

2017

**DISTRICT COURT
CASE A
STATE OF MINNESOTA VS. CAMPBELL**

CASE MATERIALS

***Issues involving use of explosives, school violence and videogames.
With a pre-trial argument regarding a constitutional issue.***

FACTUAL BACKGROUND

On Friday, April 7, 2015, at 12:23 p.m., Detective Riley of the Park Lane Police Department received a call on the station's anonymous tip line. The caller informed the detective that there was a suspicious container in a trash can on the dining patio at Park Lane High School. Detective Riley drove to the school to investigate the tip.

After informing the school's administration of the situation, Detective Riley searched the campus. In one of the trash cans located on the dining patio next to the cafeteria, a clear container holding a liquid was found. Taped around the container were a wristwatch, wires, and a metal igniter strip. Detective Riley called for back-up and the bomb squad. The school was evacuated.

The next day, April 8, Detective Riley arrived at the police station early to continue the investigation of the container found at the school. Preliminary lab results identified the components of the liquid inside the container as paint thinner and Doxene, a common industrial cleaner.

At 9 a.m., Detective Riley was visited by Sawyer Simpson, a senior at Park Lane. Sawyer claimed to have information about the incident. Sawyer told Detective Riley that Sawyer saw Casey Campbell, also a senior at Park Lane, wandering around the dining patio before school started on Friday. Additionally, Sawyer told the detective that just last Wednesday, April 5, Casey told Sawyer, "You will be sorry that you ever picked on me." Sawyer said that Casey thought that Sawyer and Sawyer's group of friends were bullying Casey.

That same day, due to the preceding day's events and other recent behavior, Jackie Jefferies, parent of Jamie Jefferies, another senior at Park Lane, decided to check up on Jamie. A little before 10 a.m., Jackie went onto the family computer and found that Jamie had forgotten to log out of an R-Place account. R-Place is a social networking website that allows users to set up personal pages and interact with other users.

Jamie is a member of a group of kids at Park Lane High known by the other students as The Crew. Sawyer Simpson is the leader of this group. Jackie found that Jamie's page contained pictures of Jamie and members of this group. A comment on Jamie's page caught Jackie's eye. The comment said nothing unusual, but Jackie recognized the person who left the comment from a picture found to its left. The kid is Casey Campbell, their neighbor of many years. Jackie thought that Jamie and Casey were no longer friends. Jackie clicked on Casey's picture to get to Casey's page.

Browsing through Casey's page, Jackie was troubled. Among others, Casey listed pyrotechnics as an interest. Additionally, Jackie saw a drawing of Park Lane on fire with a person (labeled Sawyer), trying to get out of the burning building. Jackie decided to call the police. Detective Riley took the call from Jackie Jefferies. Riley looked at Casey's R-Place page and decided that, along with Sawyer's statement, the police had enough evidence to obtain a warrant to search Casey's house. The judge issued the search warrant.

Later that day, Detective Riley searched the Campbell house. In the garage, Riley found an almost empty container of paint thinner. In Casey's room on the wall and in notebooks, Riley found drawings similar to the one on the R-Place page, as well as other art done by Casey. Detective Riley also found a copy of the video game High School Slasher III in Casey's video game console. The game has been the subject of media and government attention due to its graphic images of school violence. In fact, the legislature recently passed a statute making it illegal for minors to possess games of this sort.

The game contained a series of training exercises. "Mayhem" and "Stalling the Police" were the names of two of the exercises offered. They provided step-by-step instructions for committing violent crimes on a school campus. The game itself placed players in the hallways of an average school, where they would swing a knife, and, if they got close enough to a person, blood would splatter across the screen.

With paint thinner, drawings and game in hand, Detective Riley arrested Casey for terrorizing by use of a destructive device, attempt to explode or ignite an explosive with intent to murder, and possession of a violent video game.

CHARGES

The prosecution charges Casey Campbell with three counts:

1. Minnesota Criminal Code § 413 Terrorizing by use of destructive device or explosive or commission of arson in certain places.
2. Minnesota Criminal Code § 308 Exploding destructive device with intent to commit murder.
3. Possession of video game in violation of the *School Violence in Video Games* statute.

DESCRIPTION OF THE CHARGES

Count 1 - Minnesota Criminal Code § 413 – Terrorizing by use of destructive device or explosive or commission of arson in certain places

- (a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive ... in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony.
- (b) Subdivision (a) applies to the following places:
 - (10) Any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

Jury Instruction – Terrorizing by Use of A Destructive Device or Explosive in a Certain Place.

The defendant is charged in Count 1 with terrorizing by use of a destructive device or explosive. To prove that the defendant is guilty of this crime, the State must prove beyond a reasonable doubt that:

- (1) The defendant exploded or ignited, or attempted to explode or ignite, a destructive device or explosive.
- (2) The defendant committed these acts with the intent to terrorize someone else or with reckless disregard of terrorizing someone else.
- (3) The defendant's action took place in a public or private school.

A destructive device includes: (a) any bomb or similar device, (b) any breakable container which contains a flammable liquid or (c) any sealed device containing dry ice or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

An explosive is any substance, or combination of substances, (1) whose main or common purpose is to detonate or rapidly combust and (2) which is capable of a relatively instantaneous or rapid release of gas and heat.]

An explosive is also any substance whose main purpose is to be combined with other substances to create a new substance that can release gas and heat rapidly or relatively instantaneously.

To terrorize means to cause a person of ordinary emotions and sensibilities to fear for his or her personal safety.

A person acts with reckless disregard when (1) he or she is aware that his or her actions present a substantial and unjustifiable risk, (2) he or she ignores that risk, and (3) the person's behavior is grossly different from what a reasonable person would have done in the same situation.

If you find that all of these requirements have been proven, then you must find the defendant guilty of this charge. If you find that any of these elements has not been proven beyond a reasonable doubt, then you must find the defendant not guilty of the charge.

Count 2 - Minnesota Criminal Code § 308 - Exploding destructive device with intent to commit murder

Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for life with the possibility of parole.

Jury Instruction – Exploding a destructive device or explosive with intent to commit murder.

The defendant is charged in Count 2 with exploding or attempting to explode a destructive device with the intent to commit murder.

In order to be guilty of this charge, the State must prove, beyond a reasonable doubt, that the defendant:

- (1) Exploded or ignited, or attempted to explode or ignite a destructive device or explosive.
- (2) The defendant, when acting, did so with the intent to murder or cause the death of a person.

The state is not required to prove that the defendant intended to cause the death of a particular person, simply that the defendant intended to cause the death of any person.

If you find that all of these requirements have been proven, then you must find the defendant guilty of this charge. If you find that any of these elements has not been proven beyond a reasonable doubt, then you must find the defendant not guilty of the charge.

Count 3 - Possession of video game in violation of the School Violence in Video Games statute. Minnesota Laws Chapter 190

Section 1: The Legislature hereby finds and declares that recent events such as the Columbine shootings have called into question the safety of our schools. Since we find by a preponderance of the evidence that there is a causal connection between violent video games and violent behavior, particularly in minors, in the interest of protecting our children and the status of the education system, we seek to regulate children's interaction with media and images that portray, and thereby may encourage, violence in schools. This statute addresses the deficiencies noted in any previous statutes of this nature.

Section 2:

- (a) Any person who sells or rents a video game specifically depicting violence in or around a school or directed at school employees to a person under the age of 18 is guilty of a misdemeanor punishable by up to three months in jail and/or a fine up to \$1000.

- (b) Any person under the age of 18 who knowingly possesses a video game specifically depicting violence in or around a school or directed at school employees is guilty of a misdemeanor punishable by up to three months in jail and/or fine up to \$1000.

Section 3:

Definitions

- (a) “Video game” means any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own monitor, or is designed to be used with a television set or a computer monitor, that interacts with the user of the device.
- (b) “Violence” includes, but is not limited to, such actions as killing, causing serious bodily injury, exploding or igniting a destructive device, using weapons utilizing chemical, biological, nuclear, or industrial agents.
- (c) “School” means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

Jury Instruction – Possession of a Video Game in Violation of the School Violence in Video Games statute.

The defendant is charged in Count 3 with possessing a video game in violation of the School Violence in Video Game Statute.

In order to be guilty of this charge, the State must prove, beyond a reasonable doubt, that the defendant:

- (1) Was under the age of 18.
- (2) That the defendant knowingly possessed a video game specifically depicting violence in or around a school or directed at school employees.

If you find that both of these requirements have been proven, then you must find the defendant guilty of this charge. If you find that either of these elements has not been proven beyond a reasonable doubt, then you must find the defendant not guilty of the charge.

