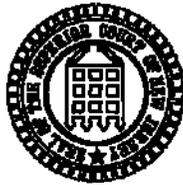


Superior Court of New Jersey  
Essex Vicinage



Law Day 2009

*A Legacy of Liberty: Celebrating Lincoln's Bicentennial*

Mock Trial  
Fact Pattern

STATE V. CYPRUS

**The following individuals served on the  
2009 Essex Vicinage Law Day  
Mock Trial Fact Pattern Committee**

# A LEGACY OF LIBERTY: CELEBRATING LINCOLN'S BICENTENNIAL

## Table of Contents

<u>Section</u>	<u>Page Number</u>
Law Day Fact Pattern	
Indictment	
Instructions for Teachers	
Creating a Courtroom	
Instructions for Attorneys and Judges	
Judge's Directions to Students	
Witness Statements	
Judge's Instructions for the Jury	
Verdict Sheet	
Additional Questions	
Vocabulary List	

## Law Day Fact Pattern

On May 15, 2008 an incident took place at Sunnyville High School involving three high school students. Eighteen year-old senior Kayleigh Cyprus threw a cell phone at her classmate Helena Lopez and ended up hitting another student, Jack Saffron in his right eye. As a result, Jack Saffron lost permanent vision in his right eye.

The incident took place in Sunnyville's cafeteria at approximately 12:30 p.m., the school's lunch hour. Initially, Kayleigh approached Helena in the cafeteria and accused her of sending text messages to her boyfriend Rick Jonas. Helena, who was sitting at a table with several other students denied that she had texted Rick. Kayleigh grabbed Helena's phone, which had been on the lunch table and began to review her text messages. Kayleigh saw three messages that Helena had sent to Rick. She read the messages aloud. As she was reading the messages, Helena screamed, "Give me my phone back, you pathetic loser!" Helena continued to scream that she wanted her phone back.

In response, Kayleigh stopped reading the text messages, glared at Helena, stated, "You want it back? Here!" and then threw the phone in Helena's direction. Helena screamed and ducked out of the way. Jack, who was sitting next to Helena, turned his head in Kayleigh's direction to see what had happened. The phone hit him in the right eye. Jack immediately dropped to the ground and started screaming that she had "blinded" him. School officials called an ambulance and he was taken to the emergency room. Despite several surgeries, Jack has not regained vision in his right eye.

Kayleigh has a juvenile record for shoplifting and assault. Now that she is 18 years old, she has been charged with Aggravated Assault and Theft of Movable Property by the Sunnyville Prosecutor's Office.

# Indictment

**Superior Court of New Jersey**  
**Summerville County**  
(Law Division - Criminal)  
11<sup>TH</sup> Grand Jury 2008 Term

**The State Of New Jersey**  
vs.

***KAYLEIGH CYPRUS***

Count (s) 1 through 2

---

Indictment #: 2008-08-0088	<b>Indictment</b>	2 Count(s)
Second degree	AGGRAVATED ASSAULT	
Third degree	THEFT	

Summerville County, to wit:

## FIRST COUNT

The Grand Jurors of the State of New Jersey, for the County of Summerville, upon their oath present that

### ***KAYLEIGH CYPRUS***

on the 15 of May, 2008 in the Township of Sunnyville, in the County of Summerville aforesaid and within the jurisdiction of this Court, did purposely and knowingly attempt to cause serious bodily injury to Jack Saffron in the Sunnyville High School cafeteria contrary to the provisions of N.J.S.A. 2C:12-1b(1), a crime of the Second Degree, and against the peace of this State, the government and dignity of the same.

## SECOND COUNT

And the Grand Jurors of the State of New Jersey, for the County of Summerville, upon their oath present that

### ***KAYLEIGH CYPRUS***

on the 15 of May, 2008 in the Township of Sunnyville, in the County of Summerville aforesaid and within the jurisdiction of this Court, did purposely and knowingly unlawfully take certain movable property, a cell phone, belonging to Helena Lopez with the intent to deprive said victim of the same contrary to the provisions of N.J.S.A. 2C:20-3a, a crime of the Third Degree, and against the peace of this State, the government and dignity of the same.

