

SUPERIOR COURT OF NEW JERSEY
ESSEX VICINAGE



Law Day 2008

The Rule of Law:
Foundation for Communities of Opportunity and Equity

Mock Trial
FACT PATTERN

STATE v. WAINWRIGHT



The following individuals served on the
2008 Essex Vicinage Law Day Mock Trial Fact Pattern Committee

Hon. Verna G. Leath, J.S.C.
Hon. Siobhan A. Teare, J.S.C.
Shazeeda Samsudeen, Ombudsman
Geoffrey Mott, Law Librarian
Kimberly Cicala, Community Relations Liaison

With the assistance of:
The members of their staff and the
2008 Law Day Planning Committee

**RULE OF LAW:
FOUNDATION FOR COMMUNITIES OF OPPORTUNITY AND EQUITY**

Table of Contents

Section	Page Number
Background	4-5
Law Day Fact Pattern	6-8
Instructions for Teachers	9
Creating a Courtroom	10
Instructions For Attorneys/Judges	11
Judge's Directions to Students	12-13
Witness Statements	14-30
Judge's Final Instructions to Students	31-33
Additional Questions	34
Vocabulary List	35-36

Background

The United States Supreme Court issued a decision in 1985 in a case entitled *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) that raises the issues presented by our Law Day fact pattern. This Supreme Court decision should serve to guide participating students in their review and consideration of the Law Day fact pattern.

In the *T.L.O.* case, a 14-year-old freshman was taken to the Principal's office after she was discovered by a teacher smoking cigarettes in a school bathroom. Upon arriving to the Principal's office, the student denied that she was smoking cigarettes. After demanding to see her purse, the vice-principal discovered a pack of cigarettes and also noticed a package of cigarette rolling papers that are commonly associated with the use of marijuana. He then proceeded to search the entire purse and found some marijuana, a pipe, plastic bags, a large amount of money, a list of students who owed T.L.O. money and two letters that implicated her in marijuana dealing.

The State brought delinquency charges against T.L.O. in Juvenile Court. The Court found that T.L.O. was delinquent and that the Fourth Amendment applied to searches conducted by school officials but that the search in question was a reasonable one. The Appellate Division affirmed the trial court's finding that there had been no Fourth Amendment violation. The New Jersey Supreme Court reversed the trial court's decision and ordered that the evidence from T.L.O.'s purse be suppressed because the search was unreasonable. Finally, the United States Supreme Court ruled that the search was not unreasonable under the Fourth Amendment.

In its decision, the U.S. Supreme Court ruled that school officials do not have to obtain a warrant before searching a student. In addition, school officials need not be held

to the same requirement that searches be based on probable cause to believe that the subject of the search has violated or is violating the law. Rather, whether a search of a student is legal or not should depend simply on the reasonableness under all of the circumstances of the search. The search will generally be found to be reasonable if: 1) there are reasonable grounds for suspecting the search will turn up evidence that the student violated the law or school rules; and 2) the search is no more intrusive than necessary to turn up this particular evidence. The age and sex of the student and the seriousness of the offense are also considered in deciding reasonableness.

In applying this standard to the T.L.O. case, the Supreme Court ruled that the vice principal's search of the purse was reasonable because the teacher had reported that she saw the student smoking cigarettes. The discovery of the rolling papers then gave rise to a reasonable suspicion that T.L.O. was in possession of marijuana and that this suspicion justified the further search of her purse which turned up more evidence of drug-related activities.

Law Day Fact Pattern

On June 15th, 2007, Sandy Miller, a high school senior at Rockefeller High School reported to her teacher, Carolyn Anderson, that her cell phone had been stolen. She told Ms. Anderson that she had left the cell phone in her desk and that she had left her desk for a few minutes to talk to some of the other students prior to the start of class. At that time she noticed Miranda Wainwright standing by her desk. Sandy told Ms. Anderson that she believed that Miranda Wainwright had stolen the cell phone because she was one of the only students that Sandy knew could not afford a cell phone. Furthermore, Sandy stated that she had seen Miranda standing by her desk and that everyone knew that Miranda was a trouble maker. She had been suspended three times for smoking cigarettes, fighting and defacing school property. Sandy begged Ms. Anderson to check Miranda's backpack before she left school grounds. She told Ms. Anderson that the phone would be easy to spot because it was the new Apple iPhone.

Based on Sandy's allegation, Ms. Anderson stopped Miranda in the hallway as she was walking toward her locker. She asked her to follow her and to bring her backpack with her. Ms. Anderson then escorted Miranda to Principal Lott's Office. When they arrived at Principal Lott's Office, Ms. Anderson told him what had transpired. Mr. Lott demanded that Miranda turn over her backpack to him. Mr. Lott searched the backpack and found an Apple iPhone. He took out the cell phone and opened it up revealing that there were five text messages that had not been opened as yet. In trying to determine if the cell phone was Sandy's, Mr. Lott decided to read the first text message. The message was addressed to Miranda and was sent by a senior at Rockefeller High School, Michael Hudson. A review of the text message revealed that the student had

\$100 and wanted to buy three bags of methamphetamine from Miranda. The deal was scheduled to take place after school behind the football field. Based on the content of that text message, Mr. Lott read the other messages. He discovered two more messages that involved Miranda selling drugs to other students on the same day.