STIPULATIONS

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

1. If the defense's pretrial motion is granted, the bracketed information is excluded from trial, and it may not be used for any purposes.
2. Exhibit A is the diagram of Park Lane H.S.; Exhibit B is a copy of Casey Campbell's R-Place page; and Exhibit C is a diagram of the device found at Park Lane High School and represents the device immediately before being dismantled by Dr. Kyle Killian.
3. Casey Campbell created and maintained the R-Place page as identified in exhibit B and referenced in the fact statement and witness statements.
4. Casey created the drawing as depicted in Exhibit B and the drawings/photos found in his room and R-Place page.
5. Jamie Jeffries created and maintained Jamie's R-Place page.
6. Jackie Jefferies viewed the R-Place pages belonging to Casey and Jamie.
7. The search of Casey Campbell's house was a valid search and may not be objected to.
8. All warrants were based on sufficient probable cause and properly issued.
9. Dr. Kyle Killian and Dr. Avery Atkinson are qualified expert witnesses and can testify to each other's statements.
10. Dr. Atkinson can testify to the lab report, and its absence may not be questioned.
11. There should be no questions regarding the chain of custody of the device found by Detective Riley at Park Lane High School.
12. All physical evidence and witnesses not provided for in the case packet are unavailable and their availability may not be questioned.
13. All witness statements were taken in a timely manner.

WITNESS STATEMENT

Prosecution Witness – Detective Rory Riley

1 My name is Rory Riley. I am 37 years old and have been working for the Park Lane police department
2 for the last 13 years.

3 The morning of April 7, 2015, had been pretty slow. I had spent a few hours finishing up some reports
4 when the captain walked by and asked me to handle the tip line. I wasn't too excited about this because
5 we rarely receive calls on this line, but today was different. At 12:23 p.m., someone called from a
6 number registered to a pay phone near Park Lane High School. I remember the exact time because I
7 recorded the time of the call in our call log. The caller seemed to be in a hurry and only managed to say
8 that there was a "weird container" in a trash can at the school. The person sounded young, but because
9 the message was so short, I was not able to obtain any more information by the voice alone. Although
10 my first reaction was that this was just another prank call, we do take all threats to schools seriously, so
11 I went down to check.

12 I arrived around 12:35 p.m. and went to the administration office to let them know what was happening.
13 I asked for a map of the campus, which they provided, and for any other information they could give me
14 on the trash cans. They informed me that the trash cans were emptied once a day after lunch, so they
15 might be pretty full, and that they were located in hallways, near exits, in the bathrooms, in classrooms,
16 and near the cafeteria. They then called the janitors and told them not to touch the trash cans.

17 I proceeded to search the campus. The principal accompanied me. Most of the kids were already in their
18 fifth period classes. There were a few stragglers outside, but otherwise everyone else was inside the
19 classrooms. I started in the main quad and moved my way toward the primary entrance and the
20 cafeteria. I was beginning to think that the call really had been a prank when I came to the dining patio.

21 There were a total of two trash cans located there. In the second one, I cleared some lunch remains away
22 and saw that there was a clear container with a lid, cylindrical in shape and made of what looked like
23 clear plastic, placed in the can. It had a liquid in it. What was suspicious about this container though
24 was that it had a watch duct-taped to it. The watch only had an hour hand, no minute or second hand.
25 The hour hand was pointing approximately between the twelve and one. Attached to the watch were
26 wires connected to a metal strip. Remembering back to the bomb training I had as a cadet, I recognized
27 this as a timer, which could possibly ignite whatever was in that container.

28 I told the principal that it would be necessary to evacuate the school through an exit other than the one
29 by the cafeteria, and the principal hurried back to the administration office. I then called the station and
30 informed the captain. I then called the bomb squad. A bell started to ring, and the students filed out of
31 the classrooms.

32 While I waited for the bomb squad, I stayed near the dining patio to make sure no one came near the
33 area. The bomb squad arrived. When the situation was under control, the bomb squad took the disabled
34 container to the lab for analysis.

35 The next day, Saturday, April 8, I continued work on the case and was at the station by 8 o'clock in the
36 morning. The lab results had returned. I took a quick look and saw that they had identified two
37 ingredients in the container: Doxene and paint thinner. No fingerprints were found on the container; it
38 had probably been wiped down or being in the trash can may have caused any prints on it to be
39 obscured.

40 At 9 a.m., Sawyer Simpson, a student at Park Lane, came in to tell me about some suspicious behavior
41 witnessed the day of the bomb scare. Sawyer told me how Casey Campbell had been lurking around the
42 dining patio early yesterday morning before school started. Sawyer also told me about an incident that

43 occurred that past Wednesday, when Casey had told Sawyer that, “You will be sorry that you ever
44 picked on me.”

45 About an hour later, another detective told me that there was a call on the main line that I might want to
46 take. It was Jackie Jefferies, a parent of a student at the school. Jackie informed me that Jackie had
47 found some disturbing online images on the R-Place profile of one of the students at Park Lane. The
48 student was Casey Campbell. I got on a computer and searched for Casey’s R-Place page. We had
49 recently received training concerning Internet predators, so I was familiar with the site. When I saw the
50 pictures on Casey’s page of Park Lane High in flames, I immediately sought a search warrant, which the
51 judge issued.

52 I hurried down to the Campbell residence and knocked on the door. Casey answered and seemed
53 surprised to see me. I told Casey to sit on the couch while I searched the house. I started in the garage
54 and found an almost empty container of paint thinner. I then went into Casey’s room. There were
55 drawings covering most of one wall and an easel and art supplies in the corner.

56 The paintings were of various topics, including a beach scene and a few family portraits. However, each
57 had a strange twist to it. For example, there was a picture of Casey and friends, but all of their skin had
58 been tinted green. Another one was a pretty typical beach scene, but with objects that seemed out of
59 place, such as a refrigerator and a microwave. Some of the drawings depicted Park Lane in various
60 stages of disarray. There were also a stack of notebooks with some more drawings in them by the bed. I
61 skimmed through them and was struck by some pretty violent material. Many of the characters were
62 labeled “Sawyer.”

63 I opened Casey’s video game console and found a game labeled “High School Slasher III.” Everyone at
64 the station received a memo last week about the new law concerning school violence in video games, so
65 I knew this was an area I should check. I turned it on to see what it was like. I was instructed to try the
66 training exercises, so I clicked on them. A Table of Contents popped up with headings including
67 “Mayhem” and “Stalling the Police.” I listened as a character detailed step-by-step instructions for
68 committing violent crimes on a school campus. After the character was finished, I was prompted to
69 “Start the Game.” Loud screams came through the television’s speakers and the hallways of an average
70 looking high school came onto the screen. With each press of a button, I was swinging a large knife. If I
71 got close enough to someone and hit them with the knife, blood would splatter and a pool would form
72 on the floor. By then I had had enough, so I turned it off and took the game with me.

73 I arrested Casey. The game itself was enough to arrest Casey, but I felt I had sufficient evidence with
74 Sawyer’s statement, the pictures, note-books, and paint thinner to charge Casey with terrorizing and a
75 number of other charges. I learned later that the lab had found Casey’s finger-prints on the paint thinner
76 container. All the relevant information from my investigation is detailed in this statement.

WITNESS STATEMENT

Prosecution Witness – Dr. Kyle Killian

1 My name is Dr. Kyle Killian. I am 54 years old and hold a B.S. in electrical engineering from MIT and
2 an M.S. and Ph.D. in bio-chemistry, both from Notre Dame. I have been a bomb technician for the Park
3 Lane Police Hazardous Devices Unit for 20 years and have been the supervisor for almost six years. I
4 am the author of the field guide used by many of the nation's bomb squads, which covers topics ranging
5 from timing devices to the chemical compositions of explosives. I also regularly lecture at police
6 academies and at major universities through-out the United States.

7 My team was called to Park Lane High School on April 7, 2015. We arrived around 1 p.m. and were
8 directed by Detective Riley to the trash can. While the rest of the team searched the area for more
9 devices, I activated our RCX or remotely controlled vehicle, and sent it in to get video images of the
10 device. The RCV gives us an extremely clear picture of what we are dealing with.

11 From the look of the container, I determined that the device was a time bomb of a standard type. There
12 was a liquid inside a clear plastic container and a timing device and igniter strip were attached. The
13 igniter strip was nothing special; it is a tool found in most high school chemistry labs, and is used for
14 speeding up reactions. The watch was a regular watch with an analog display, but the minute and
15 second hands were missing. Given that the minute and second hands were missing, the devices could
16 have been set up to 12 hours before the time of detonation. Although the job looked pretty amateur, it
17 still appeared to be fully functioning. I therefore needed to establish how much time I had before the
18 device was set to ignite.