SUSAN SIMPSON  
SUMMERVILLE COUNTY PROSECUTOR

BY: \_\_\_\_\_

ALEX LOHAN  
ASSISTANT PROSECUTOR

## Instructions for Teachers

This fact pattern involves a criminal trial in which Kayleigh Cyprus has been indicted on one count of Aggravated Assault and one count of Theft of Movable Property.

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 that Kayleigh is guilty. The other attorney will be playing the role of the defense attorney, representing Kayleigh.

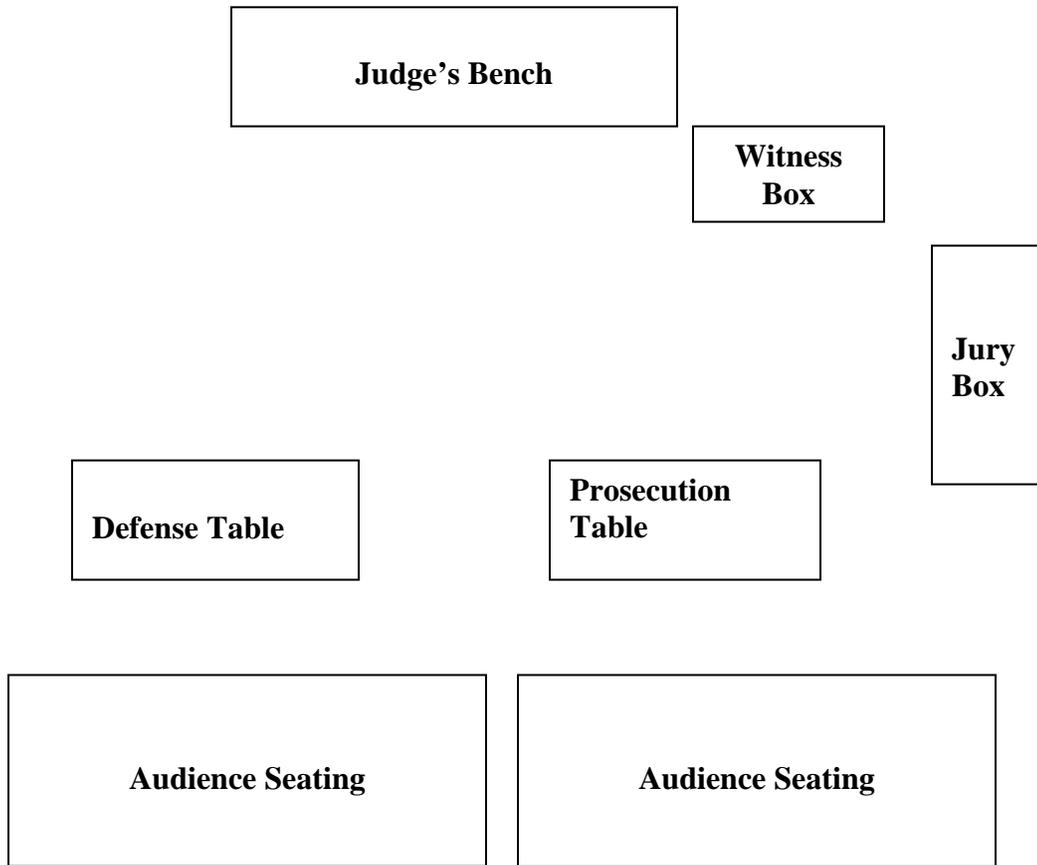
In addition to the arguments that the attorneys will be making, teachers should select five students to play the parts of the witnesses. Some of the witnesses will be testifying for the prosecution and some of the witnesses will be testifying for the defense. Witnesses may be cross-examined by opposing attorneys.

Both attorneys will make their arguments and then the judge will provide instructions to the jurors before they make their decision. If you would like two students to act as co-counsel and assist the visiting attorneys, please have each student create an opening and closing statement as well as a list of questions for each witness. Teachers should also inform the visiting attorneys that they will have co-counsel prior to the start of the mock trial.

The remaining students will act as the jury. The jury will decide whether Kayleigh is guilty of the crimes charged per the judge's instructions. Students should indicate "guilt" or "innocence" by holding up cards stating "guilty" or "not guilty" or by a show of hands.

The students should be familiar with the entire fact pattern and understand the sequence of events prior to Thursday, April 30, the date of the mock trial.

