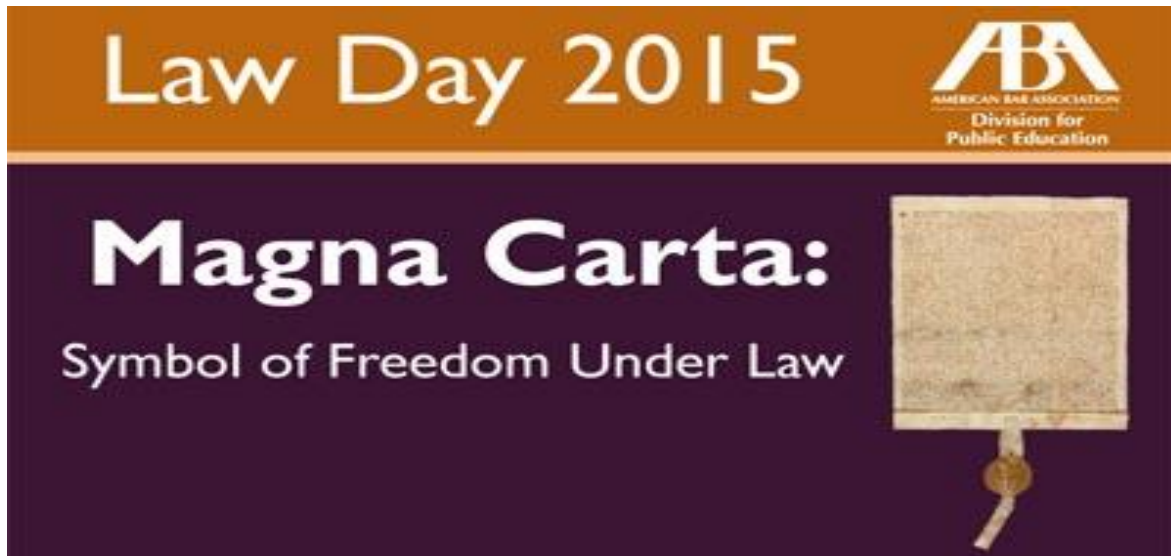




Superior Court of New Jersey
Essex Vicinage



MOCK TRIAL

FACT PATTERN

Who's the Thief at Jobs Computer Store?

State of New Jersey v. Junior N. Nocent

Acknowledgement

“Who’s the Thief at Games 4-U?,” originally published in

Mock Trial Exercises, was adapted by

the Essex Vicinage Law Day 2015 Committee

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Law Day Fact Pattern

Junior N. Nocent is a senior at Essexville High School. At 4:30 p.m. on December 13, 2014, Jobs Computer Store was busy with holiday shoppers. Junior came into the store with a classmate, Maya McDougal. There, they saw fellow Essexville seniors Joey Pounder and three friends, playing around near a display of iPads. As usual, Joey Pounder and his friends didn't seem to care that they were disturbing the other people in the store, with their backpacks thrown in the middle of the aisle and them shouting across the tables at each other. At about 4:45 p.m., Inspector Bobb walked up to Joey and his group and told them he would have to ask them to leave if they didn't quiet down. Junior and Maya were close by, but toward the side, browsing the iPad accessories.

At about 4:55 p.m., Junior chose two sets of ear buds and an iPad case. He went to the back of the store near the checkout area and entrance to the stockroom. After paying for his items, he took his Jobs Computer Store bag and turned to walk toward the store exit with Maya. Just then, there was a power surge, and the regular lights throughout the mall went out and emergency lighting came on.

Not knowing what was going on, Junior picked up his pace. By the time he reached the front of the store, there was a bottleneck of Jobs Computer Store shoppers trying, all at once, to get out. Junior made room at the exit by pushing over a theft prevention security post. The post fell and cracked in several places. As Junior stepped out into the main part of the mall, Bobb noticed what appeared to be an iPad in its original packaging peeking out of Junior's backpack.

Bobb shouted “stop!” and ran after Junior and brought him back into the store.

When he inspected Junior’s backpack, Bobb found a brand new iPad, valued at \$480. Jobs Computer Store’s security sensor and price sticker were still attached. Joey told Bobb that he had seen Junior put the iPad in his backpack. Junior claims he is innocent and that Joey must have slipped the stolen iPad into his backpack when he put the backpack down for a few minutes at the checkout. Bobb followed Jobs Computer Store’s rules regarding theft and immediately called the police to arrest Junior. The broken theft prevention security post cost \$800 to repair. Junior posted bail and is awaiting trial on charges of shoplifting and criminal mischief / destruction of property.

