



New Jersey Courts

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ESSEX VICINAGE MIDDLE & HIGH SCHOOL MOCK TRIAL FACT PATTERN

STATE v. PITCHER

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Law Day Fact Pattern

On May 15, 2021 an incident took place at Sunnyville High School involving three high school students. Eighteen-year-old senior Kayleigh Pitcher threw a cell phone at her classmate Maria Dodger and ended up hitting another student, Jack Limpner, in his right eye. As a result, Jack Limpner lost permanent vision in his right eye.

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

In response, Kayleigh stopped reading the text messages, glared at Maria, and stated, "You want it back? Here!" and then threw the phone in Maria's direction. Maria screamed and ducked out of the way. Jack, who was sitting next to Maria, 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 Summerville Prosecutor's Office.

Indictment

Superior Court of New Jersey
Summerville County
(Law Division - Criminal)
11TH Grand Jury 2021 Term

The State of New Jersey
vs.

KAYLEIGH PITCHER

Count (s) 1 through 2

Indictment #: 2021-08-0088

Indictment

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 PITCHER

on the 15 of May, 2021 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 Limpner 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 PITCHER

on the 15 of May, 2021 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 Maria Dodger 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*

ALEX LOHAN

ASSISTANT PROSECUTOR

Instructions for Teachers

This fact pattern involves a criminal trial in which Kayleigh Pitcher has been indicted on one count of Aggravated Assault and one count of Theft of Movable Property. Students should be familiar with the entire fact pattern and understand the sequence of events prior to the date of the mock trial.

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. The other attorney will act as the attorney for the defendant.

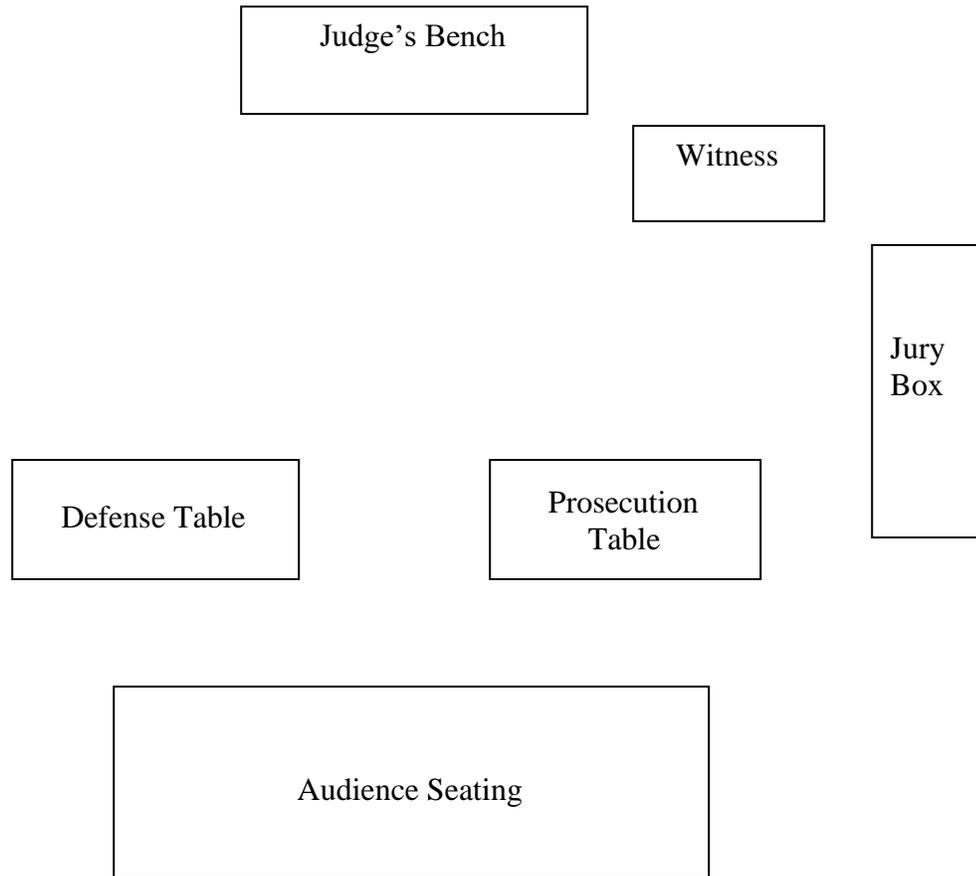
Teachers should select five students to play the parts of the witnesses. The students should be familiar with their witness statements and the sequence of events. Some of the witnesses will be testifying for the prosecution and some of the witnesses will be testifying for the defense. Witnesses will be cross-examined by the opposing attorneys. Both attorneys will make their closing arguments and the judge will then lead a dialogue with the student body to decide the outcome of the case.