## 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 involves a criminal trial in which Kayleigh Cyprus is charged with Aggravated Assault and Theft of Movable Property. Please see the Indictment, page 5.

Students have been selected to portray the witnesses. The judge will preside over the trial providing instructions to the jurors and assisting them in making a decision. 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. **[Some schools may have two students acting as co-counsel. The Instructions for Teachers, page 6, states that in these cases, the attorneys should be notified of this prior to the start of the mock trial. In addition, co-counsel should prepare an opening and closing argument and a list of questions for each witness.]** Each attorney will make a five-minute opening argument. The direct and cross-examination of each witness should take no longer than five minutes. Then the attorneys will make a five-minute closing argument.

The judge will summarize the facts of the case, provide Instructions to the Jury, pages 20-28, and go over the Verdict Sheet, page 29, in helping the students to decide.

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 30.**

## Judge's Directions to the Students

My name is Judge \_\_\_\_\_ of the New Jersey Superior Court. This is a criminal trial in which the defendant, Kayleigh Cyprus has been indicted on one count of aggravated assault and one count of theft. This is a criminal trial so the case is being brought by the State of New Jersey against Kayleigh Cyprus.

The State will be represented by a prosecutor. Kayleigh Cyprus has hired an attorney, the defense attorney, to represent her. In a criminal case, the State represented by the prosecutor has the burden of proof. This means that he/she must prove beyond a reasonable doubt that the defendant committed the crimes.

This criminal trial will be decided by you, the jury. The jury represents the community in which the crime occurred. The jury's role is to hear the evidence presented by the prosecutor and the defense attorney. Evidence is presented to the jury by witnesses who testify. Keep in mind that in actual criminal trials, there are 12 jurors who decide the case, but for this exercise all of the remaining students, not playing the roles of the witnesses, will act as the jury.

You will be hearing opening arguments from each attorney. 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, I will provide instructions to you on the laws pertaining to this case and how to apply the laws to the facts of the case. You will then decide whether Kayleigh Cyprus is guilty or not guilty of each crime.

**Witnesses for the Defendant:**

Witness: Kayleigh Cyprus, defendant

Witness: Louis Chandler

**Witnesses for the Prosecution:**

Witness: Jack Saffron, Victim

Witness: Helena Lopez

Witness: Yolanda Rios

## **STATEMENT OF KAYLEIGH CYPRUS, Defense Witness**

My name is Kayleigh Cyprus and I am 18 years old and a senior at Sunnyville High School.

May 15, 2008 started out like any other day at Sunnyville. I went to school and attended my morning classes. In gym class, my friend Samantha Brier approached me and told me that Helena Lopez, another friend of mine, had been texting my boyfriend Rick Jonas. At first I didn't believe her. Needless to say there is always a lot of gossiping at my school. I'm sure that it's the same at every high school. But Helena is my friend. She was one of my V.I.P.s at my Sweet Sixteen party two years ago and she knows that Rick and I are very serious. We have been planning to get engaged after we graduate from college in about four years. Samantha said that Helena had allowed her to read the texts on her Verizon LG enV2 phone. According to Samantha, there were three texts. She said that all three texts were about Rick and Helena making arrangements to go to an upcoming T.I. concert.

I won't lie, I was really livid. I could not believe that Helena would do this to me. As soon as lunch period started, I approached Helena in the cafeteria. I would have approached Rick but he was home sick that day. Helena was sitting with a bunch of other people but I did not pay attention to them. I went straight up to her and confronted her about whether she had been texting Rick. Of course, she lied to me and said no. But I had to know the truth. I saw her cell phone on the table next to her lunch tray and I grabbed it. I looked at her text messages and I saw that she had been texting him. She apparently had invited him to the T.I. concert and he accepted. While I was reading the texts, she kept screaming at me to give her back her phone and she was calling me all kinds of names. I tossed the phone back to her. Instead of catching it, she overreacted and ducked out of the way and it hit Jack Saffron who was sitting next to her.

I never meant to hit Jack. Really, I didn't throw the phone that hard but she has the enV2 phone which flips open and I think that the edge of the phone hit him squarely in the eye. She should have caught it because I was tossing it back to her. It's not like I hurled the phone at her. If that were

the case, she wouldn't have had time to duck out of the way. As I read the messages, I had already decided that I was going to break up with Rick so I had no motive to want to hurt her. Since a concert ticket is worth more than our relationship, then he can go out with her. In any case, she was violating Sunnyville's policy that students are not allowed to bring their cell phones to school.