19 I compared the time on the wristwatch to the time on my watch. The hour hand was the only indication
20 of the time, but it seemed to be in the same position as the one on my own watch with the hour hand
21 pointing approximately between the one and two. Seeing as the time was accurate, this made it easier to
22 figure out when it was scheduled to detonate.

23 By examining the trail of wires and their position relative to the watch, I decided that the device was set
24 to go off at 3 p.m. When the wires and hour hand are in alignment, a circuit is completed, creating a
25 charge that heats the metal igniter strip rapidly, causing any explosive material nearby to combust. With
26 3 o'clock being more than an hour away, I knew that I could take my time and dismantle the device.

27 Since the device was of rather simple construction, I decided to go in and disconnect the wires that
28 attached the wristwatch to the metal igniter strip. With full gear on, I dismantled the device. I still did
29 not know what the liquid inside the container was and the amount of harm it could cause. However, we
30 could tell that the liquid was not presently giving off heat or bubbling, and the plastic containers were
31 still intact, so it was deemed safe to transport. I placed the container in a reinforced box, put it in the
32 safety hood in our truck, and drove back to our lab.

33 In our lab's special airtight detonation chamber, I took a small sample from the container using a
34 syringe tool. It left only a small pin hole in the container. Once I had the sample, I punctured a large
35 hole in the container. Nothing happened initially, but then I pumped oxygen into the chamber. A gas
36 started to fill the chamber. From this reaction, I determined that the liquid reacted with oxygen. The
37 same reaction would have occurred if the liquid had been exposed to the air while it was in the trash
38 can, since oxygen is in the air.

39 Next, I took the sample and started performing tests. The tests are also performed in airtight rooms, so
40 we have to wear special suits with oxygen masks. Through a process called chromatography, I separated
41 the components of the mixture. The experiments revealed that the liquid was a mixture of paint thinner
42 and Doxene. I sent these results over to the police station.

43 Doxene is a very common industrial cleaner. Janitors at places like office buildings and schools would
44 have it on hand. Like any strong cleaner, it should be handled with care, as Doxene can be irritating to
45 the eyes, digestive tract, and skin.

46 Doxene and paint thinner are a volatile combination. As seen from the reaction in the detonation
47 chamber, when exposed to oxygen, there is an instantaneous release of gas. The metal igniter strip
48 would have burned a hole through the container, exposing the mixture to oxygen. Additionally, if
49 exposed to a burst of heat, such as that produced by an igniter strip, the gas would have exploded as it
50 escaped from the container, releasing a great amount of heat in the process.

51 If ignited, the explosion would have been powerful enough to blow up the entire side of Park Lane's
52 cafeteria. The metal igniter strip would have provided the extra energy needed to make the solution
53 explode. Anyone within a 60-foot radius would have been seriously injured or killed. Even if it did not
54 explode, this type of device is still very dangerous. The release of a strong-smelling gas into the air, at a
55 school full of people, would create a panic. Someone would have been hurt.

56 In my experience, there is not a practical use for a solution of paint thinner and Doxene. Rather, it is
57 commonly used by amateur bomb- makers because of its effectiveness and availability.

58 Finally, whenever my team is called out to the scene, we handle all lab work involved with the case,
59 including fingerprint analyses. No fingerprints were found on the device itself. However, I did find
60 fingerprints on the container of paint thinner from the Campbell garage. When compared with Casey's
61 fingerprints, I found a match.

WITNESS STATEMENT

Prosecution Witness –Sawyer Simpson

1 My name is Sawyer Simpson, and I am 18 years old. I am a senior at Park Lane High School and live
2 with my parents. I have two older sisters, but they have both moved away to attend college.

3 I have had the same friends for a long time, and we are a tight knit group. I would say that a lot of the
4 kids at Park Lane look up to us for one reason or another. On campus we have been nicknamed The
5 Crew.

6 Casey and I have gone to the same school for a while now, but we have never had much to do with each
7 other. I think we may have had chemistry the class I am best in, together. I even won the Park Lane
8 Chemist of the Year Award this year. Sometimes I see Casey walking home from school, and I might
9 shout Casey's way or say some joke when Casey is around, but I think Casey might misinterpret our
10 actions. The Crew just likes to mess around and have a little fun sometimes. We are all decent kids, and
11 none of us has ever been in any serious trouble.

12 The last week in March, I was called into the counselor's office. Counselor Cortez told me that some
13 students had complained about me picking on them. I thought of Casey immediately. Counselor Cortez
14 said that all of my senior activities could be taken away if another complaint was received. I was
15 shocked. The complaints were completely false. The person making the complaints must have been
16 crazy. I told the counselor that there was nothing to worry about; I didn't want to get into trouble, and I
17 would be more careful about who I talked to.

18 I remember a couple of strange encounters I had with Casey. On Wednesday, March 29, my friends and
19 I were hanging out, just talking and relaxing after school, on the dining patio by the cafeteria. Ever since
20 freshmen year that had been our spot. We usually meet there right after school to unwind until about
21 3:15 p.m., then we would all go to our other school activities or head home to start our homework.
22 Casey walked by on that Wednesday, and I yelled, "Don't you want to come hang out with us?" Casey
23 hesitated and then spun around and said "You will be sorry you ever picked on me." I was a little
24 stunned at first. I don't think Casey had ever spoken to me directly before, but then Casey turned back
25 around and walked out of the school.

26 The incident stuck with me. Casey had always been a little eccentric, drawing strange things, and I
27 wasn't sure what to expect. Casey didn't have a big group of friends and seemed to be off in a different
28 world. I remember one day while I was Googling people, I came across Casey's page. I soon realized
29 that Casey was an artist. There were some violent pictures up there, and my name and a couple of my
30 friends' names were on the pictures. I decided after that Wednesday to keep my distance from Casey.

31 I passed Casey in the halls a couple of times on Thursday, but my next significant meeting with Casey
32 was on Friday morning, the day of the evacuation. I was on my way to school early to make up a test
33 that I had missed the previous week. It must have been around 6:45 a.m., since the test was a half an
34 hour and school started at 7:30 a.m. and I couldn't be late. I parked my car in my regular spot and
35 started walking to campus.

36 I looked over at the dining patio to see if any of my friends had come to school early. Instead I saw
37 Casey over there. I thought this was strange, considering that Casey always speeds by the place when
38 The Crew is around. I watched Casey go over to a trash can and peek inside. I didn't see Casey throw
39 anything in it, but after looking inside the trash can, Casey looked up, scanned the area, and started to
40 walk away. Casey didn't see me as I was by the math building.

41 The rest of the morning went like any other morning at school. I took the test, went to my classes, and
42 then met up with my friends for lunch. As I was walking to my fifth period class after picking up an

43 English book from my car, I saw that a police detective had pulled into the parking lot. I didn't think
44 much of it at the time because officers often come to our school for routine checks.

45 About 20 minutes into our fifth period class, what sounded like the fire alarm bell started ringing. The
46 principal came onto the loud speaker and told us to head to the back exit of the school, by the athletic
47 fields.

48 A little later, a couple of kids who had class near the cafeteria started telling everyone that a police
49 officer was near the dining patio. They also said they saw a big truck that looked like it belonged to the
50 bomb squad pull up. I started to think about how The Crew hangs out on the dining patio and what
51 could have happened if a bomb went off while we were there, but before I could get too worked up, we
52 were told to go home and not return to campus. I was glad I had my car keys in my pocket so I could
53 walk around the campus and then drive home.

54 The next morning, though, I woke up early and started to put everything together in my head. It didn't
55 seem like a coincidence that all the things that happened with Casey occurred the same week as a bomb
56 scare. I told my parents, and my dad decided to drive me over to the police station. It was there that I
57 met Detective Riley, and I told the detective everything that had happened.

WITNESS STATEMENT

Prosecution Witness –Jackie Jefferies

1 My name is Jackie Jefferies, and I am the parent of Jamie Jefferies, a senior at Park Lane High School. I
2 live at 1014 Calle Vista Drive with Jamie and my spouse. We have lived in this house for about eight
3 years, ever since Jamie was in the fourth grade, when we moved from northern Colorado.

4 We really enjoy living in Park Lane. Jamie has made many friends, and they are all good kids. They go
5 everywhere together. For example, in January the school held the annual Winter Formal Dance. All of
6 Jamie's friends met at our house beforehand, and we took pictures and had a dinner party. We have
7 many good memories in this town.

