

ELEMENTARY SCHOOL #1 (LITTERING)

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

:

Plaintiff,

Vs.

:

Case No.: 04-321

CINDERELLA,

Defendant.

:

INTRODUCTION

There are two types of legal proceedings that make up the justice system in the United States. One involves CRIMINAL CASES in which the State is the PLAINTIFF and in which the DEFENDANT is a person charged with having committed a CRIME. The other type of case is what is known as a CIVIL CASE in which a private person is both the PLAINTIFF and the DEFENDANT and which is a legal proceeding to resolve a private dispute among people. Criminal cases always involve allegations of crime. Civil cases involve private disputes such as CONTRACTS or TORTS which are claims for injury to someone's person or property. This is a criminal case where the State of West Virginia has charged Cinderella with littering by having disposed of one glass slipper in the middle of the street at approximately midnight on April 30, 2004. The littering statute reads as follows:

No person shall intentionally throw, discard, or allow the discarding of any trash, debris, or unwanted materials upon the streets or any other property not owned by them.

BAILIFF: All rise. This Court is now in session.

JUDGE: Please be seated. Ladies and gentlemen of the jury, this is a criminal case where the State has issued an INDICTMENT against a certain young woman by the name of Cinderella, to wit that she did intentionally discard one glass slipper upon the public streets of Wheeling, that is Main Street, on April 30, 2004 in contravention of the littering law of the State of West Virginia.

(Speaking to Jurors) Have any of you read anything about this case, or do you know anything about this case? The reason I ask is

because the first part of the trial is what is called VOIR DIRE. Voir Dire means to speak the truth, and it is the time of the trial when the judge has to determine whether or not each and every juror is free of prejudice and can make a fair and impartial VERDICT solely upon the evidence that they hear in the case.

Is each and every juror here sure they are willing to take an oath that they will give an impartial verdict based solely on the evidence?

JURORS: Yes, Judge.

JUDGE: All right then, let me explain to the jury the different parts of a trial. Because the State is pursuing this case, it is up to the State to proceed first, so you will first hear the OPENING STATEMENT of the PROSECUTING ATTORNEY. You will then hear the OPENING STATEMENT of counsel for the Defendant Cinderella. Then you will hear the State's WITNESSES and after that the Defendant may call witnesses they choose. After you hear all of the evidence from the witnesses, you will then hear the CLOSING ARGUMENTS of both the State and the Defendant, and because the State has the burden of proving the Defendant GUILTY BEYOND A REASONABLE DOUBT, the State is permitted a short rebuttal after the Defendant's CLOSING ARGUMENT and that would be the last argument heard. After the CLOSING ARGUMENTS are made, I will give you INSTRUCTIONS ON THE LAW to help guide in your DELIBERATIONS as to whether or not this Defendant is GUILTY or INNOCENT. Is the State ready to proceed?

PROSECUTING ATTORNEY: Yes, Your Honor.

JUDGE: Is the Defendant ready to proceed?

DEFENSE ATTORNEY: Yes, Your Honor.

JUDGE: Prosecuting Attorney, please proceed with your Opening Statement.

PROSECUTING ATTORNEY: Ladies and gentlemen of the Jury, in the opening statement it is my

duty to tell you what the evidence will be. I'll tell you what we will prove. We will prove that Cinderella wore a glass slipper on the evening of April 30, 2004, and that she violated the state littering law by intentionally discarding her glass slipper on Main Street and not picking it up and disposing of it properly.

JUDGE: Defense Attorney, you may give your opening statement.

DEFENSE
ATTORNEY: Now, ladies and gentlemen, the State says that it will prove that Cinderella is guilty of littering, but I want to tell you that all you will hear is that Cinderella lost her glass slipper after the Ball on April 30, 2004. She did not intend to litter, it was an accident, and although the Court will instruct you as to how to apply the law at the end of the case, the evidence will show that the State cannot prove beyond a reasonable doubt that Cinderella intentionally littered.

JUDGE: Prosecuting Attorney, please call your first witness.

PROSECUTING
ATTORNEY: The State calls the Night Watchman.

CLERK: Do you swear to tell the truth, the whole truth, and nothing but the truth?

NIGHT
WATCHMAN: I do.

PROSECUTING
ATTORNEY: Please state your name.

NIGHT
WATCHMAN: I am the Night Watchman.