Another issue is that Jack had earphones on and was listening to his iPod. School policy prohibits students from bringing their iPods to school. If he did not have the earphones on, he would have been more alert and would have heard our conversation and know that I was about to toss the phone back to Helena.

Don't get me wrong, I feel really bad that he can't see out of his right eye anymore. I never meant to hurt anyone and I don't have any problems with Jack. Who would think that a cell phone could cause blindness. It's not like I threw a weapon at him!

This was an accident.

## **STATEMENT OF LOUIS CHANDLER, Defense Witness**

My name is Louis Chandler and I am a 16 years old and a junior at Sunnyville High School. The reason that I am testifying is because I happened to be sitting at the lunch table on May 15, 2008 when Kayleigh Cyprus blinded Jack Saffron. That is the only reason that I am here. I am not friends with any of these people and the only reason that I was sitting at the lunch table with them was because that was the only available seat. And trust me, they didn't want me there. Kayleigh, Jack, Helena and the rest of the snobs at that table are the popular kids and if you are not a part of their group, then they don't want you even sitting at the same table as them, but I don't care. I still sat at the table. Anyway, they are always involved in some sort of soap opera. One day they're best friends and the next day they're sworn enemies. It's like an episode of As the World Turns.

Anyhow, on May 15, 2008 I was sitting at their lunch table eating my lunch while they gave me dirty looks. Along comes Kayleigh who starts arguing with Helena. They were arguing about Rick Jonas, Kayleigh's boyfriend and how Helena was texting Rick to make plans to go to the T.I. concert. I would love to go to that concert. Anyway, I love a good argument so I was looking at and listening to everything that was going on. Kayleigh grabbed Helena's phone before Helena could get to it. Then Kayleigh starts reading these texts that Helena and Rick had been sending each other about going to the concert together.

To be honest, Kayleigh didn't really look angry. She looked like she was going to start crying. Helena was doing most of the screaming, calling Kayleigh a "loser" and telling her that she wasn't pretty enough for Rick. Also, she was screaming at her to give her back her phone. Kayleigh just tossed the phone back to her and turned around to leave. The phone kind of floated in the air and instead of catching it, Helena overreacts, screams and ducks out of the way. That's when the phone hit Jack in the eye. It was an accident.

I could see if Kayleigh really threw the phone at them. Anyway, who would think that a phone could blind someone. I was actually hoping for more; like a fight between Kayleigh and Helena on the cafeteria floor. We haven't had one of those in a while. I have seen Kayleigh fight before too so if she was really angry, she would have just slapped or punched Helena in the face.

If you ask me, they are making a big deal out of something that was just an accident.

## **STATEMENT OF JACK SAFFRON, Prosecution Witness**

My name is Jack Saffron and I am 17 years old and a junior at Sunnyville High School. On May 15, 2008, my life forever changed with a reckless act from a very selfish and angry human being. I am talking about the defendant, Kayleigh Cyprus.

This is what I remember happening. I was eating my lunch in the school cafeteria at approximately 12:30 p.m. I was sitting at a lunch table with seven other people. Helena Lopez was sitting to my left. I talked to the other students for a few minutes and then I put on my earphones and listened to my iPod. I saw Kayleigh approach our table and I recall that she seemed really angry. But to be honest, Kayleigh is always angry at someone. She is always looking to start an argument or a fight at school. She's been suspended a couple of times. I think that she was there for about seven to 10 minutes but I was minding my own business so I was not really paying attention to what she and Helena were talking about.

Suddenly, I heard Helena scream and duck out of the way. She screamed loud enough that I could hear her even though I had my earphones on. I turned to my left to see what happened and that's when the cell phone hit me in the eye. I know that it was one of those cell phones that flips open and I am pretty sure that it was the edge that hit me.

I knew that it was bad because my eye hurt really bad and there was stuff coming out of it. I couldn't open my eye. I remember lying down on the floor and screaming in pain. I heard my friends talking to me and then I heard Ms. Rios, the lunch monitor. She told me to lay still and to keep my eyes closed and that an ambulance was on its way.