The issues in this case are: 1) Is Junior N. Nocent guilty of shoplifting an iPad from Jobs Computer Store?; and 2) Is Junior N. Nocent guilty of criminal mischief / destruction of property as to the theft prevention security post?

Instructions for Teachers

This fact pattern involves a case in which the State of New Jersey has charged Junior N. Nocent with the crimes of 1) shoplifting and 2) criminal mischief / destruction of property.

On the day of the mock trial, a judge and two attorneys will visit your school. One of the attorneys will act as the prosecutor and will represent the State of New Jersey. The other attorney will act as the criminal defense attorney and will represent Junior N. Nocent.

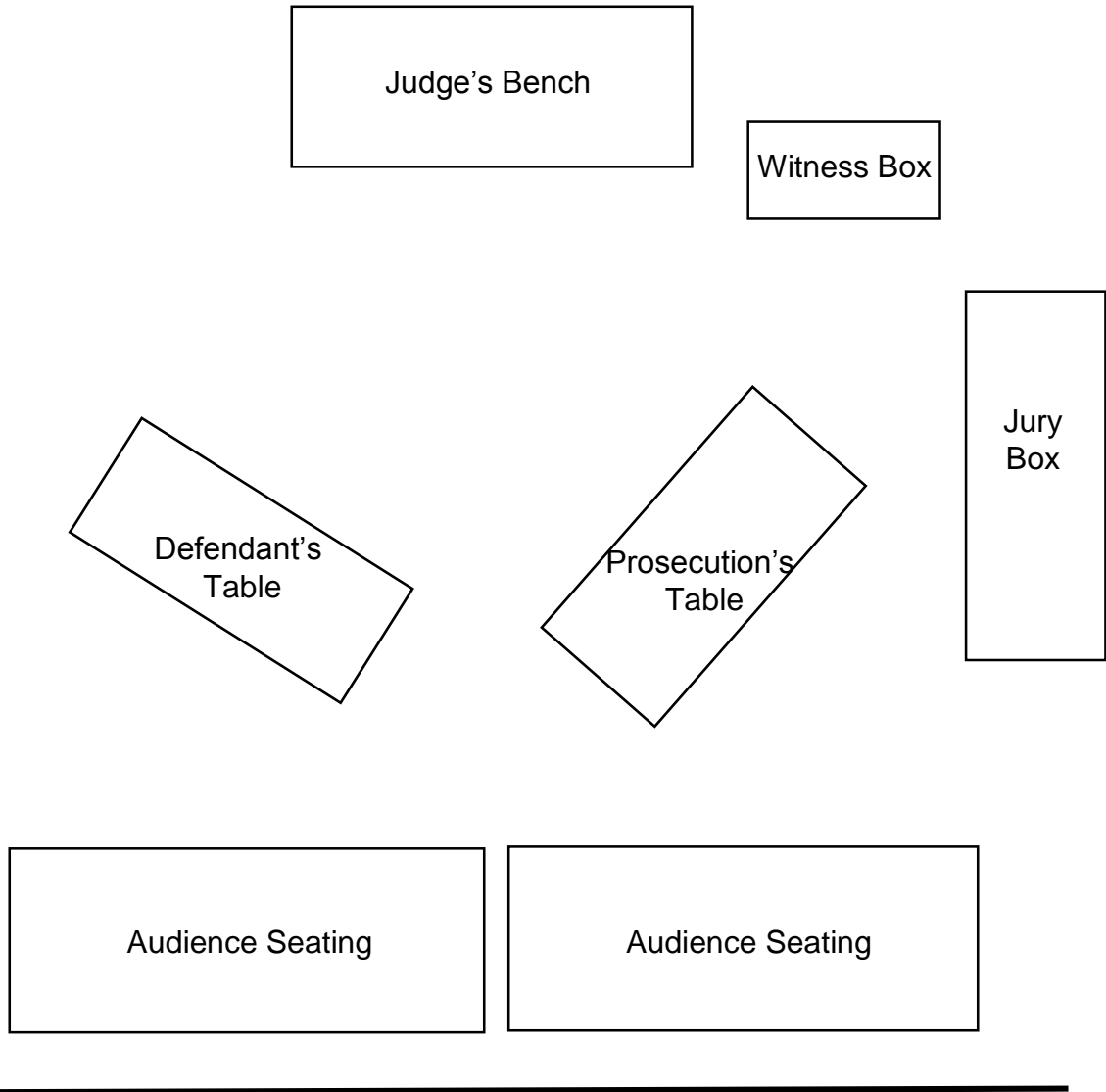
Teachers should select four students to play the parts of the witnesses. The students should be familiar with their witness statements and the sequence of events. Two of the witnesses will be testifying for the prosecution and two of the witnesses will be testifying for the defense. Witnesses will be cross-examined by the opposing attorneys. Both attorneys will make their arguments and then the judge will lead a dialogue with the students in deciding the outcome of the case.

