that the lyrics written by Riley Butler were directed towards Jules Simpson and had a direct effect upon Jules.

Prior to this incident, Jules did not have any other real “stressors” in her/his life, besides the typical day-to-day stress of being a high school student preparing to go to college. Due to the extreme sadness and anxiety that Jules was suffering and continues to suffer, I have begun to meet with Jules on a weekly basis. Jules feels that “Riley is trying to ruin her/his life.” Jules and I are working towards preparing her/him for college, however both her/his parents and s/he have expressed fear of her/him going away due to her/his current state of mind.

/s/ Dr. Charlie
Kimball

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SPRING COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,
Prosecution,

vs.

Case No. 19-0011-H

Riley Butler,
Defendant.

/

SWORN STATEMENT OF RILEY BUTLER

My name is Riley Butler. I am seventeen (17) years old and live at 189 Fairchild Way, in Sunshine, Florida with my mother. My father passed away when I was about eight years old. He suffered from depression and took his life just before my eighth birthday. It's really hard to talk about.

We moved to Park City, Florida from California right before the start of high school because my mother got a new job. I quickly got a job at the local sporting goods store so I could help my mom out with some of our expenses. Being raised by a single mom is hard sometimes, especially for her, but we are a great team and it's rewarding to know we are doing alright on our own.

It was my Dad that first introduced me to music. Beginning in elementary school, he got me my first pair of drumsticks. Before we both knew it, I was using everything in our house as drums. I feel like music understands some of the troubles I have experienced. My music is inspired by some of my favorite artists, but my favorite group is definitely the Beatles. I know everything about the Beatles, the stories behind the songs as well as all the lyrics to their songs.

Being that I was new to Park City, I was very nervous to begin high school. I remember the first person I met was Jules Simpson. Jules was immediately nice to me, and we quickly became best friends. Jules was really funny and nice –

we did everything together. When Jules decided to go out for the soccer team freshman year, I figured I would try out, too. We both made it and the rest is history.

Jules and I became inseparable our freshman year of high school. I became very interested in music, especially writing music, so I decided to get a “MyFace” page so I could virtually share my music. I wanted anybody and everybody to be able to listen, so I decided to make my profile “public” rather than “private”. In no time, I started to get lots of “friends” and “followers”, including students from our high school. Along with actual songs, I also post my lyrics to my MyFace page.

My music was getting noticed by a lot of people, soccer was going well, and I was getting awesome grades. The only problem I really had in high school was one small incident with Campbell Ramsey my sophomore year. Campbell can be a jerk sometimes – I think that’s what popularity can do to a person. One day at practice Campbell was messing with me – calling me names, singing my songs at me in a stupid voice, and tripping me when I was running. I just didn’t let it bother me. He always thought he was the boss of everyone on the team, but quite honestly, he was not worth my time.

Junior year of high school, Jules and I decided to try out for the Varsity soccer team and we both made it! I was surprised because Jules is definitely the better athlete, but at least I got to spend more time with my best friend. To celebrate getting on the team, some of the older students invited us to a party. The captain of the Varsity soccer team, Campbell Ramsey, came to personally invite Jules to the party. I’ve never seen Jules act so weird before. Jules never cared about popularity and suddenly all s/he wanted to do was go to the party to see Campbell.

All of the popular kids and athletes from school were at Campbell’s party on March 23, 2018. Towards the end of the night, Campbell was talking about how it would be a fun idea to visit the Hurricane High School mascot, Wally Gator, on our way home. Naturally, Jules thought it was it would be fun, so I tagged along with some other people from the soccer team. I had a bad feeling about going, so I made up the excuse that I had an early morning music lesson and I would have to leave as soon as we got there. When we got there, I took a few pictures of Jules and other people with the mascot. I knew we’d laugh about it the next day. Jules stayed behind with Campbell when I left. I just drove around for a little while and then went home.

The next morning, my mother was reading the newspaper. I saw on the front page that the Hurricanes' mascot, Wally Gator, had been vandalized the same night that I had taken Jules's picture with it. Within an hour of me seeing the newspaper, Jules called me and was going on and on about the whole night and the pictures. S/He sounded nervous. When I asked Jules if s/he knew anything about what happened to Wally Gator, s/he quickly responded, "No, obviously. Why would you think I would know anything? You were there!" Jules never lied to me in the past so I figured s/he was just nervous about it all and decided I wouldn't ask any more questions. That weekend, everybody at school was posting on their MyFace page about Wally Gator.

When we returned to school, I guess the police started an investigation to see if they could find out who vandalized Wally Gator. The police interviewed the members on the soccer team because we had an upcoming game against the Hurricanes. Neither Jules nor I told the police that we visited the mascot, Wally Gator, the same night it was vandalized. Campbell and Jay even told Jules and me that if we told anybody that we visited the mascot, they would do everything in their power to kick us off the team. I remember Jules was really nervous regarding all of the police at the school.

Things calmed down from there. Going into the summer. I noticed all Jules could talk about was college and senior year. I do not plan on going away to college as I know my mom needs me, and college just doesn't seem like the thing for me. Around this time, Jules started acting different, and talking to students who we never interacted with before. Unlike our junior year s/he started to ignore me whenever popular people were around.

Senior year, Jules became even worse and it really started to take a toll on our friendship. S/He became President of the Student Government and started to act like s/he was too cool for me. One day, I was even walking in the hallways and Jules didn't even say hi to me or acknowledge me because s/he was with her/his "new" friends. S/He only wanted to hang out on weekends, and at places where s/he thought nobody would see us. I was mad and around January 2019, I let Jules know how I felt. Jules was disappearing from my life and it was upsetting me. I thought we were best friends!!!

On March 21, 2019, almost a year after Wally Gator was vandalized, some of our friends started to post about it on their MyFace page. The police never found the actual culprits. Specifically, one of the other players on the soccer team Tony Ferrari, wrote a "status update" asking us who we think "Wally Gator's murderer" is. I thought it was funny that

Tony was making it into such a mystery that I decided to comment in a joking manner and write, “Gee, I wonder who the murderer is! (Wink face).” I was not accusing anyone, and did not mention anyone’s name, I was just making a playful comment.

That same day, Tony Ferrari’s post got me to think about junior year and how much fun Jules and I used to have. I noticed I had not uploaded a lot of pictures from my smartphone onto my MyFace page, and I figured that adding more of a presence and more of my actual experiences may bring more people to my page to listen to my music. I uploaded 55 pictures, but I guess amongst the pictures were the pictures of Jules from the party, and Jules with the mascot. Also, MyFace has this new feature where it facially recognizes who is in the picture if you take a lot of pictures with them. Without me knowing, I guess it tagged Jules in the photos. I intended no harm.

Thinking about all of the times Jules and I had together made me, and still makes me sad. It caused me to listen to my favorite group, the Beatles. Listening to the music was therapeutic and seemed to make my troubles and sadness fade away. My father loved the Beatles, and it brings back good memories of my father. As I said, I don’t write any of my songs specifically directed at anybody in my life, however my songs do reflect my feelings. They’re about my total life experience, not individual moments.

I guess Jules seems to think that everything on my MyFace page is all about her/him. Jules also complained to the school guidance counselor as s/he called me into her/his office to see if something was wrong. I defended myself and my music. I told my guidance counselor that I was sad about losing Jules, however, all of my lyrics and songs were from songs I listened to from The Beatles. There was absolutely nothing malicious about my lyrics, nor were they directed at anyone.

I posted the pictures to reminisce on times past, not to get anyone in trouble or to “ruin” someone’s life. I’m not sure where Jules is getting these crazy ideas from, I think maybe s/he has something to hide. Now that I think of it, ever since the day that Wally Gator was vandalized, s/he was never the same. Like I said, I am sad about losing him/her as a friend, but I don’t write songs about specific people.

/s/Riley Butler

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SPRING COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,
Prosecution

v.

Riley Butler,
Defendant

Case No.: 19-0011-H

_____ /

SWORN STATEMENT OF JACKIE THOMPSON

My name is Jackie Thompson. I'm thirty-seven (37) years old and I am a music instructor at Park City High School. I also am a mentor and tutor to those students interested in a career in music. I graduated from Rosewood University with a dual degree in music education, and music history and literature. I then continued to get my Master's in education, also from Rosewood University. This will be my first time testifying in a court proceeding.