I won't go into the details but I have had several surgeries and my parents have consulted with several eye specialists and they all say the same thing. I will never have vision in my right eye again.

I'm angry. This was a senseless act by someone who has a history of violence. She has been in numerous fights at school and has been suspended for these fights. She knew exactly what she was

doing when she threw that phone at us. She couldn't have been standing more than two feet away from us when she threw the phone and she flipped it open making it essentially a dangerous weapon. She showed an extreme indifference to human life by throwing that phone at a table with a bunch of people.

My entire life has changed. I will have to repeat my junior year because I have missed so much school with my surgeries and having to recuperate. I used to play baseball. I guess I can forget about that.

Everyone says that I have a good civil suit against Kayleigh but I don't care about the money. I want her to be punished. She should have to go to prison for this. This is someone who will injure again. Like I said, she is a violent person. If she is given a slap on the wrist, like community service, then it will be like what happened to me didn't matter. She knew that what she was doing was very, very dangerous but she didn't care. She demonstrated extreme indifference to my life and to the lives of all of the students at that table. It doesn't matter that she didn't mean to hit me. The point is that she meant to hit Helena and injure her. The fact that she hit me instead is irrelevant. It's her intent to purposely injure that matters.

## **STATEMENT OF HELENA LOPEZ, Prosecution Witness**

My name is Helena Lopez and I am 17 years old and a senior at Sunnyville High School. I am here to testify about what took place on May 15, 2008. I was having lunch in the school cafeteria. I was sitting at a table with about seven other students. Suddenly Kayleigh Cyprus approached me and began accusing me of trying to steal her boyfriend. She was screaming at me and demanding that I give her my phone. Of course I said no but my phone was on my lunch tray so she grabbed it. She began reading the texts. I yelled at her to give it back to me and she flung it at me. I ducked out of the way but Jack Saffron, who was sitting to my right, got hit in the eye with the phone.

I really believe that her intent was to injure me. First of all she was standing very close to me; about a foot and a half. She threw it at my face. She could have thrown it on the table or even the floor but she threw it at my head. Also, the phone was flipped open because she had been reading my text messages. She could have closed it but she left it open so when she flung it at me, there was an exposed sharp edge. If I had not ducked out of the way, it could have hit me. She claims that she tossed it back to me but she flung it at me the way that you would fling a Frisbee. She meant to inflict harm. I know that Jack should not have had his earphones on but that should not matter. The reason that we have the no iPods at school rule is to avoid thefts not to be on alert for crazy people throwing phones. And even though it's not that important, she broke my phone because it hit Jack and then fell on the floor. My parents had to buy me a new phone.

I believe that Kayleigh, is just an angry person. Rick Jonas and I are friends. We have known each other since kindergarten and we live next door to each other. I am not trying to steal him away from Kayleigh, but she is always looking for a fight. The school should have expelled her a long time ago for all of the other fights she has gotten into.

## **STATEMENT OF YOLANDA RIOS, Prosecution Witness**

My name is Yolanda Rios and I am a science teacher at Sunnyville High School. On May 15, 2008, I was the lunchroom monitor and was present during the incident that led to Jack Saffron's injury. I did see Kayleigh speaking to Helena and although I was too far away to hear what was being said, it was obvious that they were arguing. I was planning to walk over to their table but I was in the middle of resolving another argument between two students who were waiting on the lunch line. Out of the corner of my eye, I saw Kayleigh grab Helena's phone and I heard Helena screaming at her. At that point, Helena was looking in my direction. She looked scared and I could tell from her eyes that she wanted me to go over and intervene.

After I separated the two students on the lunch line, I started walking toward the lunch table where Helena was sitting. I was too late. I saw Kayleigh throw the phone at Helena, who ducked out of the way. Unfortunately, Jack was sitting next to Helena and he got hit in the eye.

He immediately fell to the floor and started screaming. His eye was bleeding and there was some sort of pus coming out of the eye. I put some napkins over his right eye and told him to keep it closed and to hold the napkin against it. I called for an ambulance, and his parents to let them know that there had been an accident. I drove with him to the hospital and stayed there with his parents. I was present when the doctor told his parents that he had sustained a very serious injury to his eye.