8 However, I would prefer to forget the events of April 7, 2015. Jamie was running late that day and I was
9 trying to get on the road to beat the traffic. Jamie usually walks to school since we live so close. When I
10 saw that Jamie was down the street, I got in my car and headed to work.

11 Around 1 p.m., I got a call at work from Jamie telling me that the school had been evacuated. Some of
12 my co-workers also had children at Park Lane, and I could see the concerned looks on their faces as I
13 glanced around the office. I told my boss that there was an emergency, and I got into the car and rushed
14 home.

15 When I got there, Jamie was on the computer. Jamie didn't seem too upset and didn't want to talk about
16 it. Lately, Jamie had been talking to me less and less and spending more time with friends or on the
17 computer. I figured it was because graduation was coming up and Jamie had a lot to think about. I tried
18 calling the school to get more information, but the lines were busy. I couldn't find anything on the
19 news, so I figured that everything was all right.

20 Later that evening, I got an e-mail from the school saying that a device had been found, no one had been
21 hurt, and the police were continuing the investigation. The e-mail upset me, and I could not sleep at all
22 that night. I kept thinking how my child could have been hurt or even killed.

23 The next morning I felt like I should do something to make sure that Jamie was safe. Since Jamie was
24 spending so much time on the computer, I decided to check there first. I went onto the computer and
25 saw that Jamie had forgotten to close the Internet browser. It was signed into Jamie's R-Place page. I
26 knew Jamie had one of these pages, but I was not happy about it. Every night on the news, there was a
27 new story told about some child becoming the prey of some Internet predator. Given the events of the
28 day before, I felt that I had a valid reason for taking a look.

29 At first, nothing on the page really caught my eye. There were pictures I had seen of the dances and the
30 ski trips, as well as those of the family dog, Hurley. I looked at some of the comments and saw pictures
31 of kids who had spent many afternoons in my home. There was one message, however, that seemed out
32 of place. Looking at the picture identifying the sender of this message, I recognized the next door
33 neighbor Casey. Since Jamie and Casey were not friends, I wondered why Casey would leave Jamie a
34 message.

35 Casey was the same age as Jamie and had always lived next door to us in Park Lane. Casey and Jamie
36 had been friends in elementary school and would often play together, but they had grown apart. Jamie
37 became attached to another group of friends almost immediately upon entering middle school, and
38 Casey didn't belong to that group. I was glad when Jamie made new friends, because I never really
39 liked the Campbells. They were not very social. They didn't come to our annual summer barbeque the
40 first three years I invited them, so I just stopped inviting them.

41 Casey always seemed a little different to me, especially after Jamie and Casey stopped being friends. I
42 thought about how only a few weeks earlier, on a Sunday, while I was trimming my rose bushes in the

43 backyard, I smelled a pungent odor and heard a sound similar to that of a car backfiring. It appeared to
44 come from the Campbell's backyard. I peeked over the fence and saw Casey rushing into the house. I
45 could only imagine what Casey was up to.

46 I decided to look around on Casey's page to see if it would reveal more information. I clicked on
47 Casey's picture and was taken to Casey's page. Right away I knew something was wrong. The first
48 thing I saw was Casey's list of interests, and they included pyrotechnics. Additionally, it appeared that
49 Casey's background was some kind of artwork probably drawn by Casey. When I realized what it was, I
50 was horrified.

51 I recognized the Park Lane High School campus, however in this drawing one of the buildings was on
52 fire. Huge flames rose from the building and a person was trying to get out of the building. The person
53 was labeled "Sawyer." I knew that Sawyer was one of Jamie's close friends. Since the name is not that
54 common, I figured Casey was referring to the same kid that Jamie knew.

55 Due to the similarities between the picture and the previous day's incident, I decided it was best to call
56 the police. I talked to a Detective Riley, and the detective told me that the police department would look
57 in on it. Soon thereafter, I saw a police car pull up next door, and Casey came out of the house in
58 handcuffs.

WITNESS STATEMENT
Defense Witness – Casey Campbell

1 My name is Casey Campbell. I am 17 years old and a senior at Park Lane High School. I live at 1016
2 Calle Vista with my mom, dad, and younger brother. I have lived in this house for my whole life.

3 I would say my high school experience has been pretty typical; that is, until this year. I have been on the
4 honor roll every semester, except for this most recent one. I'm involved in a couple of school activities
5 and even though I almost failed chemistry last semester, I'm still the treasurer of the Science Club,
6 which meets after school. I am hoping to go to either New York University or UCLA in the fall. I am
7 definitely not the most popular kid in school, but I have my own small group of friends. We like to surf
8 the Internet, watch DVDs, and I personally enjoy art.

9 This past September I started getting picked on by The Crew. The Crew is a group of seniors at Park
10 Lane. Everyone at school knows who the people in The Crew are, because they walk around like they
11 own the school. They picked the cafeteria's dining patio as their hang-out their freshmen year, and no
12 one has dared to challenge them. I don't know why, but all the members of The Crew are idolized at
13 Park Lane, especially their leader Sawyer Simpson. Students try to copy the way they dress, and
14 members of The Crew are always invited to parties.

15 It seems like every year The Crew has one person it picks on the most. I remember last year's target,
16 Brady, switched schools in December. On the first day of school, while I was walking home, Sawyer
17 picked me out from the crowd. Unfortunately, my stack of advanced science, math, and English books
18 or my colorful sneakers must have made me stand out from everyone else. That was the day when all
19 the harassment started.

20 I came to school the next day and got shoved as I turned a corner. It escalated from there. One day I
21 found an unflattering picture on my locker. It had my face on the body of a donkey. Although I tore it
22 down, plenty of other kids had already seen it. For days people would laugh or point as I passed them in
23 the hallway. There is also a lot of name-calling and jokes at my expense, all which seem to happen in
24 front of a crowd of people, so that I am the hot topic of school gossip.

25 The Crew's behavior does bother me. After a particularly bad day, usually after I run into Sawyer and
26 The Crew at the dining patio, I can't concentrate on my school work. My grades have dropped this
27 semester because of it. I am worried about what will happen in the future if my grades continue to drop.
28 My neighbor Jamie, the one person in The Crew who doesn't make fun of me, doesn't know why they
29 pick on me.

30 Of course, I wish it would stop. I often imagine there is something I can do about it and then I draw or
31 paint pictures that express those feelings. I have always loved art and try to paint and draw in my spare
32 time. In fact, I am thinking of pursuing a career in the arts. I try to learn all about the field. For the past
33 year or so, I have been picking artists and trying to copy their style. In the process I am able to add to
34 my own style. Right now I am experimenting with the style of Salvador Dali. Art is also a way for me to
35 vent my frustration. I don't just draw pictures about Park Lane, either; I have notebooks full of nature
36 scenes, and I occasionally take photographs and manipulate them on the computer. All my art comes
37 from thoughts in my head, but it never occurs to me that the thoughts will become reality.

38 In March, I went in to see Counselor Cortez. I had waited for the whole thing with The Crew to blow
39 over, but it hadn't. I told the counselor about some of my run-ins with The Crew and how Sawyer was
40 the worst of the group. Counselor Cortez said that the school would call Sawyer in and make sure that
41 Sawyer understood that there were consequences for hurting people. The counselor also told me to
42 continue making art and doing other creative things, as they were good ways to deal with my
43 frustration.

44 Additionally, I did try to stand up for myself once. One day after school, as Sawyer was calling me the
45 usual names, I surprised myself by saying, “You will be sorry you ever picked on me,” meaning I would
46 go back to see the counselor. I didn’t plan on saying anything, it just came out. Obviously, it didn’t
47 work, as they just laughed at me. I was so humiliated that when I turned to run, I tripped on the
48 sidewalk. I try to avoid Sawyer, but because the school is surrounded by a canyon to the East and a
49 private business park to the West and I live behind the school, I have to pass The Crew on my way
50 home as I exit the school from Gate One.

51 Many times on the way to school, Jamie and I have discussed how The Crew treats me. Jamie knows
52 about my drawings and the stories, and even though Jamie is in The Crew, Jamie doesn’t blame me for
53 making them. Jamie sees firsthand how badly they treat me. I consider Jamie my friend. I even created
54 my R-Place page so that we could leave messages on each other’s pages.

55 Posting the actual drawings on R-Place is just another part of the fantasy. It is also a way for me to gain
56 exposure as an artist. Online you can be whoever you want to be, and I want to be someone who is not
57 made fun of. Besides, I never thought anyone from The Crew, except Jaime, would see it. I figured
58 since they obviously don’t like me, they wouldn’t waste their time looking me up and then reading
59 about me. If they did read my page, it would only be to find more material to torture me with.