I've been at Park City High School for about eight years now. I've really enjoyed my time here connecting with the students and their love for music and the arts. Music can connect and really become part of a young person's life and I am so happy that my job allows me to mix my love for education and music. Some students know early in life that they want to pursue a career in music, so I also work as a mentor and tutor to provide additional lessons and help to those students.

Throughout my years at Park City High School, I have noticed that some of the students may not have the best living situations or may have other stressors in their life, however music allows them to forget their problems. I like to stress to these students that music can be therapeutic and helpful to their disposition. I can't tell you how much I love my job in that I can better help my students' lives and offer them a form of therapy, rather than having the students' stressors

bring them down and possibly into trouble. I work hard to ensure that my classroom is a safe and happy environment for all of my students.

Riley Butler joined my class halfway through her/his freshmen year and I immediately knew s/he was going to be a special student and an asset to our music program. Riley let me know that s/he writes all of her/his own songs based on musicians s/he likes, and that s/he can do both vocals as well as read and interpret music. Riley had a special connection to the music of the Beatles and would use Beatles references in most of her/his music. S/He told me that her/his father passed away early in her/his life, and the Beatles were her/his father's favorite group. Riley also let me know that s/he is very serious about her/his music and wanted to know if I would begin to offer her/him private tutoring lessons. S/He mentioned that it was just her/him and her/his mother, and that her/his family did not have much money. Because I know Riley has a lot of talent, I agreed to give her/him lessons for free to help her/him jumpstart her/his music career.

I remember when I began giving Riley lessons that s/he told me about her/his best friend, Jules Stowe. Jules is another student at Park City High School. Riley told me that Jules talked her/him into getting a MyFace page to promote her/his music. I remember telling Riley that I have heard a lot of bad things about MyFace from both other students and reading articles about it, and to be careful as to what s/he posts to her/his page

In December of Riley's senior year, I became concerned about Riley. Her/his music was always happy and upbeat and I started to notice a change in her/his style. At practice, her/his new music seemed somewhat angry, and completely different from anything I have ever heard before. I approached Riley to see if everything was okay. I just wanted to make sure that s/he wasn't having problems at school or with her/his family. There were times when previously her/his music was sad or angry when s/he would write about missing her/his father, but this seemed to be a little different.

When I spoke to Riley around the middle of March of 2019, it was clear to me that s/he was having problems with her/his friend, Jules. I had always thought Jules was a good influence for Riley as I thought Jules may talk Riley into applying for colleges and maybe convince Riley to get into one of their music programs. Riley expressed a fear to me that s/he was losing her/his best friend. Riley told me that Jules had stopped talking to her/him. Riley was worried that Jules got in with a bad crowd and may have gotten into some trouble. I tried to talk to Riley more about it, but s/he didn't really

want to confide in me. Riley assured me that her/his change in music was due, in part, with Riley trying to get in touch with her/his feelings.

My teaching method is not to tell my students how to create their music, rather my mission is to guide them to better their music so I could not say anything to Riley in reference to her/his change of genre or style. I believe that music should allow a student to express her/his emotions and in my experience, this provides the absolute best therapy to avoid expressing those emotions in a physical manner. I let Riley know I was available if s/he was having any problems at home or at school, or I could help her/him to seek counseling.

About a week later, after speaking with Riley in March of 2019, police were at Park City High School as they had received tips that Jules Simpson was responsible for vandalizing the Hurricane High School mascot on March 23, 2019. I do not know the outcome of the police investigation, and I believe it is still ongoing. A short time after this, I was approached by Park City High School's guidance counselor as s/he had received news about Riley and Jules and wanted to see if I knew anything. Evidently, Jules had visited the guidance counselor in fear that Riley might try to harm her/him and that Riley had been repeatedly threatening her/him on her/his MyFace page. The guidance counselor knows that Riley is one of my students, and one of the students that I tutor.

Like I said, I've always thought that Riley was a pretty good kid, so I was quite surprised when I heard all of this news from the guidance counselor. Also, I never would picture Riley as the type to threaten or even hurt somebody. Through the years I've been teaching Riley, I would consider her/him one of those people that couldn't even harm a fly.

I knew I had to speak with Riley again after hearing this news from the guidance counselor. Riley was clearly very upset as s/he talked to me but assured me that the music was therapeutic and based on her/his feelings using Beatles songs. We reviewed the lyrics and I did not see anything I would consider threatening.

Riley and I have not discussed the lyrics of her/his music since that last incident. In fact, s/he has asked that we only meet for tutoring sessions once a week, rather than two to three times a week. I am worried about her/him as s/he has always been one of my best students, and an overall good kid and joy to have in my classroom.

/s/ Jackie
Thompson

**IN THE CIRCUIT COURT OF THE TWENTY FIRST JUDICIAL CIRCUIT
IN AND FOR SPRING COUNTY, FLORIDA
CRIMINAL DIVISION**

STATE OF FLORIDA,
Prosecution

v.

Riley Butler,
Defendant

Case No.: 19-0011-H

SWORN STATEMENT OF DR. DAKOTA REESE

My name is Dr. Dakota Reese. I am fifty-eight (58) years old, and I am currently the head of the Psychology Department at Burlington University where I oversee the department and teach psychology and other subjects. I received my undergraduate degree in psychology from Marigold University and my M.D. from Burlington University. I have worked in the scientific field of psychology for over 25 (twenty-five) years. I have been published in numerous journals and co-wrote the current textbook used at Burlington University and other psychology programs throughout the country. Currently, I am specializing and studying a new field of psychology; specifically, how the Internet and social media has impacted teenage psychology. I have testified at more than 50 (fifty) trials as an expert witness.

I was contacted by the defense and agreed to take this case pro bono. I have spoken to Riley Butler numerous times during the past couple of months and have studied her/his song lyrics and social media postings, and I have come to the opinion, based on several reasons, that the evidence does not strongly support a conclusion that Riley Butler intentionally targeted Jules Simpson.

The first reason is that if Riley chose to make virtual attacks at Jules on her/his MyFace page, s/he would have to have the correct mindset and desire to do that. Users of MyFace may post items on their MyFace page that are accessible to other users, including MyFace "friends" and even the public who are notified when new content is posted. During my first consultation with Riley, all s/he discussed with me was her/his love for music, especially the Beatles, and how it is therapeutic and helps him/her with her/his problems. I asked him/her if s/he ever wrote a song about somebody s/he loved,

and Riley told me no. I asked Riley if s/he ever wrote a song about somebody who angered him/her, Riley told me no. I asked Riley if anybody has ever been inspiration for her/his music, and s/he told if it was anyone, it was her/his father. Riley expressed sadness and anger about losing her/his father at such a young age. There are times s/he blamed her/his father for abandoning her/his family (he committed suicide as a result of depression) and other times s/he felt sad that her/his father had an affliction that he could not control and did not blame him. Per Riley, all of her/his music is inspired by different artists but mainly the Beatles, because that was her/his father's favorite group.

On my next meeting with Riley, I asked him/her specifically if s/he wrote all of her/his own lyrics that s/he posts on her/his MyFace page. Again, Riley reiterated that s/he does write his own songs, however, all of her/his compositions are derived from other songs. Next, I began to ask Riley why s/he uploaded her/his lyrics onto MyFace. Riley went into great detail on how important her/his music is to him/her especially after the events that have happened in her/his life. Losing her/his father this way has taken a deep toll on Riley and her/his mother. Riley's mother has not remarried, and since her/his father's passing, it has been just the two of them. Riley stated that her/his music is therapeutic and s/he shares the lyrics so that people from all over can understand and hear her/his music. Riley wants to bring attention to her/his music and therefore posts as much about her/his music as s/he can, and this includes her/his lyrics.