After reading the messages, Mr. Lott was extremely concerned about the illegal activity that was scheduled to take place on school grounds that day. He decided that he needed to stop Miranda from selling drugs to fellow students and that the only way that this could be done would be if he could find her cache. Mr. Lott immediately demanded that Miranda take him to her locker and unlock it. Miranda at first refused stating that his search was illegal and violated her Fourth Amendment rights. Mr. Lott told Miranda that as a student she did not have any Fourth Amendment rights to violate and that if she did not open the locker he would break the lock. Miranda took Mr. Lott to her locker and opened it. A thorough search of the locker did not reveal any drugs.

Mr. Lott escorted Miranda back to his office and asked Ms. Anderson to pat her down. As Ms. Anderson patted Miranda down she felt a bulkiness in one of her front jean pockets, which was not visibly noticeable because Miranda was wearing a long, baggy sweater over her jeans. After Ms. Anderson told Mr. Lott what she felt, he told Miranda to empty her pockets. Miranda, who was crying at this point, emptied her pockets. She took out five glassine bags of white powdery substance and a wad of cash. Mr. Lott immediately contacted Miranda's parents and the authorities. It was later determined by the authorities that the white powdery substance was methamphetamine. Miranda was indicted for possession of a controlled and dangerous substance (CDS), possession of a CDS with intent to distribute and possession of a CDS with intent to

distribute while on school property. Miranda was not charged with stealing Sandy's cell phone. Sandy later found her cell phone in her locker.

Prior to the start of the trial, Miranda's attorney filed a motion requesting that the judge in the case suppress the drugs, text messages and other evidence because Principal Lott's search of the backpack, phone and the pat down were in violation of the Fourth Amendment of the U.S. Constitution.

Instructions for Teachers

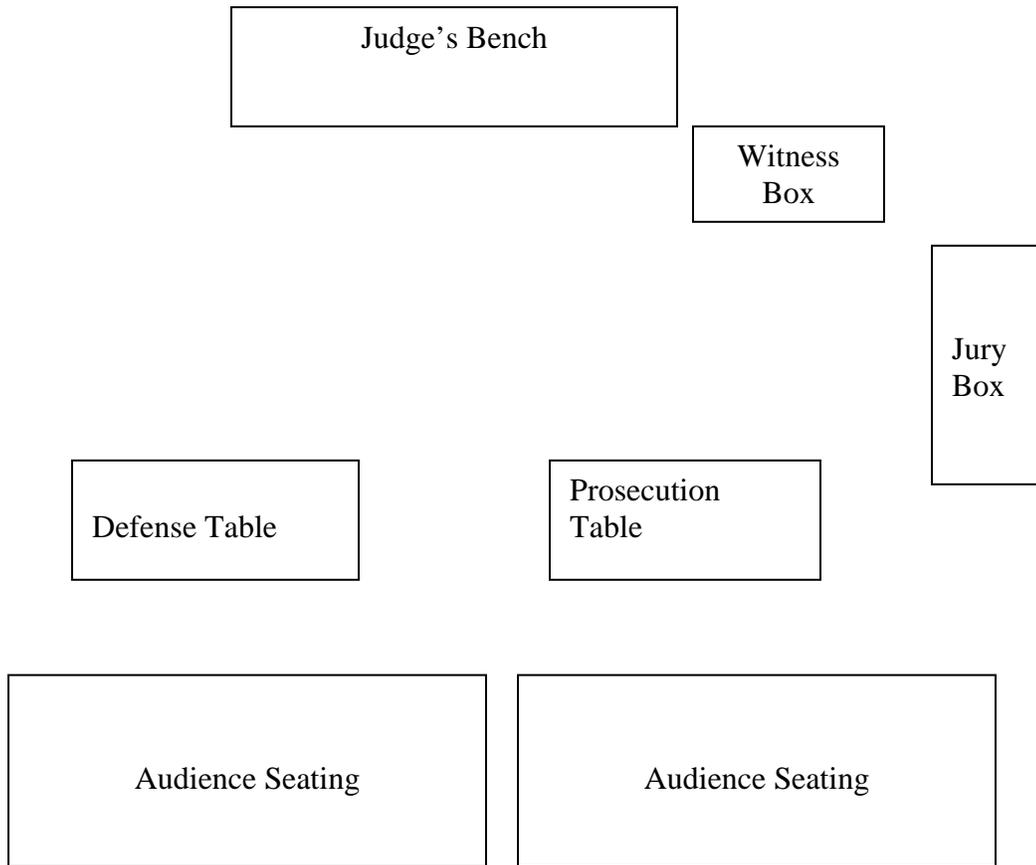
This fact pattern involves a pre-trial hearing in which Miranda Wainwright's attorney is requesting that the judge suppress the drugs, text messages and other evidence found on Miranda because they were the product of an illegal search. Note that since this is a pre-trial hearing, in an actual case this evidentiary issue would be decided by the judge before the trial. For the purposes of this fact pattern, the students will be deciding the issue with the assistance of the judge.