Whether it was Jack, Helena or any other student, Kayleigh should not have started an argument, taken the cell phone and certainly not have thrown it at anyone. This was such a careless act by someone who never thinks of consequences. She caused such needless pain to Jack. His life is forever changed and I don't know if she realizes what she has done.

I don't care if she threw, tossed or flung the phone. Students are told repeatedly not to throw things to or at each other. This includes food, books, pencils, backpacks, etc. It is part of our Safety

First School Policy. Any object can become a weapon. Kayleigh knows this. I once reprimanded her for throwing her Science book to her classmate. In that situation she wasn't angry or involved in an argument. She was just being careless and not thinking about what would happen if it hit another student in the eye or the head. In this case, she disregarded the dangers of throwing an object with a sharp edge at another human being.

The thing about Kayleigh is that she never listens to anyone and she gets away with it. Kayleigh was suspended once for fighting. She has also gotten into trouble for cutting classes, smoking on school grounds and bringing her cell phone to school. The fight that she was suspended for took place in my science class last year. She accused another student of taking her seat and when the student refused to move, she pushed the student down to the floor in the chair. The student got up and pushed her back and Kayleigh would have hit her if I did not pull her back. I immediately took Kayleigh to the principal's office and explained what happened and that it was Kayleigh's fault. I didn't believe that the other student should be blamed because Kayleigh initiated the fight. Kayleigh should have spoken to me about the issue rather than try to resolve the matter with violence.

The incident that took place in the cafeteria is just another example of how Kayleigh Cyprus does not think before she acts and in this case, her actions have resulted in tragic consequences.

# EXHIBIT A



## **Judge's Mock Trial Modified Jury Charges**

Ladies and Gentleman of the jury, before you make a decision I would like to go over some important points with you. First, the defendant Ms. Cyprus has been indicted on Aggravated Assault and Theft. I will go over what the law for Aggravated Assault and Theft of Movable Property taking states and how you must apply the law to the facts of this case in order to determine if Ms. Cyprus is guilty of Aggravated Assault and Theft. The law also states that even though Ms. Cyprus has not been indicted on charges of Simple Assault, I must still provide you with instructions on the law explaining Simple Assault. Simple Assault is a lesser crime than Aggravated Assault. If you do find that Ms. Cyprus is not guilty of Aggravated Assault, then you can consider whether you believe that she is guilty of the lesser crime of Simple Assault.

### **AGGRAVATED ASSAULT - SERIOUS BODILY INJURY** **N.J.S.A. 2C:12-1b(1)**

Let's begin with the crime of Aggravated Assault.

A person is guilty of aggravated assault if he/she . . . causes serious bodily injury to another purposely or knowingly or under circumstances manifesting extreme indifference to the value of human life recklessly causes such injury.

Under this statute, the defendant, Kayleigh Cyprus can be found guilty if she caused serious bodily injury to Jack Saffron.

To find Kayleigh Cyprus guilty of aggravated assault for causing serious bodily injury to Jack Saffron, the State must prove beyond a reasonable doubt each of the following elements:

1. That Kayleigh Cyprus caused serious bodily injury to Jack Saffron; and
2. That Kayleigh Cyprus acted purposely or knowingly or acted recklessly under circumstances manifesting extreme indifference to the value of human life.

The first element that the State must prove beyond a reasonable doubt is that Kayleigh Cyprus caused serious bodily injury to Jack Saffron.

Serious bodily injury means bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

The second element that the State must prove beyond a reasonable doubt is that Kayleigh Cyprus acted purposely or knowingly or acted recklessly under circumstances manifesting extreme indifference to the value of human life.

A person acts purposely if he/she acts with a specific intent. In other words if he/she means to do what he/she does (e.g., “I did it on purpose”).

A person acts knowingly if he/she is aware that it is practically certain that his/her conduct will cause a certain result.

A person acts recklessly if he/she consciously disregards a substantial and unjustifiable risk that a certain result will occur from his/her conduct. The risk must be of such a nature and degree that a reasonable person would consider it to be a gross deviation from what he/she would have done in the same situation as the defendant.

The phrase “under circumstances manifesting extreme indifference to the value of human life” does not focus on the defendant’s state of mind, but rather on the circumstances under which you find that he/she acted. If, in light of all the evidence, you find that the conduct of Kayleigh Cyprus resulted in a probability as opposed to a mere possibility of serious bodily injury, then you may find that she acted under circumstances manifesting extreme indifference to the value of human life.