Another time I met with Riley, I discussed her/his friendship with Jules. S/He mentioned that Jules was her/his first friend when s/he started high school in a new state. S/He mentioned that Jules was her/his first "real" best friend and that at the beginning of high school they did everything together. Riley went into detail about how Jules changed once they both joined the Varsity soccer team. Riley told me that Jules began to hang out with a different crowd and began to act like s/he was cooler than everybody, mainly Riley. I really tried to dig in to see how Riley was impacted by losing Jules as a friend. I am unsure if it was because of other circumstances or the fact that I am most likely not the first person to ask Riley about this topic, but s/he appeared angry when discussing Jules. S/He also implied that Jules's response to the situation was out of guilt for something Jules had done.

Another issue I considered is the actual song lyrics. A few of her/his songs really stuck out. The song title was "Oh Jude", and the actual lyrics stated: "It's your turn to feel nothing but pain". Riley explained that this song idea came from her/his favorite. Another song "You Will Pay" had some lyrics that initially might be questionable, but did not, in my opinion, reference a specific person or establish a credible threat of any kind. Just as important, there are other songs

“Let Me Be” and “Til the End of Time” clearly expressing feelings that are positive and therapeutic to Riley.

Through my meetings with Riley, I also conclude that Riley shows no signs of aggression. It has brought to my attention by Riley that s/he was in a physical altercation on one separate occasion. Riley says s/he was provoked when a student said something offensive about Mrs. Butler. Riley has a deep attachment to her/his mother, as many children of single parents do. The comment with reference to her marital status would be deeply hurtful to Riley and spur a need to defend her/his mother. Where violence is not the best course of action, it was a normal human reaction to verbal provocation.

My opinion is that the two kids had a falling out with each other, which is typical at their age and neither intended true harm against the other. While Riley’s lyrics may come off as alarming at first sight, especially due to the seriousness at her/his age, s/he has made no admission or statements to me revealing that any of her/his lyrics were composed or written to be directed at Jules Simpson. Finally, I think it is healthy for Riley to express her/his feelings through music as s/he feels it is therapeutic and is helpful to express her/his emotions. While Riley directing her/his lyrics at Jules is not impossible, and I have seen instances of bullying and harassment online, especially on MyFace, I do not believe that was the intention through the meetings and discussions I have had with Riley.

/s/ Dr. Dakota
Reese

Exhibit A – Riley Butler’s Personal MyFace Page

	HOME MESSAGES	FRIENDS
	PAGES	

Riley Butler
User: @rileyB
Send a Message
Add to Friends
Profile Status: Public

www.MyFace.com/RileyButlerMusic

Current Posts

@rileyB_posts (March 21, 2019): #tbt Good Times!
+55 more pictures made public



GOAL
POSTS

March 21, 2019

@bigtony Tony Ferrari says (4:48pm): A year later and we still don't know who the genius was that murdered Wally Gator – wonder who it was?

@rileyB Riley Butler replied

#tbt March 21, 2019 at 5:48 PM

@Julesimpson1

Posted by Riley Butler

❤️ 103 favorites

Photo Taken March 23, 2018

Via MyFace



#tbt March 21, 2018 at 5:55 PM @Julesimpson1 @crossj @mack1

Posted by Riley Butler

❤️ 202 favorites

Photo taken March 1, 2018

Via MyFace

Exhibit B – Pictures posted by Riley Butler

Photo 1 of 3



Hurricane High
School
“Wally Gator”

#tbt March 21, 2019 at 5:48 PM

@Julesimpson1

Posted by Riley Butler

♥ 103 favorites

Photo taken March 23, 2018

Via MyFace

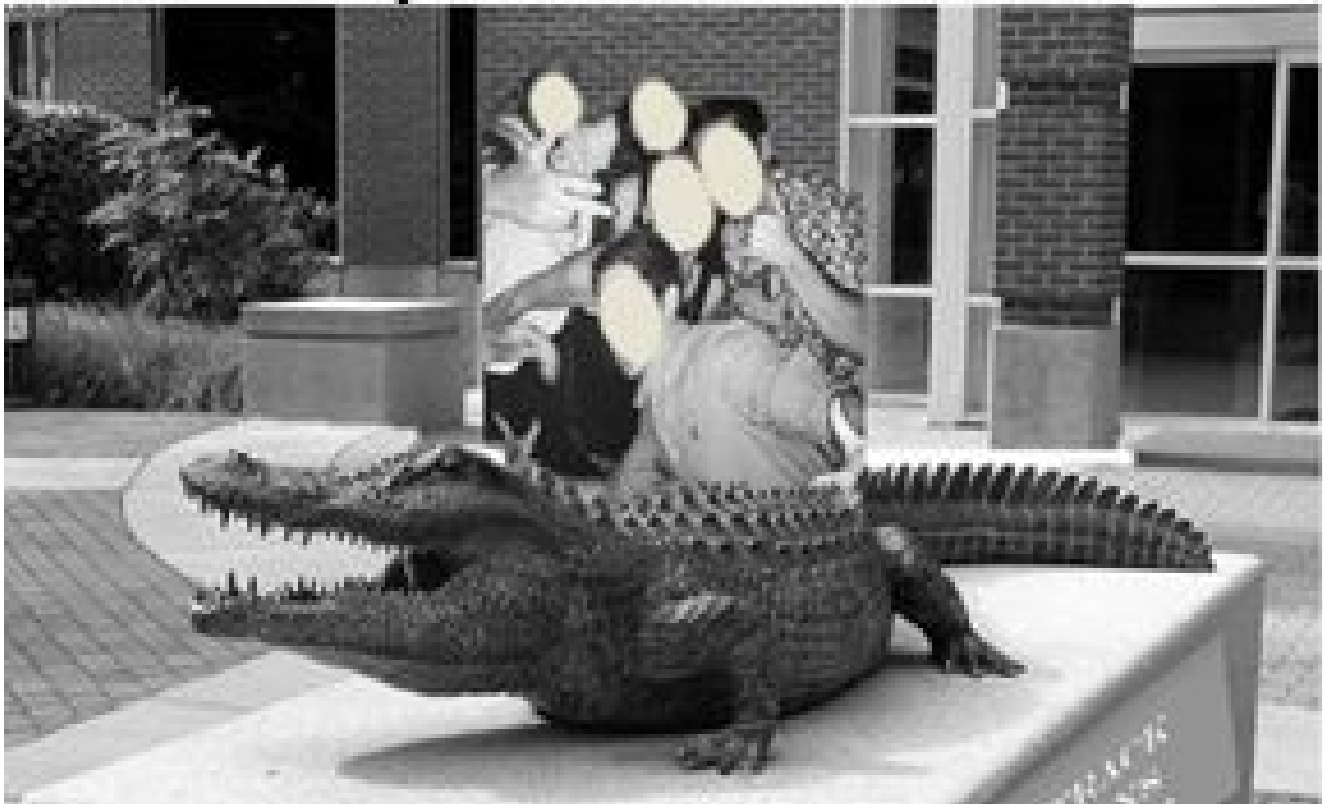
@jcrowe Jamie Crowe says...? @Julesimpson1

@Kthomp Kelli Thompson says: Bahahaha...@Julesimpson1

@TyKell Tyler Keller says: I'm sorry I missed that trip...or maybe I'm not...

▼15 more comments

Exhibit B – Pictures posted by Riley Butler



#tbt March 21, 2019 at 5:45 PM @crossj @ramcam @Julesimpson1 @bigtony

Posted by Riley Butler

♥ 315 favorites

Photo taken March 23, 2018

Via MyFace

@jakers Jake Goodman says: Wait a minute...what night was this?

@dandre D'Andre Peters says: Someone has some explaining to do!

@TayTay Taylor Harris says: Poor Wally Gator...

▼ 15 more comments

Exhibit B – Pictures posted by Riley Butler

Photo 3 of 3



#tbt March 21, 2019 at 5:55 PM @Julesimpson1 @crossj
@mack1
Posted by Riley Butler
❤️ 202 favorites
Photo taken March 1, 2018
Via MyFace

@dane_Dane Peters says: Team, team, team! @Jules stowe1

@tateman_Tate James says: Teamwork is the BEST work!

@sarahbarlow_Sarah Barlow says: Together, you are unstoppable!