60 The events of April 7, 2015, scared me as much as everyone else. I showed up to school at around 7
61 a.m., a half an hour before school, and went to the library to finish up some homework. I don’t always
62 show up that early, but I had a project due that morning and I wanted to make sure it was complete. I
63 went to four classes and then ate lunch in my teacher’s classroom over by the parking lot. My former
64 chemistry teacher lets me eat in her classroom, even though she isn’t in the room. I stayed there the
65 entire time, so I was not the one that called the police about the container.

66 As I was sitting in my fifth period class after lunch, a bell went off and the principal’s voice came over
67 the speaker and told everyone to head toward the school’s back exit near the athletic fields. I thought
68 this was strange since that exit usually had an alarm during the day. The school tried to keep the events
69 quiet, but we realized the bomb squad was by the cafeteria, and we all got a little scared. I was relieved
70 to learn we were all being sent home. We weren’t even allowed to go back for our things that we left
71 behind. I was just glad that nothing happened to me, since I usually walk by the cafeteria on my way
72 home.

73 I was extremely surprised to see Detective Riley at my house the following Saturday, April 8. I
74 downloaded High School Slasher from a video game website at the beginning of April and burned it
75 onto a disk. The site offers a free download every month. The only catch is that you don’t know what
76 the game is until it is downloaded. Once I started to play High School Slasher I realized that this was
77 not the type of game I wanted to play. I have an entire collection of games, some violent, some not, but
78 they all contain more elements of fantasy than High School Slasher does. I must have left it in the video
79 game console, because it didn’t have its own case.

80 The paint thinner in the garage is mine, of course. I use it to clean up paint and other messes I make
81 when I am doing my art. After I finish a piece, I will take it outside to photograph and then clean my
82 paint-brushes with the paint thinner. The whole neighborhood can probably smell it from the backyard.
83 I know that Jackie Jefferies, my neighbor, has seen me cleaning my brushes. One afternoon, while I was
84 outside cleaning, I heard a car backfire a few blocks down the street. It startled me, so I turned quickly
85 to go inside. As I turned, I saw Jackie peeking over the fence. Since I had to move the container from
86 the garage, my prints would be on it.

WITNESS STATEMENT

Defense Witness – Dr. Avery Atkinson

1 My name is Dr. Avery Atkinson. I am 48 years old and have a B.S. in mechanical engineering from
2 USC and an M.S. and Ph.D. in chemistry from Columbia University. I am the head scientist for a
3 leading weapons manufacturer in the United States. My job is to invent new explosives and chemical
4 agents, as well as mechanisms for their delivery. I have also been a consultant for the secretary of
5 defense and have helped the military formulate safety procedures for handling explosives. I regularly
6 publish articles in recognized scientific journals.

7 Bombs can be very complicated and sensitive devices, requiring a lot of experience and knowledge to
8 make them work properly. Time bombs in particular are difficult to construct. Many factors have to
9 come together at the same time. For example, the timer has to be accurate, and there must be no gaps in
10 the circuit.

11 I have examined both the time piece from the device and the lab results of the Park Lane bomb squad.
12 With the device disassembled, we may never be able to tell whether the connections were properly
13 made to complete a circuit. This makes it hard to determine who the intended target was or if there was
14 even a target. Since the minute and second hands were removed, the time could have varied by as much
15 as an hour from Dr. Killian's estimate. Additionally, the watch was not particularly sophisticated and
16 likely inaccurate. Moreover, unless the wires were connected properly to the igniter, there would have
17 been no charge to cause the devices to ignite.

18 I agree with Dr. Killian that the solution consisted of Doxene and paint thinner. Doxene is a commonly
19 used cleaner, and we all know that paint thinner can be bought at the local hardware store. However, I
20 think Dr. Killian exaggerates the effects of the combination of Doxene and paint thinner.

21 To produce a gas, the solution must be exposed to a high concentration of oxygen, such as that which
22 was pumped into the detonation chamber at the bomb squad's labs. There was likely a pure dose of
23 oxygen pumped into the chamber. On the other hand, the atmosphere only has about a 21 percent
24 oxygen concentration. Unless the solution is exposed to oxygen, thereby forming a gas, there is no way
25 to ignite the solution in liquid form.

26 Additionally, the igniter strip was low quality. It would have burned only a small hole in the container,
27 about the size of dime. When combined with the containers placement in an almost full trash can,
28 oxygen would have combined with the solution slowly. This would result in a minimal amount of gas
29 production, not a rapid release. The explosive effect is a product of the amount of gas released and the
30 heat produced by the igniter. With only a small amount of gas and an unsophisticated igniter, the device
31 would do little more than make a trash can smell a little worse. Whoever put this together created
32 nothing more than an elaborate stink bomb.

33 Therefore, while it is true that Doxene can irritate the eyes and paint thinner has a pungent odor, this is
34 the extent of the damage that the solution would cause. In large amounts, it might cause some skin
35 discomfort, but only if a part of the body was drenched in it.

36 At my company, we experimented with Doxene and paint thinner as a possible explosive. After
37 extensive testing, we determined that a steady flow of oxygen was necessary to get the rapid release of
38 gas necessary to form an explosive with a power great enough to do any damage.

WITNESS STATEMENT
Defense Witness – Jamie Jefferies

1 My name is Jamie Jefferies and I am 17 years old. I live at 1014 Calle Vista Drive with my parents. I
2 am a senior at Park Lane High School.

3 My family and I moved to Park Lane when I was in fourth grade. I became friends with Casey because
4 Casey lived right next door. We remained friends throughout elementary school. In middle school,
5 however, Casey and I starting drifting apart when I started hanging out with Sawyer Simpson, who was
6 in all my classes that first year of middle school. Sawyer introduced me to a whole new group of
7 friends, and that group has remained pretty constant over the years. We probably would be considered
8 one of the more popular groups at school.

9 At the beginning of high school, Sawyer decided that the group needed to find its niche. In elementary
10 and middle school, there was never this need. High school, though, presented a different challenge for
11 Sawyer, since there were a lot more kids and it was harder to stick out from the crowd. That was the
12 year we picked the dining patio as our hang out. We also started messing around with other kids and got
13 the reputation of being the funny kids on campus. We joked around with everybody. You could say it
14 was our trademark.

15 I remember last year one kid named Brady thought we were picking on him. He eventually ended up
16 switching schools after he was accused of vandalizing school property. Sawyer actually made a
17 comment right after Brady left. Sawyer said with a smirk, "I guess Brady couldn't take it anymore. I
18 wonder how the counselors got the idea that Brady was such a brilliant graffiti artist?"

19 Senior year Sawyer aimed some comments at Casey. I knew Casey was sensitive and would probably
20 take them the wrong way. I even had to step in a couple of times and tell Sawyer to tone it down, but
21 Sawyer kept at it. Sawyer never intended to hurt Casey in any way. So when Sawyer got called into the
22 counselor's office in March, Sawyer was obviously mad. Sawyer was convinced that Casey had said
23 something to Cortez. Casey continued to appear bothered by the encounters with The Crew.

24 Though Casey and I no longer spent a lot of time together, I still consider Casey to be my friend and felt
25 bad that my friends were upsetting Casey. I would always run into Casey walking to school and strike
26 up a conversation. Casey is an interesting person intelligent, funny, and talented. Additionally, Casey
27 had always been a great artist and had some really amazing pieces. The Crew would have laughed at me
28 though if they saw I was friendly with Casey. Therefore, our interaction was usually limited to our talks
29 on the way to school and messaging on the Internet. I created an R-Place page, and Casey and I were
30 able to communicate that way.

31 Since Casey was sensitive to everything that Sawyer or others said, I would try to make Casey feel
32 better or at least lighten the mood a little. I started leaving more messages for Casey online. I told jokes
33 to get Casey to laugh. I suggested that since Casey was such a talented artist, painting and drawing
34 could be a good way to get the mind off of The Crew's behavior. What resulted were a lot of the
35 pictures on Casey's R-Place page. Casey tried to explain some of the drawings to me, mentioning
36 something about a Salvador Dali, but I don't know much about art.

37 I was glad that Casey had an outlet. Every picture was a way for Casey to escape the experiences at
38 school. I knew that they were a complete fantasy. Casey was drawing my friends, and I would not have
39 allowed them to get hurt. It never occurred to me that these pictures could become reality, so I had no
40 reason to warn any of my friends.