On the day of the mock trial, a judge and two attorneys will visit your school. One of the attorneys will be playing the role of the prosecutor and will be arguing for the admission of the evidence. The other attorney will be playing the role of the defendant's attorney, representing Miranda, and will argue for the suppression of the evidence.

In addition to the arguments that the attorneys will be making, teachers should select six students to play the parts of the witnesses. Some of the witnesses will be testifying for the prosecution and some of the witnesses will be testifying for the defendant. Witnesses may be cross-examined by the opposing attorneys. Both attorneys will make their arguments and then the judge will lead a dialogue with the students in which they will decide whether to admit or exclude the text messages, drugs and other evidence.

The students should be familiar with the text and understand the sequence of events.

Creating A Courtroom



The room that will be used for the Mock Trial should be set up as follows. A desk or table should be placed in the center of the room as the judge's "bench". Chairs for the attorneys should be placed on either side of the judge's bench, facing the judge. A "witness box" should be created by placing a chair to left of the judge's bench.

Instructions for Attorneys / Judges

The students have received the Fact Pattern in advance. This fact pattern focuses on the pre-trial hearing in which the defendant's attorney will argue that the court suppress the text messages, drugs and money that were found on Miranda by Principal Lott and Carolyn Anderson. The prosecution will argue that the court should allow the evidence found on Miranda to be admitted at trial.

Students have been selected to portray the parties and witnesses. The judge will preside over the hearing. The attorneys will role-play. One attorney will act as the attorney for the prosecution and one attorney will act as the defendant's attorney. Each attorney will make a 5 minute opening argument. The direct and cross-examination of each witness should take no longer than 5 minutes. Then the attorneys will make a 5 minute closing argument.

The judge will give a brief explanation of the applicable law. The judge will then provide an overview of the facts of the case and an overview of the issue and arguments. The judge will then lead the students through an analysis of the issue so that they can make a decision as to whether the drugs, text messages and other evidence should be admissible or whether the search of Miranda violated the Fourth Amendment as outlined in the T.L.O. case.

The students in the audience should be encouraged to express their various viewpoints. Feedback and participation are encouraged. Additional discussion questions are available on page 34.

Judge's Directions to the Students

My name is Judge _____ of the New Jersey Superior Court. This a pre-trial hearing. A pre-trial hearing takes place before the trial and the decision is made by the judge. This hearing is being held because Miranda Wainwright's attorney _____ has filed a motion requesting that the evidence found on Miranda by Principal Lott and Carolyn Anderson be suppressed or not allowed in as evidence in the trial. We will hear the defense's argument for why the evidence should be suppressed. Then we will hear from the prosecution represented by _____. The prosecution is arguing that the evidence should be allowed in as evidence in the trial. After each side has made their argument, they will call their witnesses. Each side is allowed to cross-examine the other side's witnesses. Then the attorneys will make their closing arguments.

After all of the arguments and testimony have been made, we will make our decision. If we deny the defendant's request to suppress the evidence found on Miranda Wainwright, then the Prosecution will be allowed to present the evidence at trial. If we grant the defendant's request to suppress the evidence, then the Prosecution will not be allowed to present the evidence found by Principal Lott and Ms. Anderson during their search of Miranda.

WITNESSES FOR THE DEFENDANT:

Witness: Miranda Wainwright

Witness: William Ray Wainwright

Witness: Justin Timplewood

WITNESSES FOR THE PROSECUTION:

Witness: Sandy Miller

Witness: Principal Winston Elwood Lott

Witness: Carolyn Anderson

STATEMENT OF MIRANDA WAINWRIGHT

My name is Miranda Wainwright and I am a senior at Rockefeller High School. I am eighteen years-old. I have been charged with possession of drugs with intent to distribute on school property. I should never have been charged because Mr. Lott violated my Fourth Amendment rights by conducting an illegal search and seizure. My attorney told me that he had to have had “reasonable suspicion” to search my backpack, to read the messages on my cell phone and to pat me down.

First of all, the only reason that they searched my backpack was because Sandy Miller lied and told them that I stole her cell phone. She didn’t even have any real proof that I stole her cell phone. Everyone knows that Sandy and I do not get along. This was just another way of her getting back at me because I went to the junior prom with her ex-boyfriend. She told them that I was the only one in school that couldn’t afford a cell phone. Sandy and her friends think that they are better than everyone else because their parents have more money. She also told Ms. Anderson that I was standing next to her desk before class. First of all, I was not standing by her desk. I had to walk past her desk to get to mine. A lot of students walked by her desk or sat next to her desk. How come they didn’t think that those students stole her phone? So from the beginning, there was no “reasonable suspicion” for them to search my backpack.

It should have ended there but Mr. Lott didn’t want to upset Sandy because her parents know a lot of important people. He searched my backpack without my consent. To make matters worse, he read the messages on my cell phone. Anything that he saw in those messages about alleged drug sales should be suppressed. He didn’t have to read the messages to find out if the cell phone belonged to Sandy. He could have gotten Sandy’s

cell phone number and called it to see if the cell phone in my backpack rang. Just because we have the same cell phone doesn't give him reasonable suspicion to believe that the phone in my bag was Sandy's. I know about seven other kids in our school that have Apple iPhones.