▼ 10 more comments



HOME MESSAGES

FRIENDS

PAGES

Riley Butler

Music

Fan Page

<p>Send a Message New Post! 3/21/19</p> <p>♥ Favorite (489)</p>		
<p>About Riley Butler Music is about an expression of self, of finding your innermost feelings and sharing them with the world through music.</p> <p>“You don’t need anybody to tell you who you are or what you are. You are what you are!” – John Lennon</p>	<p>Oh, Jude Oh Jude Look what you’ve done All your lies Can’t make things better You do nothing but look out for yourself And you deserve to learn to suffer</p> <p>Oh Jude You just don’t care You just want to Act like a victim The truth is, you did this to yourself And there’s no one else That can make things better</p> <p>You let me down You weren’t there Oh Jude You just don’t care</p> <p>Your time will will come To get your due I can’t wait for you To feel my wounds</p> <p>Oh Jude Be so afraid You have lied And it’s time to pay It’s your turn to feel nothing but pain Time to face it, you can’t run</p>	<p>The Truth Comes Out in the End You are the worst person I know, yeah I know you know it’s true I know you did the deed, dude Your words are just not true</p> <p>You lie I know You lie I know It’s time to tell the truth now If you don’t I will</p> <p>The noose is getting tighter The truth is not your friend I’ll make sure the day comes The truth comes out in the end</p> <p>You lie I know You lie I know It’s time to tell the truth now If you don’t I will</p>
<p>Lyrics Featured</p> <p>“Oh, Jude” “The Truth Comes Out in the End” “You Will Pay” “But I Won’t” “Let Me Be” “Til the End of Time”</p> <p>Coming Soon (5/15/19): “If I Tell”</p>		

Exhibit C – MyFace Fan Page – Riley Butler Music – pg. 2



HOME MESSAGES

FRIENDS

PAGES

Riley Butler

Music

Fan Page

You Will Pay

They say the truth will free ya
Oh yeah, You know
The truth can change the world

But your lies will catch up to you now
Oh yeah, You know
It's just a matter of time

You can't blame me for your problems
Oh yeah, You know
You only need to blame yourself

But if you continue to tell your lies
The truth will cut you like a knife
There will come a day
You will pay
Oh yea
You will pay....

You think strangers are your friends now
Oh yeah, You know
Be careful who you trust

Don't think you are better than me now
Oh yeah, You know
I know who you really are

But if you continue to tell your lies
The truth will cut you like a knife
There will come a day
You will pay
Oh yea, You will pay....

BUT I WON'T

You're the worst, You know it, so do I.
You think it's going to be so easy
So easy to leave me behind
Hey boss, you need to be demoted.
Click, click boom.
Watch you fade away.
It's the only way I'll make it through –
To know that I got to you.

Chorus

What do you want?
You want me to leave but I won't.
Good luck with that, just wait and see.
Make you ask, make you beg, make you
plead.
This has been a long time coming.
By your side so long it had to die.
What once was will be no more,
Better wipe your tears off the floor

What do you want?
You want me to leave but I won't.
Good luck with that, just wait and see.
Make you ask, make you beg, make you
plead.
You want me to leave but I won't.
Lay in your guilt, pay for what you've
done.
Feel the knife cut deep, feel it burn, feel it
bleed.

You know nothing,
I'm coming undone.
What do you want?
You want me to leave but I won't.
Good luck with that, just wait and see.
Make you ask, make you beg, make you

Let Me Be

When I find myself tired and lonely
I hear the angels say to me
Just tell everybody
Let me be
And in my darkest hours
When everyone says to believe
I know you have no answers
Let me be
Let me be, Let me be
Let me be, Let me be
No one has the answers
Let me be
Why did you leave me
When there was so much you could
show me
You've left us all in pain
Let me be
When people try to push me
Saying you need to be happy
You don't know my feelings
Let me be
Let me be, Let me be
Let me be, Let me be
You don't have the answers
Let me be
And every night I ask you
What will become of me
Now that you have left us
Let me be
You could have been much stronger
But I know I will be
Living life without you
Let me be
Let me be, Let me be
Let me be, Let me be
Living my life without you
Let me be

plead.
You want me to leave but I won't.

Exhibit C – MyFace Fan Page – Riley Butler Music – pg.3



HOME MESSAGES

FRIENDS

PAGES

Riley Butler

Music

Fan Page

'TIL THE END OF TIME

You've been good to me, you know
It's great when we're together, you know
I said so
You're my best friend 'till the end of time

When we spend time together, you know
The world become so special, you know
I said so
You're my best friend 'till the end of time

I'm so glad
That you are my friend
You know I
Will be there until the end

That we will always be good friends, you know
There's nothing that can break our bond, you know
I said so
You're my best friend 'till the end of time

I'm so glad
That you are my friend
You know I
Will be there until the end

No matter what may happen, you know
We are stronger as friends, you know
I said so
You're my best friend 'till the end of time

Exhibit D – Crime Scene Photos

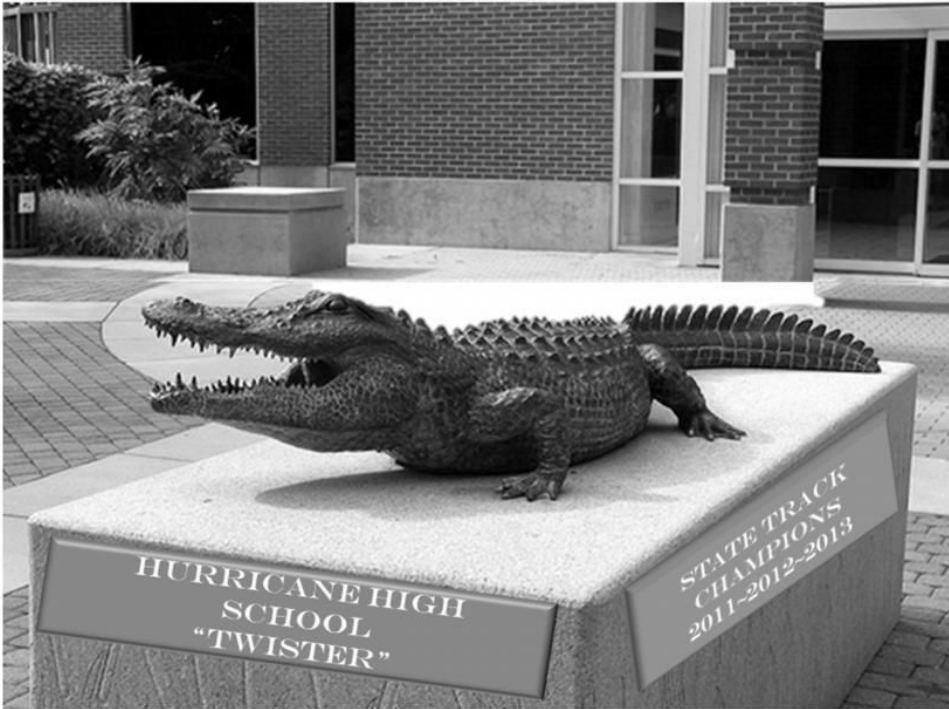


Photo provided by Hurricane High School

**Hurricane High School
"Wally Gator"**

Photo provided by Hurricane High School
Taken 3/14/2018



APPLICABLE STATUTES

Florida Statute 784.048 – Stalking; definitions; penalties

(1) As used in this section, the term:

(a) “Harass” means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(b) “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

(c) “Credible threat” means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section.

(d) “Cyberstalk” means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(2) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. imposed for a conviction for any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

(9)(a) The sentencing court shall consider, as a part of any sentence, issuing an order restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any such order be based upon the seriousness of the facts before the court, the probability of future violations by the perpetrator, and the safety of the victim and his or her family members or individuals closely associated with the victim.

(b) The order may be issued by the court even if the defendant is sentenced to a state prison or a county jail or even if the imposition of the sentence is suspended and the defendant is placed on probation.

Florida Statute § 784.0489² – Photo Cyberharassment

(1) The Legislature finds that:

(a) A person depicted in a compromising image taken with the person’s consent has a reasonable expectation that the image will remain private.