Teachers should also choose two students to act as co-counsel, who will assist the visiting attorneys. Please have each student create an opening and closing statement as well as a list of questions for the witnesses. Teachers should inform the visiting attorneys of who their co-counsel will be prior to the start of the mock trial.

The student body will act as the jury. The jury will decide whether Junior N. Nocent is guilty of the crimes of 1) shoplifting and 2) criminal mischief / destruction of property. The students should be familiar with the entire fact pattern and understand the sequence of events prior to the date of the mock trial. Included on page 26 are additional questions, of varying levels of difficulty, for students to consider.

Creating a Courtroom

The room that will be used for the mock trial should be set up as shown below.



Instructions to the Attorneys / Judges

The students have received the fact pattern in advance of the mock trial date. The teachers have selected students to portray the witnesses and to act as co-counsel. The judge will preside over the mock trial. The attorneys will role-play. One attorney will act as the attorney for the prosecution and one attorney will act as the attorney for the defendant. The judge will give beginning instructions to the students. 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 each make a five minute closing argument.

The judge will then give the ending instructions and final charge. This will include a brief explanation of the applicable law. The judge will provide an overview of the facts of the case and an overview of the issues and arguments. The judge will then lead the students through an analysis of the issues so that they can make a decision.

The students acting as jurors should be encouraged to express their various viewpoints. Feedback and participation are encouraged. Additional questions for students to consider are available on page 27.

Judge's Beginning Instructions to Students

My name is _____ and I am a judge in the case of the State of New Jersey vs. Junior N. Nocent. This is a criminal trial. In this case, the State of New Jersey claims that Junior N. Nocent is guilty of the crimes of shoplifting (N.J.S.A. 2C:20-11) and criminal mischief / destruction of property (N.J.S.A. 2C:17-3a(1)).

This case involves the charge that the defendant Junior N. Nocent committed the crime of shoplifting while shopping at a Jobs Computer Store by concealing an iPad in his backpack and then exiting the store. The defendant is also charged with the crime of criminal mischief / destruction of property by knowingly or intentionally pushing over and breaking a store theft prevention security post. The defendant, Junior N. Nocent, denies the charges.

I would like to introduce to you the attorneys. The State of New Jersey will be represented throughout these proceedings by _____ (insert name of attorney(s) playing role of prosecutor). I would like him / her to rise and introduce himself / herself to you. The defendant will be represented by _____ (insert name of attorney(s) playing role of defense attorney). I would like him / her to rise and introduce himself / herself to you, and his / her client.

Ladies and gentlemen of the jury, you are the sole judges of the facts in this matter. Your determination of the facts is to be based solely upon the evidence submitted during the course of the trial. When I use the term "evidence" I mean the testimony of witnesses who will testify, and any exhibits which may be marked into evidence.

The State and the defendant are entitled to jurors who are impartial and agree to keep their minds open until a verdict is reached. Jurors must be as free as humanly possible from bias, prejudice or sympathy and must not be influenced by preconceived ideas.

The first order of business will be the prosecutor's opening statement. In the opening statement the prosecutor will present the State's contentions and will outline what he / she expects to prove. Following that, the defense counsel, if he / she chooses, will make an opening statement. What is said in an opening statement is not evidence. The evidence will come from the witnesses who will testify and from whatever documents or tangible items that are received in evidence.

At the conclusion of the testimony the attorneys will speak to you once again in closing statements. At that time they will present to you their final arguments based upon their respective recollections of the evidence. Again, this is not evidence but their recollection as to the evidence.