I really feel like my rights were violated. He treated me like a criminal because my family doesn't have as much money as Sandy's family. He made me open my locker in front of the whole school and then he made Ms. Anderson pat me down. It was like he thought I was carrying a weapon. My lawyer says that this search would be considered "overly intrusive." They had no right to do this.

I know that they just want to kick me out because they don't want poor kids like me going to their school. Everyone says that I'm a troublemaker because I have been suspended for fighting, writing some stuff on the school walls and smoking. Other kids do the same stuff I do but as soon as one of the kids from the wrong side of the tracks does something, they get suspended. The fight last year is a good example. One of Sandy Miller's friends Kathryn Winthrop pushed me out of the way so I pushed her back. We started fighting but I was the only one that got suspended because she told Principal Lott that I started it and of course he believed her.

Mr. Lott is not going to get me this time. He should have read the Fourth Amendment first because it doesn't matter what he found on me. The entire search, starting with my backpack was illegal. They had no reasonable suspicion that I stole Sandy's phone. As a result the text messages, the drugs and money are inadmissible in court.

STATEMENT OF WILLIAM RAY WAINWRIGHT

My name is Willie Ray Wainwright and I am the father of Miranda Sue Wainwright. Miranda is the third of my seven children. We live at the Bluecourt Lots, numbers 141-143 at Slusher's Cozy Trailer Park, out on Route 111 on the edge of Emrich County. The Park is by the train station and Greyhound Bus Terminal, next to the Emrich County Recycling Plant. We have lived there for about 19 years, ever since Miranda was born, I guess, somewhere around then. The family includes my wife, Esmerelda Tammy, and Miranda's four younger brothers, Ray (age 16) and Billy (14), Tommy (7), and Jimmy (4) together with Miranda's two older sisters, Wynona (20) and Tumelda (19).

I work sometimes as a laborer in construction, but to tell you the truth, I haven't worked too much the past couple of years. I got myself jammed up a while ago--- another driving and drinking thing. I had to do some time in the County Jail on the latest charge. Alcohol always seems to get me in trouble. I went to AA many times because it has helped my friends a lot; but I can't seem to get it.

My daughter, Miranda-Sue, had probably the hardest time growing up in this house. She was forced to become an adult early on and to take care of her four younger brothers. There was never enough money to cover the bills and I know that Miranda was often upset that I wasn't working and was drinking. Early on, I knew that she was getting into trouble herself on the streets with drinking and drugs. I just didn't like the crowd she was running with. It seemed like the guys were much older than her and I didn't like them coming around. But, hey, what could I do? Then Miranda started getting in trouble in school with fighting, cursing, bad grades and damaging school property. I

remember she was thrown out of school at least three times. I am sad about the way she has been living and not taking care of herself. And now she is in serious trouble. I think she is going to face some hard time.

But you know something? I don't care if you live on Park Place, or you live in a tent in the Emrich County Park, or live in a trailer park, like us now. The law should be the same for all people regardless of what kind of family they come from, what part of town you live in or how much wealth you have. I believe that Miranda is in trouble with the law today ONLY because we don't have money and we are not influential in this wealthy community. Why do I say that? First of all, look at this Rockefeller High School. Just about every kid in that school is the child of a lawyer, doctor or other some other professional. They have fund raisers at cocktail parties all the time and these families practically rebuilt the school with the cash they've raised. The school has all these parent committees in which these non-working parents do nothing but raise money and go to "socials." You think anyone in my family is welcome there? I would say that 9 out of 10 of the kids have sports cars, belong to one of a dozen country clubs in Emrich, and have paid tutors practically living in their homes to make sure the kids do well in school.

Miranda is in trouble with the law because we don't have the money to get her out of trouble. I mean, really, I am not making this up. Just look at the record in this case. Miranda was suspended from school for smoking. No other student has been suspended for this reason in ten years at Rockefeller. I remember that Miranda was in a fight with Kathryn Winthrop in the bathroom at the school. Miranda was suspended, Kathryn was not. Why was that? Finally, I point to the case of Michael Hudson. He

bought drugs from Miranda. In a couple of months he is going to Princeton University with no criminal record as long as he testifies against Miranda at her trial. Is that fair? He was guilty of a crime as was Miranda. Why should Miranda face jail time and Hudson have a clean record?

I don't know anything about the law but I hear that before a student can be personally searched with a pat down, or have her locker searched or her private telephone messages read by a school official, there initially must be reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating the law or rules of the school. The only reason why Miranda was taken to Principle Lott's office and humiliated was because Sandy said her phone, (that was in her locker) was missing (it was not!); because Miranda was standing next to her desk (Miranda had to walk past Sandy's desk to get to her desk) and because she knew "that Miranda's parents could never afford to buy her a phone like that." (so what—does that make you a thief?)

Do these statements give a school official the right to remove a student from class, detain her, search her locker, pat her down, force her to reveal personal and private communications on her phone, and demand that she empty her pockets? What in these statements could cause a school administrator to reasonably believe that Miranda stole a phone from Sandy? I think it is outrageous to think that this was a reasonable search. If that is all it takes to invade a student's right to privacy (just say "that student was standing next to my desk and she is poor!") then no student can expect to enjoy a right of privacy in a school setting.