- (b) It is becoming a common practice for persons to publish a compromising image of another to Internet websites without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.
 - (c) When such images are published on Internet websites, they are able to be viewed indefinitely by persons worldwide and are able to be easily reproduced and shared.
 - (d) The publication of such images on Internet websites creates a permanent record of the depicted person's compromising conduct.
 - (e) The existence of such images on Internet websites causes those depicted in such images significant psychological harm.
 - (f) Safeguarding the psychological well-being of persons depicted in such images is compelling.
- (2) As used in this section, the term:
- (a) "Image" includes, but is not limited to, any photograph, picture, motion picture, film, video, or representation.
 - (b) "Personal identification information" has the same meaning as provided in s. 817.568.
 - (c) "Photo cyberharassment" means to publish compromising images of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.
 - (d) "Compromising image" means any image depicting potentially incriminating activity and/or pictures that may be significantly damaging to a person's reputation.
- (3) A person who willfully and maliciously photo cyberharasses another person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

² Fictional Florida statute based on 784.049 F.S.

JURY INSTRUCTIONS

STALKING BY CYBER-STALKING

To prove the crime of Stalking by Cyberstalking, the State must prove the following two elements beyond a reasonable doubt:

- 1: Riley Butler willfully, maliciously, and repeatedly cyberstalked Jules Simpson; and
- 2: Riley Butler made a credible threat to Jules Simpson.

“Cyberstalk” means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

“Credible threat” means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the treat in a reasonable fear for his or her safety and which is made with the apparent ability to carry out the treat to cause such harm.

It is not necessary for the State to prove that the person making the threat had the actual intent to carry out the treat.

PHOTO CYBERHARRASSMENT

To prove the crime of Photo Cyberharassment, the State must prove the following elements beyond a reasonable doubt:

- 1: Riley Butler published a compromising image of Jules Simpson on an Internet website for no legitimate purpose and with the intent of causing substantial emotional distress to Jules Simpson;
- 2: Jules Simpson did not consent to the image being published; and
- 3: Jules Simpson had a reasonable expectation that the image would remain private.

“Image” includes, but is not limited to, any photograph, picture, motion picture, film, video, or representation. “Photo cyberharassment” means to publish compromising images of a person that contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person’s consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.

PLEA OF NOT GUILTY; REASONABLE DOUBT; AND BURDEN OF PROOF

The defendant has entered a plea of not guilty. This means you must presume or believe the defendant is innocent. The presumption stays with the defendant as to each material allegation in the Information through each stage of the trial unless it has been overcome by the evidence to the exclusion of and

beyond a reasonable doubt.

To overcome the defendant's presumption of innocence the State has the burden of proving the crime with which the defendant is charged was committed and the defendant is the person who committed the crime.

The defendant is not required to present evidence or prove anything.

Whenever the words "reasonable doubt" are used you must consider the following:

A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt. On the other hand, if, after carefully considering, comparing and weighing all the evidence, there is not an abiding conviction of guilt, or, if, having a conviction, it is one which is not stable but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt and you must find the defendant not guilty because the doubt is reasonable.

It is to the evidence introduced in this trial, and to it alone, that you are to look for that proof.

A reasonable doubt as to the guilt of the defendant may arise from the evidence, conflict in the evidence or the lack of evidence.

If you have a reasonable doubt, you should find the defendant not guilty. If you have no reasonable doubt, you should find the defendant guilty.

Virtual Middle School Mock Trial Rules of Competition

This program is a video competition where students from the same school will present both sides of the case in one trial (i.e. prosecution/plaintiff and defense are from the same school). After practicing the simulation, teams will record their trial and submit it by the designated due date for evaluation. The top three teams will be recognized from the submissions.

Rule I: Team Composition/Presentation

- A. The competition is open to students currently enrolled in grades 6-8 in Florida schools. All students on a team, prosecution/plaintiff and defense/defendant, must be enrolled in the same school or members of a club at the same school. Each team must have a teacher sponsor.
 - B. Only one video per school will be accepted.
 - C. The video shall consist of at least twelve students from the same school to be used in any manner deemed appropriate by the teacher and coach, as long as the distribution of duties does not conflict with other competition rules. Roles include attorneys, witnesses, members of the jury, and other roles as determined by the teacher such as a bailiff.
 - D. Each school must present both sides of the case in one trial. (Prosecution/Plaintiff and Defense/Defendant).
 - E. Students of either gender may portray the role of any witness. The competition will strive to make roles gender neutral. However, some cases will warrant a specific gender role. In such cases, students of either gender may portray the role but the gender of the witness may not change from the case as presented.
 - F. Team Roster/"Roll" Call
- a) Teams should introduce themselves, their school and teacher/coaches at the beginning of the filming as well as their corresponding roles before beginning the trial begins.

Rule II: The Case

- A. The case may contain any or all of the following stipulations: documents, narratives, exhibits, witness statements, etc.
- B. The stipulations (and fact statements, if any) may not be disputed at the trial. Witness statements may not be altered.
- C. All witnesses must be called.

Rule III: Trial Presentation

- A. The trial proceedings will be governed by the Florida Mock Trial Simplified Rules of Evidence. Other more complex rules may not be raised at the trial. Questions or interpretations of these rules are within the discretion of the State Mock Trial Advisory Committee, whose decision is final.
- B. Each witness is bound by the facts contained in his/her own witness statement, the Statement of Facts, if present, and/or any necessary documentation relevant to his/her testimony. Fair extrapolations may be allowed, provided reasonable inference may be made from the witness' statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection outside the scope of the problem. If, on cross-examination, an

attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness' statement or affidavit and does not materially affect the witness' testimony. Adding facts that are inconsistent with the witness statement or with the Stipulated Facts and which would be relevant with respect to any issue in the case is not permitted. Examples include, but are not limited to

- a) Creating a physical or mental disability,
 - b) Giving a witness a criminal or bad record when none is suggested by the statements,
 - d) Creating facts which give a witness standing as an expert and;
 - c) Materially changing the witness' profession, character, and memory, mental or physical ability from the witness' statement by testifying to "recent changes."
 - d) If certain witnesses are stipulated to as experts, their expert qualifications may not be challenged or impeached by the opposing side. However, their testimony concerning the facts of the case may be challenged.
- C. On direct examination, the witness is limited to the facts given. If a witness testifies in contradiction to the facts given in the witness statement, that testimony may be impeached on cross-examination by the opposition through the correct use of the affidavit. The procedure is outlined in the Rules of Evidence.
- D. On cross-examination, no restrictions will be made on the witness or the cross examination, except that the answer must be responsive and the witness can be impeached. If the attorney who is cross-examining the witness asks a question, the answer to which is not contained in the stipulations or affidavit then the witness may respond to that question with any answer as long as the answer does not contradict or materially change the affidavit. If the answer by the witness is contrary to the stipulations or the affidavit, the cross examination attorney may impeach the witness.
- E. Use of voir dire examination of a witness is not permitted.

Rule IV: Student Attorneys

- A. Team members are to evenly divide their duties. During the video, each of the three attorneys for each side (Prosecution/Plaintiff and Defense/Defendant) will conduct one direct and one cross; in addition, one will present the opening statements and another will present closing arguments. In other words, the attorney duties for each team will be divided as follows: Opening Statements
 - a) Direct/Re-direct Examination of Witness #1
 - b) Direct/Re-direct Examination of Witness #2
 - c) Direct/Re-direct Examination of Witness #3
 - d) Cross/Re-cross Examination of Witness #1
 - e) Cross/Re-cross Examination of Witness #2
 - f) Cross/Re-cross Examination of Witness #3
 - g) Closing Arguments
 - h) Prosecution's/Plaintiff's optional closing rebuttal
- B. Opening statements must be given by both sides at the beginning of the trial.
- C. The attorney who will examine a particular witness on direct examination is the only person who may make the objections to the opposing attorney's questions of that witness on cross examination, and the attorney who will cross-examine a witness will be the only one permitted to make objections during the direct examination of that witness.
- D. Each side must call the three witnesses listed in the case materials. Witnesses must be called only by their own side and examined by opposing counsel. Witnesses may not be recalled.
- E. Attorneys may use notes in presenting their cases.
- F. Witnesses are not permitted to use notes while testifying during the trial.
- G. To permit judges to hear and see better, attorneys will stand during opening and closing statements, direct and cross-examinations, all objections, and whenever addressing the presiding judge. Students may move from the podium only with the permission of the presiding judge

Rule V: Swearing of Witnesses

The presiding judge will indicate that all witnesses are assumed to be sworn.