In determining all of this, you may consider the act itself and the severity of the resulting injury.

**(NOTE:** It does not matter if the victim in this case was not the person that the defendant meant to injure)

Purpose or knowledge or recklessness with which the defendant acted toward the victim of the assault is a question of fact for you the jury to decide. Purpose and knowledge and recklessness are conditions of the mind which cannot be seen and can only be determined by what you determine from someone’s conduct, words or acts. It is not necessary for the State to produce a witness or witnesses

who could testify that the defendant stated, for example, that (his/her) purpose was to cause bodily injury.

If you find that the State has proved each element beyond a reasonable doubt, then you must find Kayleigh Cyprus guilty. If you find that the State has failed to prove any element beyond a reasonable doubt, then you must find Kayleigh Cyprus not guilty of aggravated assault in that she caused serious bodily injury to Jack Saffron.

## **SIMPLE ASSAULT (Bodily Injury)(Lesser Included Offense)**

### **N.J.S.A. 2C:12-1a(1)**

As I stated before, the law requires that I provide you the jury with instructions on the lesser crime of simple assault even though the defendant has not been indicted on this charge. If you find that the defendant is not guilty beyond a reasonable doubt of Aggravated Assault, then you can consider whether the defendant is guilty of Simple Assault.

The statute which defines simple assault provides that:

A person commits a simple assault if he/she purposely, knowingly or recklessly causes bodily injury to another. **(Note: this is different from Aggravated Assault which required serious bodily injury.)**

In order for you to convict the defendant of this offense, the State must prove the following elements beyond a reasonable doubt:

1. That Kayleigh Cyprus did cause bodily injury to Jack Saffron; and
2. That Kayleigh Cyprus acted purposely or knowingly or recklessly in causing bodily injury to Jack Saffron.

The first element that the State must prove beyond a reasonable doubt is that Kayleigh Cyprus caused bodily injury to Jack Saffron.

Bodily injury is defined as physical pain, illness or any impairment of the physical condition.

The second element that the State must prove beyond a reasonable doubt is that Kayleigh Cyprus acted purposely or knowingly or acted recklessly under circumstances manifesting extreme indifference to the value of human life.

A person acts purposely if he/she acts with a specific intent. In other words if he/she means to do what he/she does (e.g., "I did it on purpose").

A person acts knowingly if he/she is aware that it is practically certain that his/her conduct will cause a certain result.

A person acts recklessly if he/she consciously disregards a substantial and unjustifiable risk that a certain result will occur from his/her conduct. The risk must be of such a nature and degree that a reasonable person would consider it to be a gross deviation from what he/she would have done in the same situation as the defendant.

Purpose or knowledge or recklessness with which the defendant acted toward the victim of the assault is a question of fact for you the jury to decide. Purpose and knowledge and recklessness are conditions of the mind which cannot be seen and can only be determined by what you determine from someone's conduct, words or acts. It is not necessary for the State to produce a witness or witnesses who could testify that the defendant stated, for example, that (his/her) purpose was to cause bodily injury.

If you find that the State has proved each element of the offense beyond a reasonable doubt, then you must find Kayleigh Cyprus guilty. If, however, you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find Kayleigh Cyprus not guilty.

## **THEFT OF MOVABLE PROPERTY**

### **N.J.S.A. 2C:20-3a**

In Count 2 of the indictment, Kayleigh Cyprus is charged with theft of movable property.

The law states that:

A person is guilty of theft if he [or she] unlawfully takes, or exercises unlawful control over, movable property of another with purpose to deprive him [or her] thereof.

Under this statute, the State must prove each of the following elements beyond a reasonable doubt:

- 1) That Kayleigh Cyprus knowingly took or unlawfully exercised control over the cell phone;
- 2) That the cell phone was the property of another;
- 3) That Kayleigh Cyprus' purpose was to deprive Helena Lopez of the cell phone.

The first element which the State must prove beyond a reasonable doubt is that Kayleigh Cyprus knowingly took or unlawfully controlled over the cell phone. Property means anything of value. Movable property means property the location of which can be changed.