I also have a problem with them not calling me, Miranda's father, on June 15th. I would have gone down to the school immediately. Aren't they obligated to notify the parents before they begin patting down their kids? Another question I have is how come they didn't arrest Michael Hudson and the other kids that were planning to buy drugs. I heard that before the cops got to the school, Principal Lott called Michael Hudson's father who is this big time lawyer in town. He told Mr. Hudson about the text message that Michael had sent my little girl. Anyway, Mr. Hudson came down to get Michael and the next thing I heard, Michael was planning to testify against Miranda. Now he's going to some fancy rehab and Miranda is going to jail. Is that fair? It's like I keep saying; there's one set of rules for the rich kids and another set for the poor kids.

Also, Miranda may be going to jail because the phone that Sandy suspected was stolen by Miranda was actually in Sandy's locker all along, right where Sandy left it. I believe that Sandy knew her phone was in her locker and wanted to harm my daughter by accusing her of stealing. I can't believe our Constitution would permit this injustice to occur.

STATEMENT OF JUSTIN TIMBLEWOOD

My name is Justin Timblewood and I am a senior at Rockefeller High School. On June 15th, 2007 my friend Miranda Wainwright was arrested for drug possession. Miranda and I have been friends for about a year. We went to the junior prom together. Some of my friends did not want me to take Miranda to the prom because she is not a part of our group of friends. A lot of the kids at this school are elitist. The rich kids don't like to associate with the kids from the poorer neighborhoods. I'm not like that. Miranda is a cool girl and we get along.

I was in the classroom in June 15th, 2007 when Sandy told Ms. Anderson that Miranda stole her cell phone. I really believe that Sandy wanted to get back at Miranda so she made up a story about Miranda stealing her phone. Ever since I broke up with her, Sandy gets mad if I even speak to another girl. Everyone knows that the only reason she hated Miranda is because I took her to the junior prom. Since that time, she is always talking about Miranda behind her back or making fun of the clothes that she wears. She tells everyone that Miranda gets her clothes from the local Salvation Army. I mean some of the stuff that she says is really mean. Ms. Anderson should have known that Sandy was lying because she has heard some of the things that Sandy says in the classroom about Miranda.

Principal Lott and the teachers will never reprimand Sandy, however, because her parents are very influential in this town. They would rather pick on Miranda because her parents aren't important to them.

I don't believe that they had any right to search Miranda's backpack. There were about 35 students in that classroom. Even if Sandy's phone had been stolen, any of them

could have done it. Furthermore, they could have asked any of the other students in the classroom, including me, if they saw Miranda standing by Sandy's desk before they started searching her backpack. They didn't do that because they assumed that Miranda was a thief.

I hear that Mr. Lott read the text messages on Miranda's phone. He had no right to do that. And they certainly had no right to pat Miranda down. The Fourth Amendment protects us from unreasonable searches and seizures. Their search of Miranda was clearly unreasonable. Students are entitled to their Fourth Amendment rights too. My dad is a lawyer and I was discussing Miranda's case with him. He told me that there was a famous case, *New Jersey v. T.L.O.* According to that case, school officials don't have to have a warrant to search a student but the search has to be "reasonable." There has to be reasonable grounds that the student violated the law. In this case, the teacher involved knew that the student who had accused Miranda did not like her and would be capable of lying about the theft of her cell phone. There was no reason to believe that Miranda stole the phone. Second, the search can't be more intrusive than is necessary to turn up the evidence. Principal Lott's search was intrusive. He read personal messages on Miranda's phone. What could be more intrusive? Then they patted her down. It was like they thought she had a weapon. Clearly, Principal Lott violated Miranda's Fourth Amendment rights.

STATEMENT OF SANDY MILLER

My name is Sandy Miller and I am a senior at Rockefeller High School. I am seventeen years old. On June 15th after Math class was over, I noticed that my cell phone was missing. I could have sworn that I had placed it in my desk before class started. I was really upset because my parents had just bought that phone for me. It's the new Apple iPhone. I immediately thought that Miranda Wainwright stole it because I had seen her standing by my desk before class had started. I know that none of my friends who sit next to me would have stolen it because they have their own cell phones.

Anyway, after I realized that my phone was missing I told Ms. Anderson right away because I wanted her to stop Miranda before she left the school with it. I saw Ms. Anderson stop Miranda in the hallway and then they headed toward Principal Lott's office. All I heard after that was that they searched Miranda and found drugs and a lot of money. Apparently, she is a drug dealer. Even though I found my cell phone in my locker later, I don't regret that I thought that Miranda had stolen it. If I had not accused her she would have continued to sell drugs in our school. She should never have been allowed to attend our school. Students like Miranda are ruining the reputation of Rockefeller High School.

I know there are people that will say that I don't like Miranda because she went to the junior prom with my ex-boyfriend Justin Timplewood, but I really believed that she had stolen my cell phone. Miranda is always in trouble for something. She's been suspended for writing with a marker on the school walls and smoking. Last year, for no reason she pushed one of my best friends, Kathryn Winthrop, in the girl's bathroom. I know Kathy was scared but she stood up for herself and hit her back. Everyone,

including Principal Lott, understood that Kathy was just defending herself from Miranda and all of the kids like her. That's why he only suspended Miranda.