Following closing statements you will receive your final instructions on the law from me, and you will then retire to consider your verdict. It is your duty to weigh the evidence calmly and without bias, passion, prejudice or sympathy, and to decide the issues upon the merits. The defendant on trial, Junior N. Nocent, is presumed to be innocent and unless each and every essential element of the offenses charged is are proved beyond a reasonable doubt, the defendant must be found not guilty of that charge.

The burden of proving each element of the charges beyond a reasonable doubt rests upon the State and that burden never shifts to the defendant. It is not the

obligation or the duty of the defendant in a criminal case to prove his / her innocence or offer any proof relating to his / her innocence.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. A reasonable doubt is an honest and reasonable uncertainty in your minds about the guilt of the defendant after you have given full and impartial consideration to all of the evidence.

OPENING STATEMENTS

ARE WE READY FOR WITNESSES? THE PROSECUTION MAY CALL ITS FIRST WITNESS.

WITNESSES FOR THE PROSECUTION:

Witness: Inspector Bobb

Witness: Joey Pounder

WITNESSES FOR THE DEFENSE:

Witness: Junior N. Nocent

Witness: Maya McDougal

CLOSING STATEMENTS

JUDGE'S INSTRUCTIONS AND FINAL CHARGE

Statement of
Inspector Bobb, Security Guard at Jobs Computer Store

I am a security guard at the Essexville Jobs Computer Store. I was on duty from 9 a.m. to 5 p.m. on December 13, 2014. The store was fairly busy with holiday shoppers. I made rounds of the store during the day, but my main station was by the front exit. At 4:45 p.m., I had to tell a group of boys to quiet down because they were getting out of order. Then I returned to my post by the exit.

Ten minutes later, there was a power surge which caused the lights to go out. All of the customers began walking toward the exit. I spotted the defendant, Junior N. Nocent, as he exited with what looked like an iPad in its original packaging sticking out of his backpack. He was looking around suspiciously. When he saw me walking toward him, he rushed out. I yelled "stop!" but he kept going. As he left the store, I saw him push over a theft prevention security post to slow me down, but I caught him easily and brought him back to the store.

A crowd gathered around as I examined the contents of his backpack. In it I found an iPad worth \$480. It makes me so angry when these kids today take things without paying for them! Junior acted so surprised and he denied taking it. Joey Pounder, another boy in the store at the time, said he saw the theft with his own eyes. Jobs Computer Store has a very strong antitheft policy. That meant I had to call the police to come and arrest Junior for stealing this expensive item. The security post is owned by Jobs Computer Store. It was damaged as a result of Junior pushing it over and cost \$800 to repair.

Statement of Joey Pounder

I'm Joey Pounder. I'm 18 years old and a senior at Essexville High School. The defendant, Junior N. Nocent, is in my class. When I was in Jobs Computer Store on the afternoon of December 13, 2014, I saw Junior and his best friend, Maya McDougal, over by the iPad section. My friends and I were right near them. Junior put his backpack down on the floor. He was picking up and looking at many different items. Then I saw him bending over his backpack and looking all around to see if anyone was watching. He had several items in his hand. It was then that I saw him slip an iPad into his backpack.

Oh, Junior will probably testify that the two of us used to be best friends and, now that we're not anymore, I just wanted to get revenge. There was a problem between us last year when I asked to borrow a term paper he had done to help out with one of my assignments. He said "no," because it would have been considered cheating. I don't see what the big deal would have been. It was just a friend asking another friend to help out.

Anyway, I waited to see if he was going to pay for the iPad or try to get away with it. That's why I didn't tell on him until after he was caught. I sure hope he gets in trouble for what he has done.

Statement of **Junior N. Nocent**

My name is Junior N. Nocent. I'm 18 and a senior at Essexville High School. On the afternoon of December 13, 2014, Maya, my best friend, and I were in the mall to find a birthday present for my brother. Since my mom was getting him a new iPad, I thought I'd get him a couple of accessories for it. Maya and I went up and down all the aisles, and finally decided on a few things. I knew my brother wanted the top of the line iPad model more than anything, so I also looked at the displays of them. I put my backpack down on the floor a few times because it was getting heavier and heavier the longer I wore it.