Teachers should also choose two students to act as co-counsel. They will assist the visiting attorneys. The judge, the attorneys and the teachers will decide beforehand whether the student attorneys will assist visiting attorneys or actually present the case while being coached by the attorneys. If the students are assisting the attorneys, they may suggest things that the attorney should include in the opening and closing statements. Students can suggest direct and cross-examination questions for the witnesses. Teachers should inform the visiting attorneys and judge of the names of the student co-counsels prior to the start of the mock trial.

For purposes of this mock court presentation, a jury will be empaneled. The judge will decide whether the student body as a whole will act as the jury or whether six students will be selected as a jury.

Creating a Courtroom

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



Instructions to the Judges/Attorneys

The students will 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 prosecutor and one attorney will act as the attorney for the defendants. The judge will give beginning instructions to the students. Each attorney will make an opening argument of not more than five minutes. 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 give the closing 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 may reach a verdict.

The students acting as jurors should be allowed to express their various viewpoints. Feedback and participation should be encouraged. Following the presentation, a question-and-answer period is usually held with the students.

The theme selected by the American Bar Association for Law Day this year is, The Constitution in Times of Change. The judge and attorneys are encouraged to lead a discussion with the students about the theme and other relevant issues

Judge's Opening Instructions to Students

My name is Judge _____ of the New Jersey Superior Court. This is a criminal trial in which the defendant, Kayleigh Pitcher 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 Pitcher.

The State will be represented by a prosecutor. Kayleigh Pitcher has hired a defense attorney to represent her in court. 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 charged.

Ladies and Gentlemen of the Jury, you are the sole judges of the facts in this matter. Your determination of the facts must 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. 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.

The State and 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 from bias, prejudice or sympathy as humanly possible, and must not be influenced by preconceived ideas.

The first order of business will be the State's opening arguments. In the opening statement, the prosecutor will present the State's case and will outline what he/she expects to prove. Following that, the defense counsel, will present his/her opening argument. You will then hear testimony from various witnesses and other evidence introduced by the prosecutor and the defendant's attorney. Each side is allowed to cross-examine the other side's witnesses.

At the conclusion of the testimony, the attorneys will speak to you again in closing arguments. What is said by the attorneys in opening and closing statements is not evidence. The evidence will come from the witnesses who will testify and from the documents and tangible items that are received in evidence.

Following closing statements, I will provide you with final instructions on the law 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. You must decide this case upon the merits.

OPENING STATEMENTS

Are we ready for opening statements? We will begin with the prosecutor.

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

WITNESSES FOR THE STATE:

Jack Limpner, victim

Maria Dodger

Emily Nye

WITNESSES FOR THE DEFENSE:

Kayleigh Pitcher, defendant

Louis Nosh

CLOSING STATEMENTS

JUDGE'S INSTRUCTIONS AND FINAL CHARGE

Statement of Jack Limpner, Prosecution Witness

My name is Jack Limpner. I am 17 years old and a junior at Sunnyville High School. On May 15, 2021, my life forever changed with a reckless act from a very selfish and angry human being. I am talking about the defendant, Kayleigh Pitcher.