Kayleigh Cyprus must have knowingly taken or exercised unlawful control over the cell phone. Knowingly is a state of mind which cannot be seen and can only be determined by what you conclude from someone's conduct, words or acts. Therefore, it is not necessary that witnesses be produced by the State to testify that Kayleigh Cyprus said that she knowingly took the phone. Her knowledge may be gathered from her acts and her conduct and from all she said and did at the particular time and place and from all the surrounding circumstances reflected in the testimony and evidence.

In this case, the State alleges that the cell phone is the movable property that Kayleigh Cyprus took or over which she exercised unlawful control. The State does not have to prove that Kayleigh Cyprus carried the cell phone out of the place in which it was kept, but only that it was moved or taken from its original location.

The second element that the State must prove beyond a reasonable doubt is that the cell phone is the property of another.

The third element which the State must prove beyond a reasonable doubt is that Kayleigh Cyprus' purpose was to deprive Helena Lopez of her cell phone. For the purpose of this statute, the term "deprive" specifically means: (1) to withhold property of another permanently or for an extended period; or (2) to dispose of the property so that the owner will unlikely ever recover it.

A person acts purposely if he/she acts with a specific intent. In other words if he/she means to do what he/she does (e.g., "I did it on purpose").

Purpose is a condition of the mind that cannot be seen and that can be determined only by inferences from conduct, words or acts. It is not necessary that the State produce witnesses to testify that Kayleigh Cyprus said that she had a certain state of mind when she engaged in a particular act.

If you find that the State has proven all three elements beyond a reasonable doubt, then you must find Kayleigh Cyprus guilty Theft by Unlawful Taking. If you find that the State has failed to prove any of the elements beyond a reasonable doubt, then you must find Kayleigh Cyprus not guilty.

**Verdict Sheet**

**STATE OF N.J.**

**v.**

**KAYLEIGH CYPRUS**

**Ind. No. 2008-08-0088**

We, the jury, find the defendant, **Kayleigh Cyprus**, as to:

**Count 1 – Aggravated Assault**

**Has the State proved beyond a reasonable doubt;**

1. That Kayleigh Cyprus caused serious bodily injury to Jack Saffron; AND
2. That Kayleigh Cyprus acted purposely or knowingly or acted recklessly under circumstances

manifesting extreme indifference to the value of human life.

\_\_\_\_\_ Not Guilty                      \_\_\_\_\_ Guilty

**If Guilty, go to the Count 2, if Not Guilty consider the lesser included offense of:**

**SIMPLE ASSAULT (CAUSING BODILY INJURY)**

1. That Kayleigh Cyprus did cause bodily injury to Jack Saffron; AND
2. That Kayleigh Cyprus acted purposely or knowingly or recklessly in

causing bodily injury to Jack Saffron.

\_\_\_\_\_ Not Guilty                      \_\_\_\_\_ Guilty

**Count 2 – Theft of Movable Property**

**Has the State proved beyond a reasonable doubt;**

1. That Kayleigh Cyprus knowingly took or unlawfully exercised control over Helena Lopez’s cell phone;
2. That the cell phone was the property of Helena Lopez;
3. That Kayleigh Cyprus’ purpose was to deprive Helena Lopez of her cell phone.

\_\_\_\_\_ Not Guilty                      \_\_\_\_\_ Guilty

## Additional Questions

- 1) Jack Saffron mentions in his statement that everyone tells him that he should sue Kayleigh. This would be a civil case. Do you know the difference between a civil case and a criminal case.
- 2) Do you think that a cell phone could be considered a weapon if thrown at a someone?
- 3) The fact pattern mentions that Kayleigh Cyprus has a juvenile record. Do you think that the jury should be allowed to use her previous record in determining guilt in this case?
- 4) In this case, Kayleigh Cyprus was tried as an adult because she is eighteen. If she was seventeen, do you think that the Prosecutor should have still requested that she be tried as an adult?
- 5) If Kayleigh had thrown the phone at Helena Lopez and not hit her or anyone else, do you think that she could still have been charged with a crime?

## Vocabulary List

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

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

**Burden of Proof:**

**Cross-Examine:**

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

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

**Indictment:**

**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

**Jury Charge:**

**Mock Trial:**

**Prosecutor:**

**Statute:**

**Verdict:**

**Witness:**