Now, she's saying that they should never have searched her backpack because they did not "reasonable suspicion" to believe that she stole my phone. I really believed that she had stolen my phone because I saw her standing next to my desk before class started. That's why I told Ms. Anderson to stop her. My phone is very expensive and I know that Miranda's parents could never afford to buy her a phone like that. Also I heard that the phone that Mr. Lott found in her backpack was an Apple iPhone just like mine. A reasonable person would have thought that she had stolen my phone. Anyway, now we all know how she is able to afford such an expensive phone. Mr. Lott had a right to open the phone and read her messages.

I can't believe that she thinks that her Fourth Amendment Rights were violated because they searched her to find the drugs that she was planning to sell. I know that the great Americans who wrote the Bill of Rights never intended to protect drug dealers.

STATEMENT OF PRINCIPAL WINSTON ELWOOD LOTT

I am the principal of Rockefeller High School, located in beautiful Emrich County, New Jersey and have served in that capacity for more than fifteen years. I am proud of our student body and the supportive community that produces many fine scholars and athletes each year. Every year, ninety-eight percent of our Rockefeller graduates go on to college, and seventeen percent of those enroll in Ivy League colleges, the toughest schools to get admitted to. I am also proud of the fact that half of our students receive scholastic scholarships for colleges based upon their outstanding grades and SAT performances. These students don't even need the money that is awarded to them as a result of their hard work. They come from wealthy families of doctors, lawyers, accountants and many leaders in the community of Emrich.

Now, don't get me wrong. We are not perfect. Rockefeller High is not without its problems. We have a very small percentage of our students, in fact, probably twenty-five students, who give my staff pretty much all of our headaches that we have to endure on any given day. While it may be true that these students come from the lower economic classes in our community of Emrich and don't seem to fit in too well with the vast population at our culturally-rich school, I am unwilling to blame their atrocious truant conduct on the fact that the families that produced these truants are not wealthy like the rest of our Rockefeller High/Emrich community. These troublesome students seem hell-bent on disrupting our school at every turn by interfering with our classes, fighting, bullying others, stealing, doing and selling drugs, writing on school walls, and cursing at teachers. Not a day goes by that I don't have to spend time resolving the problems created by this small group of students.

I have no problem saying that the defendant in this case, Miranda Wainwright, fits into this category. In her three years at Rockefeller, Miranda has been a disciplinary and academic nightmare. The only way that she has managed to graduate each year was by the generosity of her teachers and the utter embarrassment that leaving a child behind brings to our statistics. Her grade average over three years is barely a D plus. The highest grade she received, outside of gym, was chemistry (where I believe she learned how to mix dangerous drugs and substances) where she received a C-. We just do not leave back any students here at Rockefeller. In addition, Miranda has been regularly disciplined and suspended (three times) for smoking cigarettes, fighting and defacing our property.

Much has been made of how Miranda was treated on June 15, 2007 when we discovered that she was dealing drugs on our beautiful campus. Miranda and her attorneys have alleged that we violated her constitutional rights when we searched her backpack, her iPhone, and then her locker. Finally, objections have been made to the fact that we then patted down Miranda's outer portion of her clothing.

I have read the T.L.O. decision from the Supreme Court and the many fine attorneys/parents of our students who come from the finest law firms in Emrich County have advised me. The question is whether I had a reasonable belief to suspect that Miranda had violated the law or school rules and that any search had to be not more intrusive than necessary to discover whether a law or school regulation had been violated. My conduct in this regard has been above and beyond the minimum requirements of the law and has been aimed at shutting down criminal conduct on our campus by known criminals like Miranda.

Let's review the facts to see if I, as the principal of this academic institution, acted reasonably. On June 15, 2007 Carolyn Anderson, one of our fine math teachers, advised me that Sandy Miller believed that Miranda Wainwright had stolen her Apple iPhone. Based on Miranda's history in our school, the fact that a student believed that Miranda may have been involved in criminal conduct did not surprise me. Miranda was brought to my office and I searched the backpack. Low and behold, I found an Apple iPhone there. To be sure that the phone was Sandy's and not Miranda's, I decided to review the unread messages on this phone. Is that unreasonable? I dare say, not!

Moreover, I was absolutely shocked to find a message from senior Michael Hudson to Miranda in which Michael wrote that he had \$100 and wanted to buy three bags of methamphetamine from Miranda. That drug deal was to take place at the back of the football field on campus that same day. With this information, I quickly read two more messages that revealed that two more drug deals were going to take place on that day involving Miranda and our students. I had then indisputable proof that Miranda Wainwright was a drug dealer, was going to sell drugs to three students that day and was going to do so on our campus. I was outraged and determined to find those drugs that were obviously somewhere on our campus because the drug deals were going to be conducted that day.

What would you do under these circumstances if you were the principal and wanted to get rid of the scourge of drugs on your campus and you had this evidence before you? Was it reasonable for me to search Miranda's locker in search of the drugs that she was selling? I believe it was very reasonable. What was I supposed to do, ignore this evidence? In addition, was it reasonable under these circumstances to have

Ms. Anderson pat down Miranda in my office? I believe it was, and sure enough, we discovered the drugs that we were looking for.