PROSECUTING
ATTORNEY: Now where were you the evening of April 30, 2004?

NIGHT
WATCHMAN: I was outside the Grand Hall on security detail making sure there was nothing suspicious going on and keeping the peace.

PROSECUTING

ATTORNEY: Did you see anything unusual that night?

NIGHT

WATCHMAN: Yes, I did. I saw what looked like a horse-drawn carriage with footmen and I swear, perhaps I was tired, but it looked to me like a huge pumpkin, and all of a sudden I didn't see it any more, but I saw this young woman who is sitting here running and before I knew it, she was gone, except for this glass slipper which she had apparently thrown into the street.

PROSECUTING

ATTORNEY: Your Honor, I would like to have this glass slipper marked as Exhibit A (take the slipper to the clerk to mark Exhibit A) and introduced into EVIDENCE.

JUDGE: Any objection from Defense Counsel?

DEFENSE

COUNSEL: No, Your Honor.

JUDGE: That may be done, so please have the clerk mark the slipper and and continue.

PROSECUTING

ATTORNEY: Now sir, did this young woman return to pick up the slipper after she had lost it?

NIGHT

WATCHMAN: Oh no, she just left it there as if she wanted to throw it away. In my book, that's littering.

DEFENSE

ATTORNEY: Objection.

JUDGE: Yes sir, just answer the questions and refrain from giving your own opinions.

NIGHT

WATCHMAN: Yes, Judge.

PROSECUTING

ATTORNEY: Have you had an opportunity to determine the size of the glass slipper?

NIGHT

WATCHMAN: Oh yes, we have measured it.

PROSECUTING

ATTORNEY: And what size is it?

NIGHT

WATCHMAN: It is a size 4.

PROSECUTING

ATTORNEY: Thank you. No further questions. I'm finished with this witness.

JUDGE:

Do you have any questions counselor?

DEFENSE

ATTORNEY: Not at this time, Your Honor.

JUDGE:

Very well, this witness may step down. Next witness, please.

PROSECUTING

ATTORNEY: I would like to call Cinderella's stepsister, Drizella, to the stand.

CLERK:

Do you swear to tell the truth, the whole truth, and nothing but the truth?

DRIZELLA:

I do.

PROSECUTING

ATTORNEY: Please state your name.

DRIZELLA:

I am Drizella, Cinderella's stepsister.

PROSECUTING

ATTORNEY: Now, do you know where your stepsister was on April 30, 2004?

DRIZELLA:

Yes, she shocked my sister, Anastasia and my mother by showing up at the Ball. We didn't expect her to be there. She was supposed to be home doing her work, and instead she showed up at the Ball. She has a lot of nerve.

PROSECUTING ATTORNEY: Yes, well, uh – getting back. (Get the slipper from the clerk and show it to Drizella) We’d like to show you what has been marked Exhibit A. Have you ever seen this glass slipper before?

DRIZELLA: Yes, I’ve seen it. That was the glass slipper she was wearing at the Ball. And if you ask me, she was just showing off by wearing it, because none of us had glass slippers.

PROSECUTING ATTORNEY: Do you know your sister’s shoe size?

DRIZELLA: Yes I do, she wears a size 4.

PROSECUTING ATTORNEY: And what size do you wear?

DRIZELLA: I wear a size 10.

PROSECUTING ATTORNEY: So it’s fair to say this glass slipper does not belong to you.

DRIZELLA: That’s correct.

PROSECUTING ATTORNEY: (Looking at Defense Attorney) You may inquire.

DEFENSE ATTORNEY: Just a few questions, Your Honor. Miss Drizella, you said your sister’s size shoe is a 4?

DRIZELLA: Yes.

DEFENSE ATTORNEY: And yours was a 10?

DRIZELLA: Yes.

DEFENSE ATTORNEY: So I take it you’re sure that this shoe belongs to your sister?

DRIZELLA: There’s no question about it, the shoe is hers and she must have

thrown it on the street when she left.

DEFENSE

ATTORNEY:

Why is it, Drizella, if you say this is hers, why did you tell the people who found it that it might be yours, and try to fit it on your foot?

DRIZELLA:

Well, really, that was...uh, everyone. I thought everyone was trying it on. I never thought for an instant that it might belong to me.

DEFENSE

ATTORNEY:

In fact, didn't you tell the investigating police officer that you were sure the glass slipper must have belonged to you when he told you that Prince Charming was trying to find the person who wore the glass slipper?