Rule VI: Case Materials

Students may read other cases, materials, and articles in preparation for the mock trial. However, students may cite only the case materials given, and they may introduce into evidence only those documents given in the official packet. In addition, students may not use, even for demonstrative purposes, any materials that are not provided in the official packet.

Rule IX: Conduct/Attire

All participants are expected to demonstrate proper courtroom decorum and display collegial sportsmanlike conduct.

Rule XII: Jury Trial

For purposes of the competition, students will assume this is a jury trial. The presiding judge is the trial judge. Students should address the jury and the presiding judge.

Rule XV: Time Limits

- A. A total of sixty minutes will be allotted for the trial presentation. An additional 2 minutes will be allotted for team introductions.
- B. Opening and closing statements should be no longer than 5 minutes per side.
 - a. The Prosecution/Plaintiff gives the opening statement first. The Prosecution/Plaintiff gives the closing argument first; the Prosecution/Plaintiff may reserve one minute or less of the closing time for a rebuttal. Prosecution/Plaintiff must notify the judge before beginning closing argument if the rebuttal time is requested. The Prosecution's/Plaintiff's rebuttal is limited to the scope of the defense's closing argument. Attorneys are not required to use the entire time allotted.

Rule XVI: Judging

- A. The presiding judge may be the attorney coach or another local attorney or judge. Make sure they are aware of the rules prior to taping.
 - a. Presiding judges can be selected from a range of community volunteers. The following is a list of suggestions: sitting judges, attorneys, teachers, mock trial coaches/teachers, or high school mock trial participants. Teachers should use their discretion when selecting a presiding judge. Teams are not being evaluated based on their presiding judge.
- B. At no time during the filming of the trial may team sponsors or coaches communicate or consult with the students.
- C. Students will be assessed based on the score sheet and rubric contained in the

case materials. Student attorneys and witnesses will be individually assessed. Teams will also receive scores for ethical conduct and team performance. Ethical conduct includes consideration of professionalism, the following of rules, and courtroom demeanor.

Rule XXIV: Eligibility

- A. Both sides of the case must be presented by students enrolled in the same school.
- B. Each school may only submit one video.

SIMPLIFIED RULES OF EVIDENCE AND PROCEDURE

Simplified Rules of Evidence are provided for informational purposes and may be used at the discretion of the teacher and/or coach. They are provided as an outline for the trial process but should not complicate the instructional process.

In American courts, elaborate rules are used to regulate the kind of proof (i.e., spoken testimony by witnesses or physical evidence) that can be used in trials. These rules are designed to ensure that both parties receive a fair hearing. Under the rules, any testimony or physical objects deemed irrelevant, incompetent, untrustworthy, or unduly prejudicial may be kept out of the trial.

If it appears that a rule of evidence is being violated, an attorney may raise an objection to the judge. Usually, the attorney stands and says, "I object, your honor," and then gives the reason for the objection. Sometimes the attorney whose questions or actions are being objected to will then explain why he or she thinks the rule was not violated. The judge then decides whether the rule has been violated and whether the testimony or physical items must be excluded from the trial.

Official rules of evidence are quite complicated. They also differ depending on the kind of court where the trial occurs. For purposes of this mock trial competition, the rules of evidence you will use have been made less complicated than those used in actual courts. The ideas behind these simplified rules are similar to actual rules of evidence.

A. Witness Examination/Questioning

1. Direct Examination

Attorneys call and question their own witnesses using direct as opposed to leading questions.

Example:

Elyse Roberts is called by her attorney to explain the events leading up to her filing suit against Potomac County.

"Ms. Roberts, where do you work? How long have you worked there? Please describe your working relationship with Mr. Kevin Murphy during the first month of employment. Why did you meet with your supervisor, Fran Troy? Did you seek advice from a therapist during this time?"

Questions such as the above do not suggest the answer. Instead, they introduce a witness to a particular area of importance, leaving the witness free to relate the facts. Obviously, the witness will have been prepared to answer such questions in a particular way. But the question by its terms does not "lead" to the answer.

a. Leading Questions

A leading question is one that suggests the answer. It does not simply call the witness' attention to a subject. Rather, it indicates or tells the witness what the answer should be about that subject. Leading questions are not

permitted on direct examination, but questions on cross-examination should be leading.

Examples:

“Mrs. Roberts, despite repeated invitations, you chose not to participate in office social functions, correct?”

“Isn't it true, that due to all the stress from work you decided to go to a therapist?”

These questions are obviously in contrast to the direct examination questions in the preceding section. Leading questions suggest the answer to the witness. This is not proper for direct examination when a party is questioning its own witness.

b. Narration

While the purpose of direct examination is to get the witness to tell a story, the questions must ask for specific information. The questions must not be so broad that the witness is allowed to wander or "narrate" a whole story. At times, the witness' answer to a direct question may go beyond the facts asked for by the question asked. Narrative questions are objectionable.

Example Narrative Question:

“Ms. Roberts, please tell the court about the events that contributed to your decision to sue the county.”

Narrative Answer:

“It all began the night I found out that it was the county that was dumping on my land. At first I thought it was my neighbors, but they denied having any part in the dumping. I decided to watch my vacant lot and see if I could catch the person responsible. I drove down to my lot the night of the 13th and parked in a place where I could see the lot but no one could see me...”

c. Scope of Witness Examination

Direct examination may cover all facts relevant to the case of which the witness has first-hand knowledge.

d. Character

For the purpose of this mock trial, evidence about the character of a party may not be introduced unless the person's character is an issue in the case.

i. Methods of Proving Character (Section 90.405)

1. Reputation: When evidence of the character of a person or of a trait of his/her character is admissible, proof may be made by testimony about his/her reputation.
2. Specific Instances of Conduct: When character or a trait of character of a person is an essential element of a charge, claim, or defense, proof may be made of specific instances of his/her conduct.

e. Refreshing Recollection

When a witness uses a writing or other item to refresh his/her memory while testifying, an adverse party is entitled to have such writing or other item produced at the hearing to inspect it, to cross-examine the witness thereon, and to introduce it, or in the case of writing, to introduce those portions which relate to the testimony of the witness, in evidence.

2. Cross Examination (questioning the opposing side's witnesses)

Cross-examination should involve leading questions. In fact, it is customary to present a witness with a proposition and ask the witness to either agree or disagree. Thus, good cross-examination calls only for a yes or no answer.

Examples:

“Mr. Roberts, in direct examination you testified that litigation was very stressful for you, correct? In fact, you were so stressed that you did work at home or called in sick. Isn't this true?”

“As an assistant district attorney, you knew that trying only three cases while settling 75 cases was not a job performance your supervisor would rate highly, didn't you?”

“Thus given the stress you felt, your poor attendance at work and poor job performance, it was not unusual for your supervisor to transfer you to another Bureau, was it?”

Leading questions are permissible on cross-examination. Questions tending to evoke a narrative answer should be avoided.

a. Scope of Witness Examination

Cross-examination is not limited. Attorneys may ask questions of a particular witness that relate to matters brought out by the opposing side on direct examination of witnesses, matters relating to the credibility of the witness, and additional matters otherwise admissible, that were not covered on direct examination.

b. Impeachment

On cross-examination, the attorney may want to show the court that the witness should not be believed. A witness' credibility may be impeached by showing evidence of the witness' character and conduct, prior convictions, and prior inconsistent statements. If the witness testifies differently from the information in their sworn affidavit, it may then be necessary to "impeach" the witness. That is, the attorney will want to show that

the witness previously said something that contradicts the testimony on the stand.

i. Impeachment Procedure

Impeachment may be done by comparing what a witness says on the witness stand at trial to what is contained in the witness' affidavit. By pointing out the differences between what a witness now says and what the witness' affidavit says, the attorney shows that the witness has contradicted himself or herself.

ii. Who May Impeach?