The drug deal did not go down on our campus on that day because of the decisive action I took. In addition, three students did not ingest those dangerous drugs that Miranda was selling because of my actions in preventing the drug deals. Finally, and most importantly, we got a drug dealer off our campus for good. I am most happy for that. If I had the chance to change any of my conduct on that day I would not have changed a thing. The Constitution of our land does not require me to turn my head away and ignore evidence that my students are buying and selling drugs on school property.

STATEMENT OF CAROLYN ANDERSON

My name is Carolyn Anderson. I am a Math teacher at Rockefeller High School. On June 15th Sandy Miller approached me after I had dismissed my senior class and told me that she could not find her cell phone. She was very upset because her parents had recently bought it for her. Sandy believed that Miranda Wainwright had taken her phone because she had seen Miranda standing by her desk prior to the start of class. She insisted that I find Miranda before she left school grounds. Sandy Miller's parents are very influential in this town because they have a lot of money. They are also good friends with Principal Lott. I knew, however, that these two girls have never liked each other since Sandy's ex-boyfriend, Justin Timplewood, took Miranda to the junior prom last year. I try not to get involved in the school gossip but you can't help but overhear some of the conversations between the students. In addition, I felt uncomfortable with accusing Miranda of the theft but I still went out into the hallway to see if I could find her. She was standing with a group of girls talking. I approached her and asked her discreetly to follow me to the Principal's office and to bring her backpack with her. Again, I did not feel comfortable searching her backpack so I figured that I would let Principal Lott handle the situation. I asked Miranda to follow me to the principal's office. Once we got to Principal Lott's office, I reported to him what had transpired. I have the utmost respect for Principal Lott but I could tell from his expression that he immediately believed that Miranda had stolen the cell phone. Now I know that Miranda has gotten into trouble before and been suspended. None of those previous incidents, however, included stealing.

Mr. Lott immediately demanded that Miranda give him her backpack. He didn't tell her that she had been accused of stealing Sandy's cell phone. I guess he felt that she would just deny stealing the phone. Once Mr. Lott emptied the contents of the backpack, I saw an Apple iPhone, I have to tell you that I thought that Miranda had stolen Sandy's cell phone. However, when Mr. Lott began reading the text messages, I realized that it was Miranda's cell phone. I was shocked to hear Mr. Lott read aloud the messages about the drug deals that Miranda was making arrangements for with her fellow students. I could not believe that these drug deals were scheduled to take place on school grounds.

To be honest, I always believed that Mr. Lott treated the students from the poorer communities in our area unfairly. This, however, was outrageous. I could not defend Miranda's actions. Needless to say, Mr. Lott was livid. He demanded that Miranda take him to her locker so that he could seize the illegal contraband. She was in tears at this point and kept telling him that he was violating her right to privacy and her Fourth Amendment rights. Once we got to the locker, however, she opened it up. There were no drugs in the locker. Then Mr. Lott escorted Miranda back to his office and asked me to pat her down. I felt very uncomfortable but he insisted that we had to find Miranda's drugs and seize them before she sold them. If we allowed drugs to be sold at Rockefeller High School, it would ruin the school's reputation.

I thought about it for a few seconds and told myself that we were looking for drugs. I began patting down the front of her sweater. I felt a bulge in her front jean pocket. You could not tell that she had anything in her pocket, however, because she was wearing an oversized sweater. Mr. Lott made her empty out her pockets.

Even though I had heard Mr. Lott read the text messages out aloud, I was still shocked to see the five little bags of powder and the wad of cash. There had to have been about \$500 dollars in her pocket. At that point, Mr. Lott had no other choice but to contact the authorities.

Even though Miranda has been in some trouble, I felt that she had the potential to make something of herself. She is really smart but unfortunately she is not committed to her school work. I have had long discussions with her about her family situation. I know that neither of her parents graduated from high school and that she felt that she would never be able to go to college. I often told her that if she worked on improving her grades, the opportunity to go to college would be there. Now, I see the situation that she has gotten herself into and I think that the potential that was there is now lost. It's very sad but also very typical of what happens to many of the students who don't have the economic advantages as some of the students from the wealthier communities.

Judge's Final Instructions to Students

We have heard defense counsel's argument that the evidence found on the defendant by Principal Lott, a school official, should be suppressed. We have also heard the prosecution's argument that the evidence found on Miranda should be allowed as evidence in the trial. We have heard from the witnesses.

Now it is time for us to make our decision.

The Fourth Amendment and Case Law

The Fourth Amendment of the United States Constitution guarantees citizens freedom from unreasonable government searches and seizures. A search of a person or his or her property is presumed unreasonable unless there is a warrant.

The rules regarding searches are very different for minors while in school. Students in the school setting are protected under the Fourth Amendment from unreasonable searches and seizures by school officials (who are viewed as governmental agents). However, the Supreme Court in *New Jersey v. T.L.O.* determined that school officials do not need a search warrant; nor do they need to have probable cause to believe a student is violating the law prior to conducting a search. School searches of students are lawful if they are reasonable under the circumstances. The search will generally be found to be reasonable if two conditions exist: 1) there are reasonable grounds for suspecting the search will turn up evidence that the student is violating the law or school rules; and 2) the search is no more intrusive than necessary to turn up this particular evidence. The age and sex of the student and the seriousness of the offense are also considered in deciding reasonableness. (*excerpt taken from Students' Rights Handbook: A Guide*

for Public School Students in New Jersey, 3rd edition; created and written by the American Civil Liberties Union of New Jersey & Sponsored by the New Jersey State Bar Foundation)

“Let us examine the issue.....”