DRIZELLA:

Well, I may have said that, but I was mistaken at the time.

DEFENSE

ATTORNEY:

Mistaken? Well, if you lied to the police officer then, how can we be so sure that you're not lying now?

PROSECUTING

ATTORNEY:

Objection, Your Honor, he's badgering the witness.

JUDGE:

Overruled. You may proceed, counsel.

DRIZELLA:

Cinderella had no right to be at the Ball, and if anyone threw that shoe on the street, it was Cinderella.

DEFENSE

ATTORNEY:

No further questions, Your Honor.

JUDGE:

Miss Drizella, you may step down.

PROSECUTING

ATTORNEY:

The State rests, Your Honor.

JUDGE:

Does the Defense have any witnesses?

DEFENSE

ATTORNEY:

No witnesses. The Defense rests, Your Honor.

JUDGE: All right, ladies and gentlemen of the jury. What has happened is that the Prosecuting Attorney has presented his witnesses, and the Defense does not have any witnesses. In the United States, a Defendant is not required to take the witness stand. And sometimes there are very good reasons why a Defendant would choose not to testify. You may not consider the fact that the Defendant chose not to testify as evidence of her guilt. You are instructed that the law against littering is an intent crime. That means that you must have intended to discard or cause the discarding of any material. Therefore, if you believe that the State has proven that the Defendant had intentionally discarded the glass slipper, you may find her guilty of littering. If you determine that the State has not found beyond a reasonable doubt that the Defendant was guilty, then you should find for the defense. You will now hear the closing arguments – first of the Prosecuting Attorney and then the Defense Counsel.

PROSECUTING
ATTORNEY:

Ladies and Gentlemen of the jury, this is an open and shut case. The night watchman saw some strange things on the night of April 30, 2004, and some things which he was not able to explain. But he did see something that he could explain. He saw the Defendant running away and he saw her lose or throw a shoe into the street, and he knows that she didn't come back to reclaim it. We think that we have proven beyond a reasonable doubt that the Defendant intentionally littered on the public main street, and should be found guilty. Thank you for your attention through this long and sometimes tedious trial!

JUDGE: Now we may hear from Defense Counsel.

DEFENSE
COUNSEL:

Ladies and Gentlemen of the jury, all that you have heard today is that Cinderella lost a glass slipper after the Ball on April 30, 2004. You did not hear anyone provide any evidence to allow you to believe that she intentionally wanted to lose that slipper. Why was she running? Was she trying to get away from something? Was she trying to get somewhere before something happened to her? No one has explained why she was running. Perhaps she was afraid, and if she lost her slipper, perhaps she did not intend to litter, but in fact, was unable to go back and retrieve the slipper. Ladies and Gentlemen, the State has proved only that Cinderella

had on a glass slipper at the Ball. They have not proven that she intended to discard it on Main Street in Wheeling. For that reason, you should find Cinderella not guilty.

JUDGE: It is now time for you, the jury, to deliberate on the guilt or innocence of Cinderella. You shall first pick a FOREPERSON and when you have reached a VERDICT you may press the buzzer and return to the Courtroom at which time the FOREPERSON will read the verdict in open Court. Baliff, please give the jury five minutes to deliberate.

BAILIFF: Yes, Judge.

AFTER THE JURY DELIBERATES AND COMES BACK TO THEIR SEATS:

JUDGE: Will the foreman of the jury please stand. Have you reached a Verdict?

JURY
FOREPERSON: We have, Your Honor.

JUDGE: Will the defendant please stand. You may read the verdict.

JURY
FOREPERSON: *As to the charges against Cinderella, Your Honor, we find the Defendant:*

_____ *GUILTY*

OR

_____ *NOT GUILTY*

JUDGE: So say you all?

JURORS: Yes, Your Honor.

JUDGE: So this was a criminal case because the State was the Plaintiff and was attempting to convict the Defendant, Cinderella, of a crime. Suppose that Cinderella had borrowed the glass slippers from a

high-priced shoe store. And suppose that Cinderella lost one of her slippers and was unable to return them to the shoe store the following day. If the shoes were very valuable, the shoe store might have filed a lawsuit against Cinderella to make her pay for the cost of the lost slipper. This would be an example of a civil action as opposed to a criminal action because the store owner would not be trying to convict Cinderella of any crime, he would just be trying to get paid for the loss of his slipper. Of course, if the slipper were found and Cinderella were able to have it returned to the store owner, then he would not have suffered any DAMAGES and therefore he would not be permitted to sue Cinderella. He would not be successful in attempting to sue Cinderella.