Any party, including the party calling the witness, may attack the credibility of a witness by:

1. Introducing statements of the witness which are inconsistent with his/her present testimony;
2. Showing that the witness is biased;
3. Attaching the character of the witness in accordance with the state mock trial competition rules of evidence and procedure;
4. Showing a defect of capacity, ability, or opportunity in the witness to observe, remember, or recount the matters about which he/she testified; and
5. Proof by other witnesses that material facts are not as testified to by the witness being impeached.

iii. Section 90.610 Conviction of Certain Crimes as Impeachment

A party may attack the credibility of any witness, including an accused, by evidence that the witness has been convicted of a crime if the crime was punishable by death or imprisonment in excess of 1 year under the law under which he was convicted, or if the crime involved dishonesty or a false statement regardless of the punishment, with the following exceptions:

1. Evidence of any such conviction is inadmissible in a civil trial if it is so remote in time as to have no bearing on the present character of the witness.
2. Evidence of juvenile adjudications is inadmissible under this subsection.

iv. Section 90.614 Prior Statements of Witness

1. When witness is examined concerning his prior written statement or concerning an oral statement that has been reduced to writing, the court, on motion of the adverse party, shall order the statement to be shown to the witness or its contents disclosed to him.
2. Extrinsic evidence of a prior inconsistent statement by a witness is inadmissible unless

the witness is first afforded an opportunity to explain or deny the prior statement and the opposing party is afforded an opportunity to interrogate him on it, or the interests of justice otherwise require. If a witness denies making or does not distinctly admit that he has made the prior inconsistent statement, extrinsic evidence of such statement is admissible. This subsection is not applicable to admissions of a party-opponent.

3. Re-direct and re-cross examination/questioning. If the credibility or reputation for truthfulness of the witness has been attacked on cross-examination, the attorney whose witness has been damaged may wish to ask several more questions. These questions should be limited to the damage the attorney thinks has been done and should be phrased so as to try to "save" the witness' truth-telling image in the eyes of the court. Re-direct examination is limited to issues raised by the attorney on cross-examination. Re-cross examinations follows re-direct examination but is limited to the issues raised on re-direct only and should avoid repetition. The presiding judge may exercise reasonable control over questioning so as to make questioning effective to ascertain truth, avoid needless waste of time, and protect witnesses from harassment.

B. Objections

An attorney can object any time the opposing attorneys have violated the rules of evidence. The attorney wishing to object should stand up and do so at the time of the violation. When an objection is made, the judge may ask the reason for it. Then the judge may turn to the attorney whose question or action is being objected to, and that attorney usually will have a chance to explain why the judge should not accept the objection. The judge will then decide whether a question or answer must be discarded because it has violated a rule of evidence or whether to allow the question or answer to be considered as evidence. The legal term "objection sustained" means that the judge agrees with the objection and excludes the testimony or item objected to. The legal term "objection overruled" means that the judge disagrees with the objection and allows the testimony or item to be considered as evidence.

1. Standard Objections on Direct and Cross Examination

1. Irrelevant Evidence: "I object, your honor. This testimony is irrelevant to the facts of this case."
2. Leading Questions: "Objection. Counsel is leading the witness." Remember, this is only objectionable when done on direct examination (Ref. Section A1.a).
3. Narrative Questions and Answers: may be objectionable (Ref. Section A1.b).
4. Improper Character Testimony: "Objection. The witness' character or reputation has not been put in issue or "Objection. Only the witness' reputation/character for truthfulness is at issue here."
5. Hearsay: "Objection. Counsel's question/the witness' answer is based on hearsay." If the witness makes a hearsay statement, the attorney should also say, "and I ask that the statement be stricken from the record."
6. Opinion: "Objection. Counsel is asking the witness to give an opinion."

7. Lack of Personal Knowledge/Speculation: “Objection. The witness has no personal knowledge that would enable him/her to answer this question.”
8. Lack of Proper Predicate: Exhibits will not be admitted into evidence until they have been identified and shown to be authentic (unless identification and/or authenticity have been stipulated). Even after proper predicate has been laid, the exhibits may still be objectionable due to relevance, hearsay, etc.
9. Ambiguous Questions: An attorney shall not ask questions that are capable of being understood in two or more possible ways.
10. Non-responsive Answer: A witness’ answer is objectionable if it fails to respond to the question asked.
11. Argumentative Question: An attorney shall not ask a question which asks the witness to agree to a conclusion drawn by the questioner without eliciting testimony as to new facts. However, the Court may, in its discretion, allow limited use of argumentative questions on cross-examination.
12. Unfair Extrapolation/Beyond the Scope of the Statement of Facts
 - i. Attorneys shall not ask questions calling for information outside the scope of the case materials or requesting an unfair extrapolation. Unfair extrapolations are best attacked through impeachment and closing arguments and are to be dealt with in the course of the trial. A fair extrapolation is one that is neutral.
 - ii. Note: Fair extrapolations may be allowed, provided reasonable inference may be made from the witness’s statement. If, in direct examination, an attorney asks a question which calls for extrapolated information pivotal to the facts at issue, the information is subject to objection Outside the Scope of the Problem. If in CROSS examination, an attorney asks for unknown information, the witness may or may not respond, so long as any response is consistent with the witness’ statement or affidavit and does not materially affect the witness’ testimony.
13. Asked and Answered: “Objection. Your honor, the question has already been asked and answered.”
14. Objections Not Recognized in This Jurisdiction: An objection which is not contained in these materials shall not be considered by the Court. However, if counsel responding to the objection does not point out to the judge the application of this rule, the Court may exercise its discretion in considering such objection.

Note: Attorneys should stand during objections, examinations, and statements. No objections should be made

during opening/closing statements but afterwards the attorneys may indicate what the objection would have been. The opposing counsel should raise his/her hand to be recognized by the judge and may say, "If I had been permitted to object during closing arguments, I would have objected to the opposing team's statement that___." The presiding judge will not rule on this objection individually and no rebuttal from the opposing team will be heard.

2. Opinions of Witnesses

1. Expert Opinion

1. Section 90.702 Testimony by Experts

If scientific, technical, or other specialized knowledge will assist the trier of fact in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify about it in the form of an opinion; however, the opinion is admissible only if it can be applied to evidence at trial.

2. Section 90.703 Opinions on Ultimate Issue

Testimony in the form of an opinion or inference otherwise admissible is not objectionable because it included an ultimate issue to be decided by the trier of fact.

3. Section 90.704 Basis of Opinion Testimony by Experts

The facts or data upon which an expert bases an opinion or inference may be those perceived by, or made known to him at or before the trial. If the facts or data are of a type reasonably relied upon by experts in the subject to support the opinion expressed, the facts or data need not be admissible in evidence.

4. Expert Opinion (additional information)

An expert shall not express an opinion as to the guilt or innocence of the accused.

2. Lay Opinion

1. Section 90.701 Opinion Testimony of Lay Witnesses

2. If a witness is not testifying as an expert, his testimony about what he perceived may be in the form of inference and opinion when:
 - a. The witness cannot readily, and with equal accuracy and adequacy, communicate what he has perceived to the trier of fact without testifying in terms of inferences or opinions and his use of inferences or opinions will not mislead the trier of fact to the prejudice of the objecting party; and
 - b. The opinions and inferences do not require a special knowledge, skill, experience, or training.

2. Lay Opinion (additional information)

All witnesses may offer opinions based on the common experience of laypersons in the community and of

which the witnesses have first-hand knowledge. A lay opinion may also be obtained. For example, Sandy Yu, as the personnel director, would know of other complaints of sexual harassment in the office and any formal reprimands, even though he is not an expert in sexual harassment. They may be asked questions within that range of experience. No witness, not even an expert may give an opinion about how the case should be decided.

The cross-examination of opinions proceeds much like the cross-examination of any witness. Questions, as indicated above, may be based upon the prior statement of the witness. Inconsistencies may be shown. In addition, the witness may be asked whether he or she has been employed by any party, to show bias or interest. Or a witness giving an opinion may be asked the limits of certainty in that opinion, as follows:

“Dr. Isaacs, please read this portion of your sworn statement to the court.”