While we were shopping, Joey Pounder and his friends were trying to make us afraid, bothering us and saying mean things to us so we would feel uncomfortable. Since Joey and I stopped being best pals and Maya and I have become so close, Joey and his gang never stop pestering us. They always try to get us in trouble in school, but this is the first time they've bullied us someplace else! Joey and his "boys" are lying. My mom and dad have taught me to understand right from wrong. I would never take something from a store without paying for it.

Inspector Bobb thinks I was running away because I had stolen goods in my backpack. That isn't true. The truth is that when the power surge happened, there was a mad rush to get out of the store and if people were to start looting, I didn't want to be a part of it. It was at that point that I decided to push over a security post.

It was really embarrassing to be arrested. I'm glad the police let me go home until the trial. Joey's the one who put the iPad in my backpack, I just know it. He's the guilty person.

Statement of **Maya McDougal**

I'm Maya McDougal. Junior N. Nocent and I are in the same class and we are the best of friends. On December 13, 2014, Junior and I were in Jobs Computer Store. We were having a good time until we saw some bullies from our class in the store. They're troublemakers. Inspector Bobb even had to go up to them and tell them to be quiet in the store. We avoided them as best we could but, finally, they began to pester us over by the iPad section. I was getting scared and nervous and I told Junior we should go. So he picked up his backpack and we went up to the checkout counter and paid for ear buds and an iPad case.

Just as we were about to leave, the lights went out. There was a lot of confusion. People hurried toward the door. It looked like it could get chaotic, so we picked up the pace, too.

All of a sudden, Inspector Bobb was there. He had Junior by the coat collar and was dragging him inside and saying that he was a thief. This was so upsetting, because Junior is a really good person.

I followed them inside. A crowd gathered. I watched Bobb pull a brand new iPad out of Junior's backpack. Joey Pounder swore he had seen Junior take it and put it in his backpack. Why did Bobb believe him when he saw what disturbances he and his friends could be, always making trouble? I don't know. But I know that Junior would never take something that didn't belong to him. Joey Pounder and his friends framed him. Junior is innocent!

Judge's Ending Instructions and Final Charge

GENERAL INFORMATION

Ladies and gentlemen of the jury, the evidence in this case has been presented and the attorneys have completed their summations. We now arrive at that time when you, as jurors, are to perform your final function in this case.

At the outset, let me express my thanks and appreciation to you for your attention to this case. I would like to commend counsel for the professional manner in which they have presented their respective cases and for their courtesy to the court and jury during the course of this trial.

As jurors, it is your duty to weigh the evidence calmly and without passion, prejudice or sympathy. Also, speculation, conjecture and other forms of guessing play no role in the performance of your duty.

NATURE OF CHARGES

The defendant, Junior N. Nocent, stands before you charged with shoplifting (N.J.S.A. 2C:20-11) and criminal mischief / destruction of property (N.J.S.A. 2C:17-3a(1)). The defendant has pled not guilty to the charges.

PRESUMPTION OF INNOCENCE, BURDEN OF PROOF, REASONABLE DOUBT

The defendant on trial is presumed to be innocent, and unless each and every essential element of an offense charged is proved beyond a reasonable doubt, the defendant must be found not guilty of that charge.

The burden of proving each element of a charge beyond a reasonable doubt rests upon the State and that burden never shifts to the defendant. The defendant in a

criminal case has no obligation or duty to prove his innocence or offer any proof relating to his innocence.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. A reasonable doubt is an honest and reasonable uncertainty in your minds about the guilt of the defendant after you have given full and impartial consideration to all of the evidence.

Proof beyond a reasonable doubt is proof, for example, that leaves you firmly convinced of the defendant's guilt. In this world, we know very few things with absolute certainty. In criminal cases the law does not require proof that overcomes every possible doubt. If, based on your consideration of the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If, on the other hand, you are not firmly convinced of defendant's guilt, you must give defendant the benefit of the doubt and find him not guilty.

FUNCTION OF THE JURY

In my beginning instructions to you when we started the case, I explained that you are the judges of the facts and, as judges of the facts, you are to determine the credibility of the various witnesses as well as the weight to be attached to their testimony.

FUNCTION OF THE COURT

The function of the court is separate and distinct from the function of the jury. It is my responsibility to determine all questions of law arising during trial and to instruct the jury as to the law which applies in this case. You must accept the law as given to you by me and apply it to the facts as you find them to be.