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. Maria Dodger was sitting to my left. I talked to the other students for a few minutes and then I put on my earphones to listen to some music. I saw Kayleigh approach our table and I recall that she seemed 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 Maria were talking about.

Suddenly, I heard Maria scream and saw her 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. The phone didn't have a cover and I am pretty sure that it was the corner of the phone that hit me.

I knew that it was bad because my eye hurt pretty badly 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. Nye, 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, 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 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 Maria and injure her. The fact that she hit me instead is irrelevant. It's her intent to purposely injure that matters.

Statement of Maria Dodger, Prosecution Witness

My name is Maria Dodger 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, 2021. I was having lunch in the school cafeteria. I was sitting at a table with about seven other students. Suddenly Kayleigh Pitcher 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. 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 Limpner, 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 away. 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. 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 earbuds at school rule is to avoid thefts and not being alert when crazy people start 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 Guy 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 the other fights she has gotten into.

Statement of Emily Nye, Prosecution Witness

My name is Emily Nye and I am a science teacher at Sunnyville High School. On May 15, 2021, I was the lunchroom monitor and was present during the incident that led to Jack Limpner's injury. I did see Kayleigh speaking to Maria 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 Maria's phone and I heard Maria screaming at her. At that point, Maria 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 Maria was sitting. I was too late. I saw Kayleigh throw the phone at Maria, who ducked out of the way. Unfortunately, Jack was sitting next to Maria 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 it. 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 rode 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, Maria 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 corners and edges 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 disrupting class. 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 Pitcher does not think before she acts and in this case, her actions have resulted in tragic consequences.

Statement of Kayleigh Pitcher, Defense Witness

My name is Kayleigh Pitcher. I'm a 18 years old senior at Sunnyville High School. May 15, 2021 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 Maria Dodger, another friend of mine, had been texting my boyfriend Rick Guy. 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 Maria 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 Maria had allowed her to read the texts on her cell phone. According to Samantha, there were three texts. She said that all three texts were about Rick and Maria making arrangements to go to an upcoming concert.

I won't lie, I was livid. I could not believe that Maria would do this to me. As soon as lunch period started, I approached Maria in the cafeteria. I would have approached Rick but he was home sick that day. Maria 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. 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 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 Limpner who was sitting next to her.

I never meant to hit Jack. Really, I didn't throw the phone that hard but she doesn't have a cover on her phone and I think that the edge or corner 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 the concert is worth more than our relationship, then he can go out with her.

Another issue is that Jack had earphones on. School policy prohibits students from using earbuds or other earphones during the school day unless being used for a classroom assignment. 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 Maria.

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 Nosh, Defense Witness

My name is Louis Nosh and I am 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, 2021 when Kayleigh Pitcher blinded Jack Limpner. 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, Maria 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 a soap opera.

Anyhow, on May 15, 2021 I was sitting at their lunch table eating my lunch while they gave me dirty looks. Along comes Kayleigh who starts arguing with Maria. They were arguing about Rick Guy, Kayleigh's boyfriend and how Maria was texting Rick to make plans to go to the 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 Maria's phone before Maria could get to it. Then Kayleigh starts reading these texts that Maria 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. Maria 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, Maria 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 Maria 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 Maria in the face.