41 Casey and I continued to talk and joke around over the school year, and we became better friends in the
42 process. I even think the comments started affecting Casey less or Sawyer listened to me and decided to
43 tone it down.

WITNESS STATEMENT

Defense Witness – Cameron Cortez

1 My name is Cameron Cortez and I am 31 years old. I have a B.A. in psychology and a M.A. in
2 counseling, both from San Diego State University. I am a guidance counselor at Park Lane High School
3 and have been for about five years.

4 I have spoken with Casey manytimes during Casey's high school career. I helped Casey decide what
5 classes to take and also developed a plan of action to help Casey get into college. I was very upset when
6 Casey came into my office in March and told me that Sawyer Simpson and friends were picking on
7 Casey. Casey told me about the name-calling after school and other interactions in the hallway. I
8 believed Casey. There were signs that Casey was being bullied. For example, Casey's most recent
9 report card showed a significant drop.

10 Additionally, I had my suspicions about Sawyer and the group called The Crew. Last year, a freshman
11 named Brady Bravo ended up transferring schools. I think Brady had been unhappy for sometime; he
12 was withdrawn and had missed many days of school, which are common effects of bullying. Then
13 Brady was accused of vandalizing the school. Near the end of first semester last year, a number of
14 explicit words were scrawled on the trophy case with spray paint. The day after the incident, I
15 personally received an anonymous note naming Brady as the vandal. We had to call Brady into the
16 office, but we never informed anyone about the note.

17 I asked Brady about the vandalism. He denied any involvement. I asked him who would try to accuse
18 him. Brady said that the only person who gave him any trouble was Sawyer. We were able to clear
19 Brady after a full investigation. We never found any evidence to implicate Sawyer, however.
20 Nevertheless, I think that was the last straw for Brady. Brady left soon thereafter.

21 Following this talk with Brady, I kept a close eye on Sawyer, but I was never able to catch Sawyer in
22 the act, and no other students came forward. If the bullying was happening, it was most likely
23 psychological. Although this type of bullying is just as harmful as physical bullying, it is much harder to
24 catch. However, after I talked with Casey, I decided to call Sawyer into my office.

25 I told Sawyer about the accusations, without revealing Casey's identity. Then I informed Sawyer that
26 the school takes the issue of bullying very seriously. So seriously in fact, that if I heard of any other
27 incidents involving Sawyer, I would be authorized to take away Sawyer's senior privileges. This
28 included attending prom and participating in graduation ceremonies. Moreover, Sawyer could possibly
29 be suspended or even expelled.

30 At first Sawyer seemed a little shocked, but that didn't last long. After a few seconds of silence, Sawyer
31 smiled and denied the accusations. Sawyer said that whoever was complaining was lying and must have
32 been crazy. I let Sawyer get back to class, but I still had many suspicions.

33 The morning of April 7 started off at 7 a.m., when I arrived at the school. That early, there are very few
34 students on campus, and I can get a lot of work done. The gates to the school are locked from 5 p.m. to
35 6 a.m., so I really can't get to school too much earlier. At 9 a.m., there was an administrative meeting.
36 Advanced placement tests were coming up and we were in charge of organizing the rooms and finding
37 proctors for the exams. I was back in my office by the start of lunch. I checked my messages and started
38 eating my lunch.

39 My office has one window that looks straight at the math building. Around 12:25 p.m., I looked out the
40 window and saw Casey walking toward the center of campus, back from the area around the parking lot.
41 Students aren't supposed to hang out in the parking lot during lunch, but there is a pay phone and a
42 number of classrooms near the parking lot's edge that students have access to. A few minutes later, I
43 saw Sawyer walk down the same path. At 12:30 p.m., the lunch bell rang and I thought to myself that

44 Sawyer was probably going to be late for class. I didn't pay any more attention though, because I had a
45 lot of work to do.

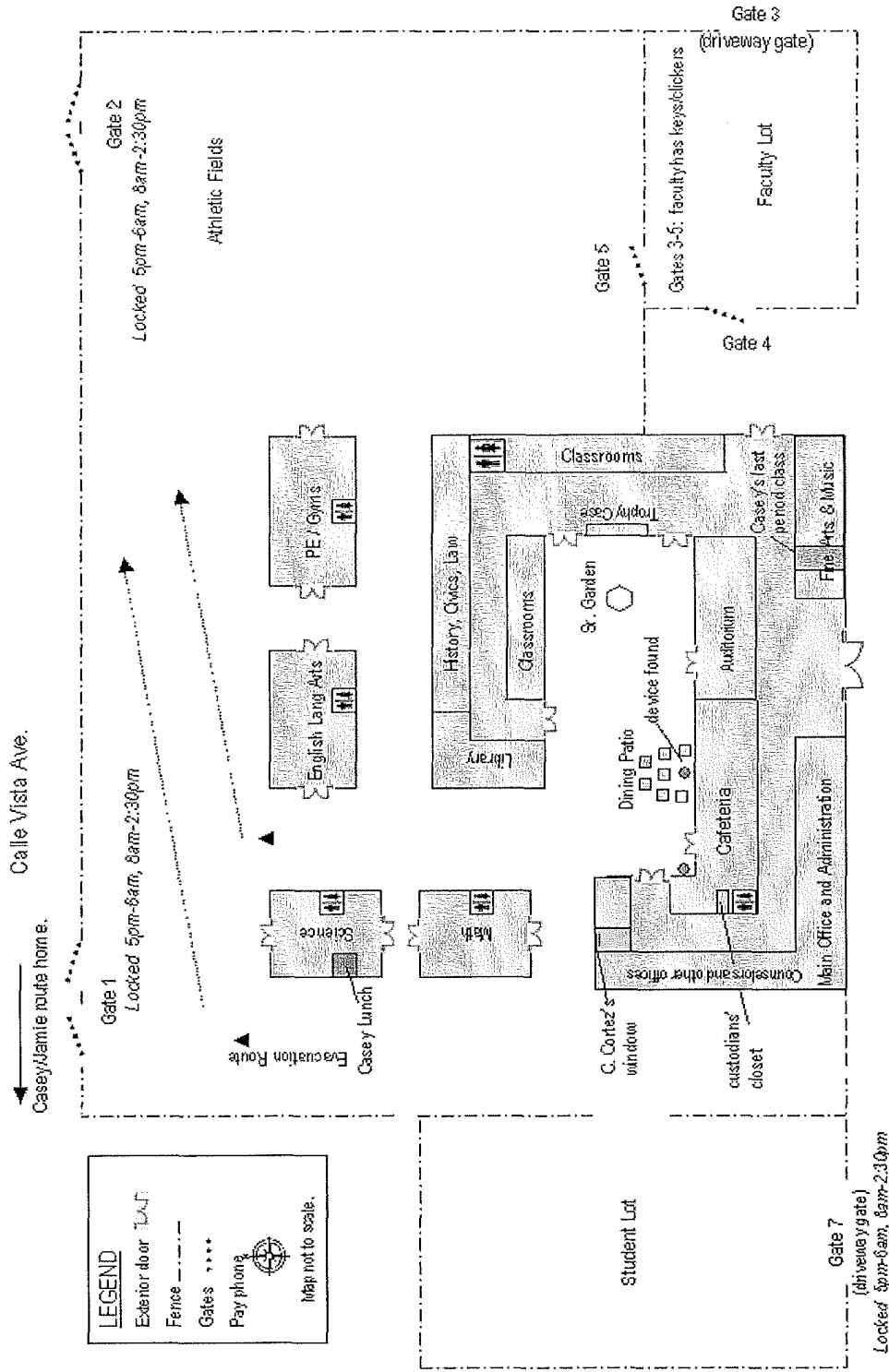
46 About 20 minutes later, a bell started ringing, and the vice principal came around to tell us about the
47 bomb found by the cafeteria. The staff had practiced their roles in case of such an event. As the
48 principal made an announcement over the speaker, we started checking the classrooms to make sure
49 everyone was outside. Once we saw that the campus was clear, we joined the kids by the athletic fields.
50 The principal then informed us that the kids should be sent home, that no one would be allowed back on
51 campus, and the kids would only be allowed to get their cars. The staff made the announcement and
52 directed the kids to the exit. We then stood guard at the exits to make sure no one came back to the area.

PHYSICAL EVIDENCE

Only the following physical evidence may be introduced at trial. The prosecution is responsible for bringing:

1. A faithful reproduction of Exhibit A, Diagram of Park Lane High School.
2. A faithful reproduction of Exhibit B, Casey Campbell's R-Place page.
3. A faithful reproduction of Exhibit C, a Diagram of the device found at Park Lane High School.