"I have studied the records of this case, and have conducted two one-hour interviews with Elyse Roberts on March 29 and 31st. In those interviews, she described to me her family history, her work environment, the actions of her co-workers and supervisor and her resulting feelings."

“This is your statement, is it not, Dr. Isaacs? Ms. Roberts selected you because of your expertise in sexual harassment in the workplace, correct? During your two-hour interview you were only concerned with evaluating Ms. Roberts’ working environment and no other psychological factors that may have caused her problems. Thus you really can't say that Ms. Roberts' difficulty on the job was only caused by the actions of Mr. Murphy, can you?”

The point of these questions is not to discredit the witness. Rather, the objective is simply to treat the witness as a responsible professional who will acknowledge the limits of her or his expertise and testimony. If the witness refuses to acknowledge those limits, the witness then is discredited.

It is always important in cross-examination to avoid arguing with the witness. It is particularly important with an expert. Thus, the cross-examination should be carefully constructed to call only for facts or to draw upon statements the witness has already made.

3. Lack of Personal Knowledge

A witness may not testify to any matter of which the witness has no personal knowledge. The legal term for testimony of which the witness has no personal knowledge is "incompetent."

C. Relevance of Testimony and Physical Objects

Generally, only relevant testimony may be presented. Relevant evidence is physical evidence and testimony that makes a fact that is important to the case more or less probable than the fact would be without the evidence. However, if the relevant evidence is unfairly prejudicial, may confuse the issues, or is a waste of time, it may be excluded by the court. Such relevant but excludable evidence may be testimony, physical evidence, or demonstrations that have no direct bearing on the issues of the case or do not make the issues clearer.

1. Introduction of Documents, Exhibits, Items, and Other Physical Objects Into Evidence

There is a special procedure for introducing physical evidence during a trial. The physical evidence must be relevant to the case, and the attorney must be prepared to its use on that basis. Below are the basic steps to use

when introducing a physical object or document for identification and/or use as evidence.

- a. All evidence will be pre-marked as exhibits.
- b. Ask for permission to approach the witness. “Your Honor, may I approach the witness with what has been marked for identification purposes as Exhibit No. ?”
- c. Show the exhibit to opposing counsel.
- d. Ask the witness to identify the exhibit. “I now hand you what has been marked for identification as Exhibit No. . Would you identify it please?” Witness should answer to identify only.
- e. Ask the witness a series of questions that are offered for proof of the admissibility of the exhibit. These questions lay the foundation or predicate for admissibility, including questions of the relevance and materiality of the exhibit.
- f. Offer the exhibit into evidence. “Your Honor, we offer Exhibit No. into evidence.”
- g. Court: “Is there an objection?” (If opposing counsel believes a proper foundation has not been laid, the attorney should be prepared to object at this time.)
- h. Opposing Counsel: “No, Your Honor,” OR “Yes, Your Honor.” If the response is “yes”, the objection will be stated for the record. Court: “Is there any response to the objection?”
- i. Court: “Exhibit No. (is/is not) admitted.” If admitted, questions on content may be asked.

NOTE: A witness may be asked questions about his/her statement without its introduction into evidence; but to read from it or submit it to the judge, it must first be admitted into evidence.

D. Hearsay and Exceptions to this Ruling

1. What is Hearsay?

Hearsay evidence is normally excluded from a trial because it is deemed untrustworthy. “Hearsay” is a statement other than one made by the witness testifying at the trial, offered in evidence to prove that the matter asserted in the statement is true. An example of hearsay is a witness testifying that he heard another person saying something about the facts in the case. The reason that hearsay is untrustworthy is because the opposing side has no way of testing the credibility of the out-of-court statement or the person who supposedly made the statement. Thus, for example, the following questions would be objectionable as “hearsay” if you are trying to prove that the color of the door was red:

“Mr. Edwards what color did Bob say the door was?”

This is hearsay. Mr. Edwards is using Bob's statement for him to prove the color of the door. Instead, Bob or someone who saw the door needs to be called to testify as to the color of the door.

2. Reasons for Prohibiting Hearsay

Our legal system is designed to promote the discovery of truth in a fair way. One way it seeks to accomplish this goal is by ensuring that the evidence presented in court is “reliable”; that is, we can be fairly certain the evidence is true. Hearsay evidence is said to be “unreliable” for four reasons:

- a. The hearsay statement might be distorted or misinterpreted by the witness relating it in court.
- b. The hearsay statement is not made in court and is not made under oath
- c. The hearsay statement is not made in court, and the person who made it cannot be observed by the judge or jury (this is important because the judge or jury should be allowed to observe a witness' behavior and evaluate his/her credibility).
- d. The hearsay statement is not made in court and the person who made it cannot be challenged by cross-examination.

3. When Can Hearsay Evidence Be Admitted?

Although hearsay is generally not admissible, there are certain out-of-court statements that are treated as not being hearsay, and there are out-of-court statements that are allowed into evidence as exceptions to the rule prohibiting hearsay.

Statements that are not hearsay are prior statements made by the witness himself and admissions made by a party opponent.

a. Exceptions

Hearsay is not admissible, except as provided by these rules. For purposes of this mock trial, the following exceptions to the hearsay rule will be allowed; even though the declarant is available as a witness.

i. Spontaneous Statement

A statement describing or explaining an event or condition made while the declarant perceived the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness.

ii. Excited Utterance

A statement or excited utterance relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.

iii. Medical Statements

Statements made for the purpose of medical diagnosis or treatment by a person seeking the diagnosis, or made by an individual who has knowledge of the facts and is legally responsible for the person who is unable to communicate the facts, which statements describe medical history, past or present symptoms, pain, or sensations, or the inception or general character of the cause or external source thereof, insofar as reasonably pertinent to diagnosis or treatment.

iv. Recorded Recollection

A memorandum or record concerning a matter about which a witness once had knowledge but now has insufficient recollection to enable the witness to testify fully and accurately, shown to have been made by the

witness when the matter was fresh in his memory and to reflect that knowledge correctly. A party may read into evidence a memorandum or record when it is admitted, but no such memorandum or record is admissible as an exhibit unless offered by an adverse party.

v. Records of a Regularly Conducted Activity

- A memorandum, report, record, or data compilation, in any form, of acts, events, conditions, opinion, or diagnosis, made at or near the time by, or from information transmitted by, a person with knowledge, if kept in the course of a regularly conducted business activity and if it was the regular practice of that business activity to make such memorandum, report, record, or data compilation, all as shown by testimony of the custodian or other qualified witness, unless the sources of information or other circumstances show lack of trustworthiness. The term “business” as used in this paragraph includes a business, institution, association, profession, occupation, and calling for every kind, whether or not conducted for profit.
- No evidence in the form of an opinion or diagnosis is admissible under paragraph (a) unless such opinion or diagnosis would otherwise be admissible if the person whose opinion is recorded were to testify to the opinion directly.

vi. Learned Treatises

To the extent called to the attention of an expert witness upon cross examination or relied upon by the expert witness in direct examination, statements contained in public treatises, periodicals or pamphlets on a subject of history, medicine, or other science or art, established as a reliable authority by the testimony or admission of the witness, or by other expert testimony, or by judicial notice.

vii. Then Existing Mental, Emotional, or Physical Condition

- A statement of the declarant’s then existing state of mind, emotion, or physical sensation, including a statement of intent, plan, motive, design, mental feeling, pain, or bodily health, when such evidence is offered to:
- Prove the declarant’s state of mind, emotion, or physical sensation at that time or at any other time when such state is an issue in the action.
- Prove or explain acts of subsequent conduct of the declarant.
- **However, this subsection does not make admissible:**
 - An after-the-fact statement of memory or belief to prove the fact remembered or believed, unless such a statement relates to the execution, revocation, identification, or terms of the declarant's will.
 - A statement made under circumstances that indicate its lack of trustworthiness.

E. Trial Motions

No trial motions are allowed except for special jury instructions as permitted in these case materials.

Examples:

Directed verdict, dismissal, acquittal, motion in limine, motion to sequester witnesses.

Exception:

Motion for Recess may only be used in emergency situations.

F. Attorney Demeanor

**See Code of Ethical Conduct

Note: Please refer to Official Case Materials for any specific additions relative to this trial.