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

EXHIBIT A

Samsung Galaxy

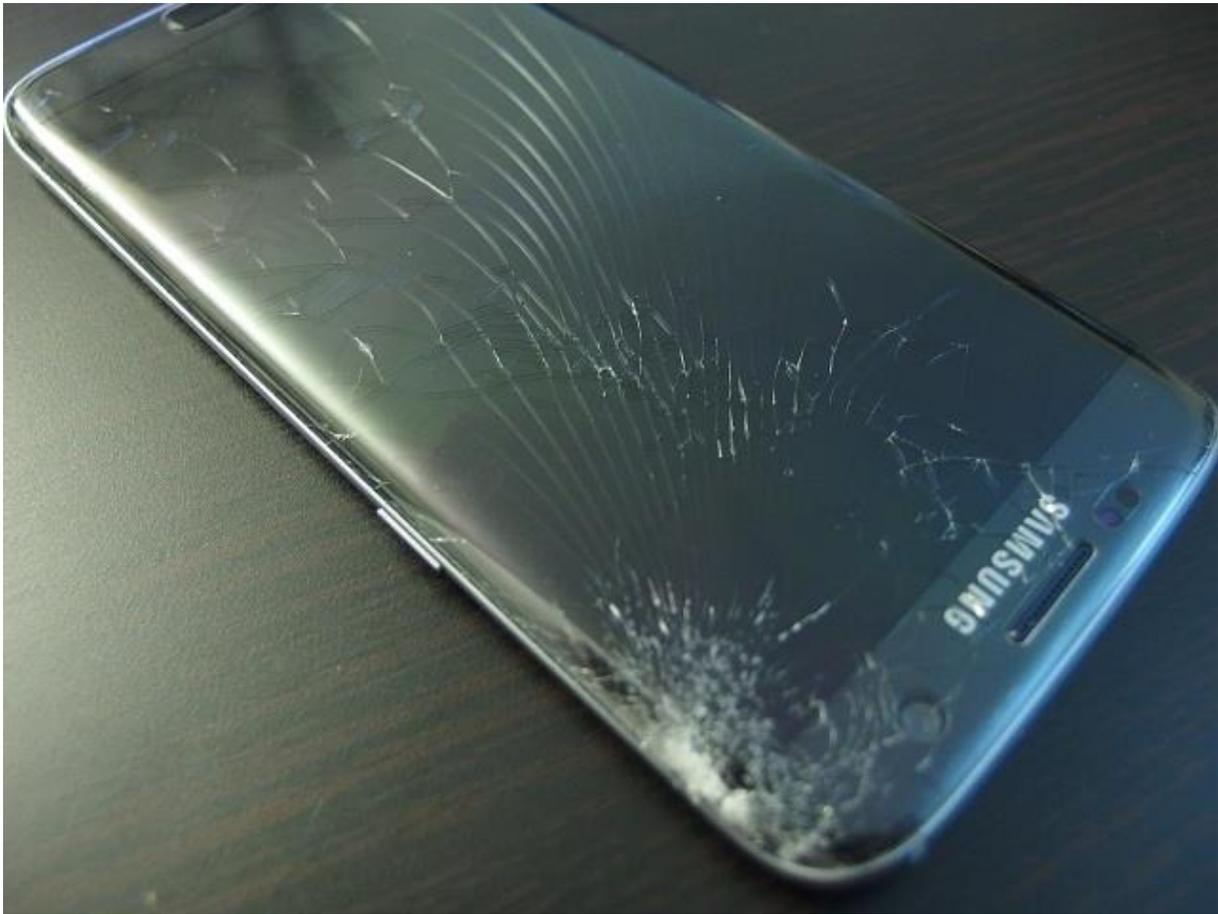


EXHIBIT B

SCHOOL CAFETERIA DIAGRAM



Table where
incident occurred.

Lunch Line /
Lunch Monitor
Standing

Judge's Closing Instructions to Students 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 the 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 conducted themselves and for their courtesy to the Court and jury during 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 Ms. Pitcher has been indicted on charges of Aggravated Assault and Theft of Movable Property. 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. Pitcher is guilty of these charges. The law also states that even though Ms. Pitcher 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. Pitcher 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 Pitcher can be found guilty if she caused serious bodily injury to Jack Limpner.

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

1. That Kayleigh Pitcher caused serious bodily injury to Jack Limpner; and
2. That Kayleigh Pitcher 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 Pitcher caused serious bodily injury to Jack Limpner.