EXHIBIT A Diagram of New Prague High School



Gate 7 (driveway gate) Locked 5pm-8am, 8am-2:30pm

EXHIBIT B

www.MyFace.com/101072809

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Casey's Page

About Casey

Lives: New Prague, USA

Occupation: Student

Zodiac: Capricorn

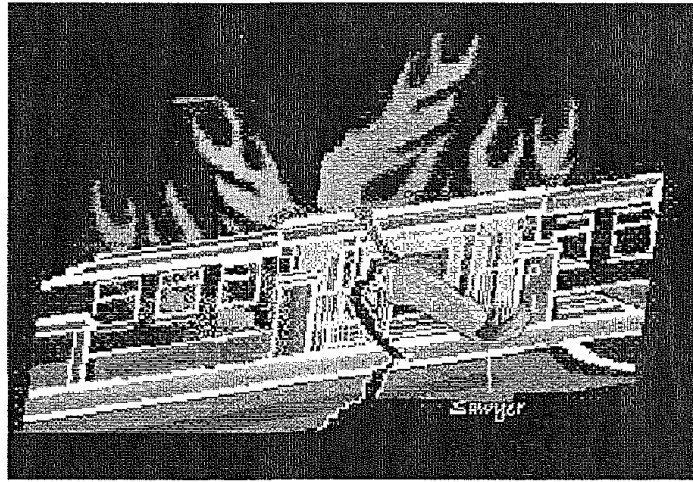
Age: 17

Casey's Interests

Art, pyrotechnics, video

games, DVDs

Casey's Latest Post

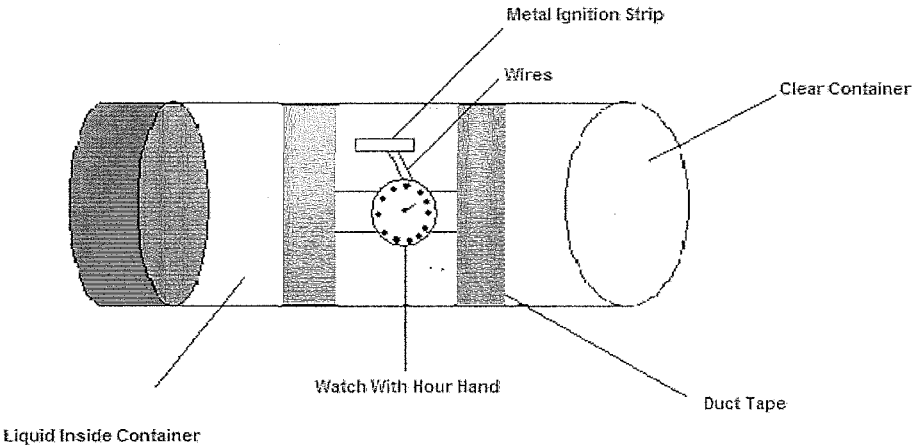


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EXHIBIT C
Diagram of Device



PROCEDURES FOR THE PRETRIAL MOTION HEARING

The following procedures and recommendations provide a format for the presentation of your pretrial motion.

1. Prior to the opening of the pretrial motion arguments, the judge will have read the pretrial materials provided in the case packet.
2. Be as organized as possible in your presentation. Provide clear arguments so the judge can follow and understand your line of reasoning.
3. Arguments should be well substantiated with references to any of the pretrial sources provided with the case materials and any common sense or social-interest judgments. Do not be afraid to use strong and persuasive language.
4. Use the facts of your case in your argument. Compare them to facts of cases in the pretrial materials that support your position, or distinguish the facts from cases that contradict the conclusion you desire.
5. Review the legal arguments to assist you in formulating your own arguments.
6. Your conclusion should be a short restatement of your strongest arguments.

PRETRIAL MOTION AND CONSTITUTIONAL ISSUE

This section contains materials and procedures for the preparation of a pretrial motion on an important legal issue. The judge's ruling on the pretrial motion will have a direct bearing on the charges in this trial and the possible outcome of the trial.

The pretrial issue turns on the First Amendment's provisions governing freedom of speech and expression. Although First Amendment protection extends to a wide range of activities, not all speech is protected. For example, the government can prohibit obscene material or speech that presents a "clear and present danger" to the public. Restrictions against certain classes of people, including minors, have also been found to be constitutional.

Additionally, the government may regulate speech that would otherwise be constitutionally protected if the regulation serves a compelling interest, and it is narrowly tailored to serve that interest. In other words, once an important enough interest is articulated, the least restrictive means must be employed to serve that interest.

In this case, there is a question of whether the statute prohibiting the possession of certain types of video games is constitutional. If the video game is a type of expression and does not fall into one of the articulated exceptions, then the statute is unconstitutional. On the other hand, if video games are not a form of expression, this game qualifies as an exception, or the statute is narrowly tailored to serve a compelling government interest, then the statute is constitutional.

The outcome of the pretrial motion will have a direct bearing on the retention or dismissal of the defendant's charge under that statute. The sources cited below will help you determine the statute's constitutionality.

Arguments

The prosecution will assert that the statute is constitutional.

Specifically, that (a) video games are not protected under the First Amendment and (b) even if video games are constitutionally protected speech, the statute serves a compelling interest and is narrowly tailored.

The defense will assert that the statute is unconstitutional.

Specifically, (a) that video games are protected speech under the First Amendment, (b) that the statute does not serve a compelling interest that is real and (c) that the statute is overbroad.

Sources

The sources for the pretrial motion arguments consist of excerpts from the U.S. Constitution, Minnesota Criminal Code, Minnesota Jury Instructions, edited court opinions, the Factual Background for the trial.

LEGAL AUTHORITIES

Constitutional

U.S. Constitution, Amendment I Congress shall make no law abridging the freedom of speech, or of the press.

Statutory

Minnesota Criminal Code - § 413. Terrorizing by use of destructive device or explosive or commission of arson in certain places; punishment

- (a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony
- (b) Subdivision (a) applies to the following places:
 - (10) Any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

Minnesota Criminal Code § 308 Exploding destructive device with intent to commit murder

Every person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive with intent to commit murder is guilty of a felony, and shall be punished by imprisonment in the state prison for life with the possibility of parole.

Minnesota Laws Chapter 190 - School Violence in Video Games

Section 1:

The Legislature hereby finds and declares that recent events such as the Columbine shootings have called into question the safety of our schools. Since we find by a preponderance of the evidence that there is a causal connection between violent video games and violent behavior, particularly in minors, in the interest of protecting our children and the status of the education system, we seek to regulate children's interaction with media and images that portray, and thereby may encourage, violence in schools. This statute addresses the deficiencies noted in any previous statutes of this nature.

Section 2:

- (a) Any person who sells or rents a video game specifically depicting violence in or around a school or directed at school employees to a person under the age of 18 is guilty of a misdemeanor punishable by up to three months in jail and/or a fine up to \$1000.
- (b) Any person under the age of 18 who knowingly possesses a video game specifically depicting violence in or around a school or directed at school employees is guilty of a misdemeanor punishable by up to three months in jail and/or fine up to \$1000.

Section 3:

Definitions

- (a) "Video game" means any electronic amusement device that utilizes a computer, microprocessor, or similar electronic circuitry and its own monitor, or is designed to be

used with a television set or a computer monitor, that interacts with the user of the device.

- (b) “Violence” includes, but is not limited to, such actions as killing, causing serious bodily injury, exploding or igniting a destructive device, using weapons utilizing chemical, biological, nuclear, or industrial agents.
- (c) “School” means any public or private school providing instruction in kindergarten or grades 1 to 12, inclusive.

Jury Instructions

Jury Instruction – Possession of a Video Game in Violation of the School Violence in Video Games statute.

The defendant is charged in Count 3 with possessing a video game in violation of the School Violence in Video Game Statute.

In order to be guilty of this charge, the State must prove, beyond a reasonable doubt, that the defendant:

- (1) Was under the age of 18.
- (2) That the defendant knowingly possessed a video game specifically depicting violence in or around a school or directed at school employees.

If you find that both of these requirements have been proven, then you must find the defendant guilty of this charge. If you find that either of these elements has not been proven beyond a reasonable doubt, then you must find the defendant not guilty of the charge.

Cases

American Amusement Machine Association v. Kendrick, 244 R3d 572 (7th Cir. 2001)

Facts: Video game manufacturers and their trade association brought action challenging constitutionality of a city ordinance seeking to limit access of minors to video games depicting violence.