DIRECT AND CIRCUMSTANTIAL EVIDENCE

Evidence may be either direct or circumstantial. Evidence may be proven by direct evidence, circumstantial evidence or by a combination of direct and circumstantial evidence. All are acceptable as a means of proof.

CREDIBILITY OF WITNESSES

As the judges of the facts, you are to determine the credibility of the witnesses.

You may take into consideration:

- the demeanor of the witness;
- the witness's interest in the outcome of the trial if any;
- his or her means of obtaining knowledge of the facts;
- the extent to which the witness is either supported or discredited by other evidence;
- the reasonableness or unreasonableness of the testimony the witness has given;
- whether the witness made any inconsistent or contradictory statement;
- and any and all other matters in the evidence which serve to support or discredit his or her testimony.

Through this analysis, as the judges of the facts, you weigh the testimony of each witness and then determine the weight to give to it.

SHOPLIFTING [CARRYING AWAY] **(N.J.S.A. 2C: 20-11b(1))**

Count 1 of the indictment charges the defendant with shoplifting at the Jobs Computer Store on December 11, 2012 by taking an iPad worth \$480 without paying for it.

The relevant portions of the statute provide that it is a crime for:

Any person to purposely take possession of or carry away,
any merchandise offered for sale by any store or other retail

mercantile establishment with the intention of depriving the merchant of the possession, use or benefit of such merchandise without paying to the merchant the full retail value thereof.

In order for you to find the defendant guilty of shoplifting, the State must prove each of the following elements beyond a reasonable doubt:

1. That Junior N. Nocent purposely carried away an iPad offered for sale by Jobs Computer Store;
2. That Jobs Computer Store was a store or other retail mercantile establishment; and
3. That Junior N. Nocent did so with the purpose of depriving Jobs Computer Store of the possession, use, or benefit of such merchandise without paying Jobs Computer Store the full retail value thereof.

The first element that the State must prove beyond a reasonable doubt is that Junior N. Nocent purposely carried away any merchandise displayed, held, stored or offered for sale by Jobs Computer Store. The term “merchandise” means any goods, chattels, foodstuffs or wares of any type and description, regardless of the value thereof.

A person acts purposely with respect to the nature of his conduct or a result of his conduct if it is his conscious object to engage in conduct of that nature or to cause such a result.

To “possess” an item under the law, one must have a knowing, intentional control of that item accompanied by a knowledge of its character. So, a person who possesses an item such as an iPad must know or be aware that he possesses it, and he

must know what it is that he possesses or controls. In other words, to “possess” an item, one must knowingly procure or receive an item or be aware of his control thereof for a sufficient period of time to have been able to relinquish his control if he chose to do so.

The State must prove beyond a reasonable doubt that a possessor acted knowingly in possessing the item. A person acts knowingly with respect to the nature of his conduct or the attendant circumstances if he is aware that his conduct is of that nature, or that such circumstances exist, or he is aware of the high probability of their existence. A person acts knowingly as to a result of his conduct if he is aware that it is practically certain that his conduct will cause such a result. Knowing, with knowledge, or equivalent terms have the same meaning.

A person may possess an item even though it was not physically on his person at the time of the arrest, if he had in fact, at some time prior to his arrest, had control and dominion over it. Possession means a conscious, knowing possession, either actual or constructive.

The second element that the State must prove beyond a reasonable doubt is that Jobs Computer Store was a store or other retail mercantile establishment.

The third element that the State must prove beyond a reasonable doubt is that Junior N. Nocent acted with the purpose of depriving Jobs Computer Store of the possession, use or benefit of such merchandise without paying the full retail value of the merchandise.

Purpose and knowledge are states of mind. A state of mind must ordinarily be inferred from the facts. Therefore, it is not necessary, members of the jury, that the state produce witnesses to testify that defendant said he had a certain state of mind

when he engaged in a particular act. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference which may arise from the nature of defendant's acts and his conduct, and from all he said and did at the particular time and place, and from all of the surrounding circumstances.

To summarize, in order for you to find defendant guilty of shoplifting, the State must prove these elements beyond a reasonable doubt:

1. That Junior N. Nocent purposely carried away an iPad offered for sale by Jobs Computer Store;
2. That Jobs Computer Store was a store or other retail mercantile establishment; and
3. That Junior N. Nocent did so with the purpose of depriving Jobs Computer Store of the possession, use, or benefit of such merchandise without paying Jobs Computer Store the full retail value thereof.