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 Pitcher 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 almost 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

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

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 Pitcher did cause bodily injury to Jack Limpner; and
2. That Kayleigh Pitcher acted purposely or knowingly or recklessly in causing bodily injury to Jack Limpner.

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

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 Pitcher 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 Pitcher 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 Pitcher not guilty.

THEFT OF MOVABLE PROPERTY

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

In Count 2 of the indictment, Kayleigh Pitcher 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 Pitcher knowingly took or unlawfully exercised control over the cell phone;
2. That the cell phone was the property of another;
3. That Kayleigh Pitcher' purpose was to deprive Maria Dodger of the cell phone.

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

Kayleigh Pitcher 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 Pitcher 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 Pitcher took or over which she exercised unlawful control. The State does not have to prove that Kayleigh Pitcher 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 Pitcher' purpose was to deprive Maria Dodger 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 Pitcher 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 Pitcher guilty of Theft of Movable Property. If you find that the State has failed to prove any of the elements beyond a reasonable doubt, then you must find Kayleigh Pitcher not guilty.

FUNCTION OF THE JURY

At the start of this case, I explained that you are the judges of the facts. You and you alone are the sole and exclusive judges of the evidence, the credibility of the witnesses and the weight to be given to the testimony of each witness. It is your sworn duty to arrive at a just conclusion after considering all the evidence which was presented during the course of the trial.

FUNCTION OF THE COURT

The function of the Court is 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.

CREDIBILITY OF WITNESSES

As the judges of the facts, you are to determine the credibility of the witnesses. In determining whether a witness is worthy of belief, you may take into consideration the witness's demeanor, inconsistent statements and any and all other matters in the evidence which serve to support or discredit the testimony.

INSTRUCTIONS AS TO VERDICT FORM

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

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 N.J.

v.

KAYLEIGH PITCHER

Ind. No. 2021-08-0088

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

Count 1 – Aggravated Assault

Has the State proved beyond a reasonable doubt;

1. That Kayleigh Pitcher caused serious bodily injury to Jack Limpner; AND
2. That Kayleigh Pitcher 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 Pitcher did cause bodily injury to Jack Limpner; AND
2. That Kayleigh Pitcher acted purposely or knowingly or recklessly in causing bodily injury to Jack Limpner.

_____ Not Guilty _____ Guilty

Count 2 – Theft of Movable Property

Has the State proved beyond a reasonable doubt;

1. That Kayleigh Pitcher knowingly took or unlawfully exercised control over Maria Dodger's cell phone;
2. That the cell phone was the property of Maria Dodger;
3. That Kayleigh Pitcher's purpose was to deprive Maria Dodger of her cell phone.

_____ Not Guilty _____ Guilty

Judge's Closing Instructions to Students and Final Charge (Continued)

Ms./Mr. Foreperson, please rise.

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

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

Additional Questions (Optional)

1. Jack Limpner 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 someone?
3. The fact pattern mentions that Kayleigh Pitcher 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 Pitcher was tried as an adult because she is 18. If she was 17, 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 Maria Dodger 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: The duty to prove a disputed charge.

Cross Examination: The questioning of a witness called to the stand by the opposing party.

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 Examination: The initial questioning of a witness by the party calling that witness to the stand.

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

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

Grand Jury: A group of persons empaneled to hear evidence presented by a prosecutor to determine whether there is sufficient evidence to bring a person to trial for a crime.

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

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

Indictment: A formal accusation initiating a criminal case, drawn up by a prosecutor and found and presented by a grand jury.

Innocent: free from guilt.

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

Jury Charge: The judge's address to the jury after all testimony has been heard in a trial. The charge explains the law that the jury is to apply in deciding on a verdict.

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

Petit Jury: A group of persons summoned to and sworn by the court to render a verdict following a trial.

Prosecutor: The attorney representing the State in a criminal case. One who prosecutes another for a crime in the name of the government.

Statute: A law enacted by a legislature.

Verdict: The decision of the jury.

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