We hope you enjoyed learning about the CIVIL and CRIMINAL JUSTICE SYSTEM.

Court is adjourned (BANG GAVEL) and now we will have a short summary and question and answer period.

*Script written by Patrick S. Cassidy, President
The WALIS Foundation – 2004
The WALIS Foundation Mock Trial Program©*

MOCK TRIAL ROLES
State Vs. Cinderella

- | | |
|--|-------------------|
| 1. Judge | Visiting Attorney |
| 2. Bailiff - Instructions in <i>Other Role Instructions</i> | _____ |
| 3. Clerk - Instructions in <i>Other Role Instructions</i> | _____ |
| 4. Defendant/Cinderella | _____ |
| 5. Lawyer/Defense | _____ |
| 6. Lawyer/Prosecutor | _____ |
| 7. Witness #1- Night Watchman | _____ |
| 8. Witness #2 – Drizella | _____ |
| 9. Court Reporter | _____ |
| JURORS – Instructions in <i>Other Role Instructions</i> | |
| 10. Juror #1 | _____ |
| 11. Juror #2 | _____ |
| 12. Juror #3 | _____ |
| 13. Juror #4 | _____ |
| 14. Juror #5 | _____ |
| 15. Juror #6 | _____ |
| 16. Juror #7 | _____ |
| 17. Juror #8 | _____ |
| 18. Juror #9 | _____ |
| 19. Juror #10 | _____ |
| 20. Juror #11 | _____ |
| 21. Juror #12 | _____ |
| Jury Foreperson – Instructions in <i>Other Role Instructions</i> | |
| <u>OPTIONAL</u> | |
| 22. Police Officer | _____ |
| 23. Sketch Artist * | _____ |
| 24. Journalist/Newspaper | _____ |
| 25. Camera Person/TV | _____ |
| 26. Prince Charming | _____ |
| 27. Anastasia (other step-sister) | _____ |
| 28. Fairy Godmother | _____ |

*** Have your “sketch artist” sit in the back and just sketch separately what they see – lawyers, witnesses, judge, jurors. (Explain that sometimes cameras are not allowed in a courtroom so the media will use these sketches).**

PROP SUGGESTIONS
(Based on Role List - Cinderella)

Teachers are the most creative people EVER, but we have some suggestions also.

1. **JUDGE:** black robe (Goodwill, 2nd hand stores sometimes have them), or a graduation gown, a gavel, and a sign for the Judge
2. **BAILIFF:** name tag, toy badge
3. **CLERK:** name tag
4. **DEFENDANT/Cinderella:** name tag, crown, GLASS SLIPPER
5. **LAWYER/DEFENSE:** name tag, (male) neck tie, (female) long scarf
6. **LAWYER/PROSECUTOR:** name tag, (male) neck tie, (female) long scarf
7. **WITNESS #1 – Night Watchman:** name tag, flashlight, phone
8. **WITNESS #2 - Drizella:** name tag, invitation from Prince Charming for the BALL on April 30, 2004
9. **COURT REPORTER:** old steno machine or lap top, name tag
- 10 through 21
JURORS: JUROR name tags
JURY FOREPERSON: (included in 12) bell or buzzer, pencil and verdict form (included in materials)

EXTRA ROLES

- 22 **POLICE OFFICER:** name tag, police hat, badge
23. **SKETCH ARTIST:** paper, pencil and name tag
24. **JOURNALIST from NEWSPAPER:** notebook, pencil and name tag
25. **CAMERA PERSON from TV station:** camera, name tag
26. **PRINCE CHARMING:** name tag, crown
27. **ANASTASIA (other stepsister):** name tag, invitation from Prince Charming for the BALL on April 30, 2004
28. **FAIRY GODMOTHER:** name tag, magic wand, pumpkin

NOTE - If you have a big class, you can also divide up lawyer roles

Lawyer/Attorney and Counsel ALL mean the same thing!

VERDICT FORM – State vs. Cinderella

FOREPERSON: As to the charges against Cinderella, your Honor, we find the Defendant:

_____ **GUILTY**

_____ **NOT GUILTY**

Signature of Foreperson

Date