If you find that the State has proven all of these elements beyond a reasonable doubt, then you must find Junior N. Nocent guilty. If the State has failed to prove any of these elements, you must find him not guilty.

**CRIMINAL MISCHIEF - PURPOSEFUL OR KNOWING DAMAGE TO TANGIBLE
PROPERTY**
N.J.S.A. 2C:17-3a(1)

Count 2 of the indictment charges Junior N. Nocent with committing the offense of criminal mischief / destruction of property. In pertinent part, the indictment alleges that the defendant, on December 11, 2012, knowingly or intentionally pushed over and damaged a store security post at the Jobs Computer Store that cost \$800 to repair.

Junior N. Nocent is charged with violating a provision of our law that provides that a person is guilty of criminal mischief / destruction of property if he purposely or knowingly damages the tangible property of another person. In order to convict the defendant of this offense you must find that the State has proved beyond a reasonable doubt each of the following three elements:

1. That Junior N. Nocent damaged tangible property;
2. That the tangible property damaged belonged to another person; and
3. That Junior N. Nocent acted purposely or knowingly when he damaged the property.

The first element that the State must prove beyond a reasonable doubt is that defendant damaged tangible property. To damage means to cause a loss, injury or deterioration that reduces the value or usefulness of something. Tangible property means real or personal property that is visible and corporeal, i.e., something that can be seen and touched.

The second element that the State must prove beyond a reasonable doubt is that the damaged property belonged to another person. Property of another person means that the defendant is not the owner of the property damaged. In this case, the State alleges that the tangible property damaged was a standing security post owned by Jobs Computer Store.

The third element that the State must prove beyond a reasonable doubt is that Junior N. Nocent acted purposely or knowingly when he damaged the property. A person acts purposely with respect to the nature of his conduct or a result thereof if it is his conscious object to engage in conduct of that nature or to cause such a result. A

defendant acts purposely with respect to attendant circumstances if he is aware of the existence of such circumstances or believes or hopes that they exist. In other words, for you to find that defendant acted purposely, you must be satisfied that the State has proved beyond a reasonable doubt that it was defendant's purpose or conscious object to damage another person's tangible property.

A person acts knowingly with respect to the nature of his conduct or the attendant circumstances if he is aware that his conduct is of that nature, or that such circumstances exist, or he is aware of a high probability of their existence. A person acts knowingly with respect to a result of his conduct if he is aware that it is practically certain that his conduct will cause such a result. Thus, for you to find that Junior N. Nocent acted knowingly, you must be satisfied that the State has proved beyond a reasonable doubt that defendant knew what he was doing and that defendant was aware that the nature of his conduct and the attendant circumstances were such as to make it practically certain that defendant's conduct would cause damage to another's tangible property.

You should understand that purpose and knowledge are conditions of the mind. They cannot be seen. They can only be determined by inferences from conduct, words or acts. Therefore, it is not necessary for the State to produce witnesses to testify that defendant stated, for example, that he acted with purpose or knowledge when he did a particular thing. It is within your power to find that proof of purpose or knowledge has been furnished beyond a reasonable doubt by inference which may arise from the nature of the acts and the surrounding circumstances. The place where the acts occurred and all that was done or said by defendant preceding, connected with, and

immediately succeeding the events in question are among the circumstances to be considered.

If you find that the State has not proved beyond a reasonable doubt every element of the offense, you must find Junior N. Nocent not guilty. But if you determine that the State has proved every element of criminal mischief beyond a reasonable doubt, you must find defendant guilty of that offense.

DELIBERATIONS

That concludes my instructions as to the principles of law regarding the offenses charged in the indictment.

As jurors, you are expected to use your own good common sense; consider the evidence for only those purposes for which it has been admitted and give it a reasonable and fair construction in the light of your knowledge of how people behave.

The verdict must represent the considered judgment of each juror and must be unanimous as to each charge. This means all of you must agree if Junior N. Nocent is guilty or not guilty on each charge.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. You are judges - - judges of the facts.

INSTRUCTIONS AS TO VERDICT FORM

To assist you in reporting a verdict I have prepared a verdict sheet for you.