Issue: Did an ordinance limiting minors’ access to violent video games violate the freedoms protected by the Constitution?

Holding: Yes. Judge Richard Posner wrote “Violence has always been and remains a central interest of humankind and a recurrent, even obsessive theme of culture both high and low...To shield children right up to the age of 18 from exposure to violent descriptions and images would not only be quixotic, but deforming; it would leave them unequipped to cope with the world as we know it.” The court granted a preliminary injunction barring the enforcement of the law.

Brandenburg v. Ohio, 395 U.S. 444 (1969)

Facts: Brandenburg, a Ku Klux Klan leader, was convicted of making a speech advocating crime and violence as a means of accomplishing political reform.

Issue: Was Brandenburg’s speech protected by the First Amendment?

Holding: Yes. The court overruled the conviction because “the constitutional guarantees of free speech and free press do not permit a state to forbid advocacy of the use of force or of law

violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite such action.”

Ginsberg v. State of New York, 390 U.S. 629 (1968)

Facts: Ginsberg operated a “Sam’s Stationery and Luncheonette” store. He was convicted of violating a New York statute prohibiting the sale to minors of certain material. This material was not considered obscene for adults.

Issue: Did the New York statute invade the First Amendment right of minors?

Holding: No. The court held that the statute did not invade the freedom of expression or other freedoms constitutionally guaranteed to minors. Two interests justify the limitations upon the availability of material to minors: (1) a parents’ claim to authority in their own house hold to direct the rearing of their children is basic to our society and (2) the state has an independent interest in the well-being of its youth.

Entertainment Software Association v. Blagojevich, 404 F. Supp. 2d 1051 (N.D. 111. 2005)

Facts: The Illinois legislature passed a law making it illegal for people to sell violent video games to minors.

Issue: Did the Illinois law infringe the First Amendment’s freedom of speech?

Holding: Yes. The Illinois Violent Video Games Law could not be justified under the First Amendment. The state interests in preventing violent and aggressive behavior on the part of minors, in preventing developmental or psychological harm to minors, and in assisting parents who want to limit their children’s ability to access violent video games were not compelling. Additionally, the statute was not narrowly tailored and its definition of “violent video games” was unconstitutionally vague.

Interactive Digital Software Association v. St Louis County, 329 F.3d 954 (8th Cir. 2003)

Facts: Sellers of video games brought suit against an ordinance making it unlawful for any person knowingly to sell, rent, or make available graphically violent video games to minors, or to “permit the free play of graphically violent video games by minors, without parent or guardian’s consent.

Issue: Does the ordinance requiring parent or guardian consent in order to play violent video games conflict with the First Amendment?

Holding: Yes. The court held that video games are a protected form of speech under the First Amendment and ordinance making it unlawful for any person to sell or rent violent video games to minors violated First Amendment. “If the First Amendment is versatile enough to ‘shield [the] painting of Jackson Pollock, music of Arnold Schoenberg, or Jabberwocky verse of Lewis Carroll,’ we see no reason why the pictures, graphic design, concept art, sounds, music, stories, and narrative present in video games are not entitled to a similar protection.”

Kaye v. Planning and Zoning Commission, 39 Conn. Supp. 170 (Conn. Super. Ct. 1983)

Facts: A town planning and zoning commission required a special permit for the operation of video games. An applicant for such a permit challenged the permit as limiting First Amendment rights.

Issue: Did Connecticut’s permit requirements violate the First Amendment?

Holding: No. The court acknowledged that entertainment may be protected by the First Amendment, but the video games in question did not convey any information or communicate any idea, and therefore were not a form of speech protected by the First Amendment. Since video games are not protected by the First Amendment, regulations concerning them would be subject to a lower standard of review.

Maiden Amusement Co. v. City of Maiden, 582 F. Supp. 297 (D. Mass. 1983)

Facts: An amusement company brought an action challenging a city ordinance that required the licensing of video games and restricted the number of video games allowed at any one location.

Issue: Did the Massachusetts ordinance violate the First Amendment?

Holding: No. The court held that video games are not protected speech within the First Amendment or Massachusetts law and upheld the statute. The court argued that video games are purely entertainment, have no “informational element,” and therefore are not a form of speech protected by the First Amendment.

Miller v. California, 413 U.S. 15 (1973)

Facts: Miller conducted a mass mailing campaign to advertise the sale of illustrated “adult” books. He was convicted of violating a California statute that made illegal the knowing distribution of obscene material.

Issue: Is obscene material protected by the First Amendment?

Holding: No. The court reaffirmed an earlier decision that obscenity is not protected by the First Amendment. Additionally, the court held that obscenity may be subject to state regulation where the work appeals to the prurient interest in sex, and, applying contemporary community standards, it does not have serious literary, artistic, political or scientific value.

Rice v. Paladin, 128 F.3d 233 (4th Cir. 1997)

Facts: Relatives of murder victims brought a wrongful death action against the publisher of the book *Hit Man: A Technical Manual for Independent Contractors*. The book provided extremely detailed instructions on the planning, commission, and concealment of criminal conduct.

Issue: Was the book *Hit Man* entitled to First Amendment protection?

Holding: No. *Hit Man* was not entitled to First Amendment protection. The book methodically and comprehensively prepared its audience for specific crimes and thereby amounted to abstract advocacy.

Rothner v. City of Chicago, 929 F.2d 297 (7th Cir. 1991)

Facts: A distributor and operator of video games brought suit challenging an ordinance that prohibited minors from playing video games during school hours. The ordinance was passed for the purpose of encouraging “all minors to complete at least a high school education and discourage truancy.”

Issue: Did the ordinance enacted by the city of Chicago impinge on those freedoms protected by the First Amendment?

Holding: No. The court upheld the ordinance, finding that it did not violate the First Amendment. It was legitimate as a time, place, and manner restriction on expression, meaning that it is justified without reference to the content of the speech, narrowly tailored to serve a

significant governmental interest, and leaves open ample alternative channels for communication of the information.

Sable Communications of California, Inc. v. F.C.C., 492 U.S. 115 (1989)

Facts: Telephone service brought an action seeking injunctive relief from the Communications Act which imposed blanket prohibition on indecent as well as obscene interstate commercial telephone messages.

Issue: Did the act violate the First Amendment?

Holding: Yes. The government may regulate the content of constitutionally protected speech in order to promote a compelling interest if it chooses the least restrictive means to further that interest. In this case, the Communications Act, was not narrowly tailored to serve the compelling interest of preventing minors from being exposed to indecent telephone messages.

Schenck v. United States, 249 U.S. 47 (1919)

Facts: Schenck, a Socialist, sent leaflets to draftees denouncing the draft as unconstitutional and urging them to “assert their rights” and refuse to serve the interests of Wall Street. He was charged with conspiring to violate the Espionage Act of 1917, which prohibited acts obstructing the U.S. military effort. Schenck was convicted for corrupting a draftee. Schenck claimed the First Amendment protected him from conviction.

Issue: Were the leaflets sent by Schenck protected by the First Amendment?

Holding: No. The court upheld Schenck’s conviction because Schenck’s actions presented a clear and present danger to the country that outweighed Schenck’s First Amendment rights.

United States v. Playboy Entertainment Group, Inc., 529 U.S. 803 (2000)

Facts: A cable television programmer challenged the Telecommunications Act, which required cable operators to completely scramble sexually explicit channels or limit the programming on such channels to certain hours.

Issue: Does the Telecommunications Act violate the First Amendment?

Holding: Yes. The Supreme Court held that the statute did violate the First Amendment. The restriction was content-based and therefore subject to strict scrutiny. The provision failed because although there is a compelling interest in preventing children from hearing and seeing the images available on these channels, the act was not the least restrictive means of achieving this goal. The programmer showed that alternative means could effectively accomplish the goal.

Video Software Dealers Association v. Schwarzenegger, 401 F. Supp. 2d 1034 (N.D. Cal. 2005)

Facts: Associations of companies in the video game industry brought an action challenging the constitutionality of a California law requiring that violent video games be labeled and prohibiting rental or sale of those games to minors under the age of 18. The statute applied to all video games that included killing, maiming, or dismembering options. The game must also appeal to the deviant interest of minors, be patently offensive, and lack serious artistic, literary, political, or scientific value. The associations moved for a preliminary injunction barring state and local officials from enforcing law.

Issue: Did the California statute violate the First Amendment?

Holding: Yes. The preliminary injunction was granted barring state and local official from enforcing the law. The court held that the statute did not pass strict scrutiny, as there was no evidence of a causal link between violent video games and violent behavior.

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