1a) Was Principal Lott’s search of Miranda’s backpack for the missing cell phone reasonable? In other words, did he and Ms. Anderson have a reasonable suspicion that Miranda had stolen the cell phone?

1b) Was his search of the backpack no more intrusive than necessary to turn up the missing telephone given the seriousness of the alleged offense? Once Mr. Lott found the cell phone, was his reading of the text messages more intrusive than necessary in trying to determine if the phone belonged to Sandy?

◆ If you believe that Principal Lott did not have reasonable suspicion to believe that Miranda had stolen Sandy’s cell phone and therefore should not have searched her backpack, then we will grant the defendant’s request that none of the evidence from the search be allowed into trial.

◆ If you believe that Principal Lott did have reasonable suspicion to search the backpack but that the reading of the text messages was more intrusive than necessary in determining if the cell phone was stolen, then we will grant defendant’s request that none of the evidence from the search be allowed into trial.

◆ If you determine that the search was reasonable and not overly intrusive, then the text messages will be allowed into trial and we will move to question #2.

2a) Did the content of the text messages give rise to a reasonable suspicion that Miranda was in possession of drugs that she was planning to sell and therefore justified the pat down?

2b) Was the pat down of Miranda by Ms. Anderson more intrusive than necessary in trying to find the drugs and given the seriousness of the offense?

◆ **If you determine that the text messages did not give rise to reasonable suspicion that Miranda was in possession of drugs that she was planning to sell, then we will grant defendant's request to not allow the drugs and money found on Miranda in as evidence in the trial.**

◆ **If you determine that there was reasonable suspicion that Miranda was in possession of drugs that she was planning to sell on school grounds, but that the pat down was more intrusive than necessary in finding the drugs and given the seriousness of the offense, then we will grant defendant's request to not allow the drugs and money found on Miranda in as evidence in the trial.**

◆ **If you determine that the pat down was reasonable and that it was not overly intrusive, then the money and the drugs will be allowed into trial as evidence.**

ADDITIONAL QUESTIONS FOR STUDENTS TO CONSIDER

1. Were there less intrusive options for Principal Lott and Ms. Anderson to determine if Miranda had stolen Sandy's cell phone?
2. Some schools have policies that allow school officials to search students desks and lockers without a warrant, consent by the student or even suspicion. Students are instructed that they should not put anything in their lockers or desks that they would not want anyone to find or see. Do you think that this is fair?
3. Do you think that school officials should have a warrant to search a student?
4. Do you believe that the standard for searching a student should be probable cause rather than the lesser standard of reasonable suspicion?
5. What standard or policy would you create for when a school official can conduct a search of a student or his/her belongings while they are in school?

Vocabulary List

Admissible: Evidence that the court allows to be admitted at trial.

Attorney: A person who advises and represents clients on legal matters.

Consent: To permit, approve or agree with.

Circumstantial Evidence: Evidence not based on one's actual personal knowledge or observation of the facts in a case.

Direct Evidence: Evidence that itself directly proves the facts in a case.

Excessively Intrusive: Beyond what would be considered appropriate under the "reasonable suspicion" standard; what an ordinary person under the circumstances would consider improper.

Evidence: Data, including testimony, records and objects, that is presented to a court or jury to prove or disprove something.

Fourth Amendment: Amendment of the U.S. Constitution guaranteeing individuals the right to be secure in their homes and property against unreasonable searches and seizures and requiring that warrants be issued on probable cause and with specificity.

Inadmissible: Evidence that the court does not allow to be admitted at trial.

Judge: A public officer authorized to hear and decide issues and cases in a court of law.

Jury: A group of persons sworn to render a verdict or true answer on a question or questions submitted to them

Jury Charge: Direction that the judge gives the jury concerning the applicable law of an issue or case.

Methamphetamine: A synthetic stimulant widely used as an illegal drug.

Mock Trial: An imitation of a real trial, based on a fact pattern including fictitious characters and testimony.

Motion: An application one makes to the court for a decision in their favor.

Pretrial Hearing: Procedure used prior to trial to narrow issues to be presented at trial.

Privacy: The right to live without unwarranted interference by the public or government.

Probable Cause: Reasonable grounds for belief that a person should be searched or arrested.

Reasonable: Fair, proper, suitable under the circumstances.

Reasonable Suspicion: Suspicion based on specific facts and inferences that an ordinary person under the circumstances would agree justifies the belief that a person is engaged in, or about to be engaged in, criminal activity.

Right: A legal guarantee or entitlement.

Search and Seizure: A legal procedure under which police or other authorities conduct a search of a person or their property and confiscate evidence relevant to a crime.

Suppress: To keep from being disclosed or used at trial.

Verdict: A jury's decision or judgment.

Warrant: A document issued by a judge authorizing an officer to conduct a search, seize property or make an arrest.

Witness: An individual who actually sees, hears or perceives something; an individual who provides testimony in court.