APPOINTING FOREPERSON:

(Insert juror's name) you are the foreperson of the jury because of your position in the jury box. You will preside over the deliberations and tell us the verdict when reached. Your vote carries no greater weight than that of any other deliberating juror.

THE JURY DELIBERATES, WITH JUDGE'S GUIDANCE

THE VERDICT IS RECEIVED AND READ AS TO EACH COUNT

Verdict Sheet

State of New Jersey

: Date:

: No.

v.

: Judge:

Defendant Junior N. Nocent

-----X

1. Has the State proven, beyond a reasonable doubt that the defendant is guilty of the offense of shoplifting? Yes _____ No _____

2. Has the State proven, beyond a reasonable doubt that the defendant is guilty of the offense of criminal mischief / destruction of property? Yes _____ No _____

Ms. / Mr. Foreperson, please rise.

Ms. / Mr. Foreperson, has this jury agreed upon a verdict?

Ms. / Mr. Foreperson, is that verdict unanimous?

Additional Questions for Students to Consider

1. Why is it important that both sides in a criminal case are represented by attorneys?
2. What are some of the rights mentioned in the Magna Carta that are still present in the American legal system?
3. How important are the guarantees of a speedy trial and of no imprisonment without due process of law?
4. How would you feel if the judge were friends with Junior N. Nocent? What would you have done in that situation, if you were the judge?
5. What is the burden of proof in a criminal case? In what ways are “beyond a reasonable doubt” and “by a preponderance of the evidence” different? Would the outcome of this case have changed if a different burden of proof applied?
6. Credibility is an issue in this case. What made the witnesses more or less believable to you?

Vocabulary List

Admissible Evidence: evidence that the court allows to be admitted at trial. Evidence which the trial judge finds is useful in helping the trier-of-fact, which cannot be objected to on the basis that it is irrelevant, immaterial, or violates the rules against hearsay and other objections.

Attorney: a person who has been qualified by a state or federal court to provide legal services, including appearing in court.

Beyond a Reasonable Doubt: the standard that must be met by the prosecution's evidence in a criminal case; that no other logical explanation can be derived from the facts except that the defendant committed the crime, thereby overcoming the presumption that a person is innocent until proven guilty.

Burden of Proof: a duty placed upon a civil or criminal defendant to prove or disprove a disputed fact. In a criminal trial the burden of proof required of the prosecutor is to prove the guilt of the accused "beyond a reasonable doubt."

Charge: the specific crime a defendant is accused of committing. Formal accusation of a crime, including by indictment.

Circumstantial Evidence: evidence in a trial which is not obtained directly from an eyewitness or participant and requires some reasoning to prove a fact.

Credibility: whether testimony is worthy of belief, based on competence of the witness and likelihood that it is true.

Crime: an act committed or omitted in violation of a law forbidding or commanding it and for which punishment is imposed upon finding of guilt.

Cross Examination: the examination of a witness by the party opposed to the one who produced her / him.

Defendant: the accused in a criminal case.

Defense Attorney: the attorney representing the accused in a criminal case.

Deliberate: to weigh, discuss and consider.

Direct Evidence: real, tangible or clear evidence of a fact, happening or thing that requires no thinking or consideration to prove its existence, as compared to circumstantial evidence.

Direct Examination: the examination of a witness by the party on whose behalf he / she is called.

Evidence: every type of proof legally presented at trial (allowed by the judge) which is intended to convince the trier-of-fact of alleged facts material to the case.

Exhibits: a paper, chart, or other item presented to the court.

Guilty: having committed a crime; justly charged with a specified crime.

Indictment: a formal accusation in writing, found and presented by a grand jury, charging that the person named in it has committed or omitted an act, in violation of the law.

Innocent: free from guilt.

Intent: mental desire and will to act in a particular way, including wishing not to participate. Intent is a crucial element in determining if certain acts were criminal.

Judge: an official with the authority and responsibility to preside in a court, try lawsuits and make legal rulings.

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.

Preponderance of the Evidence: the greater weight of the evidence required in a civil (noncriminal) lawsuit for the trier-of-fact (jury or judge without a jury) to decide in favor of one side or the other.

Prosecutor: one who prosecutes another for a crime in the name of the government.

Reasonable: in law, just, rational, appropriate, ordinary or usual in the circumstances.

Testify: to give evidence as a witness.

Verdict: a jury's decision or judgment.

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