

Court Works

October 28, 2011
Sequence of Events

Time	Event
8:20 – 8:30 AM	Volunteers meet in the Atrium Lobby and check in with Mary Benchimol.
8:30 – 8:55 AM	Buses arrive at the Sandra Day O'Connor U.S. Courthouse on a staggered schedule from the school districts. The buses should let the students off at the 4th Avenue side of the courthouse.
8:55 – 9:10 AM	Students proceed through building security (metal detector) and meet designated court staff who will have signs assigning classrooms to the courtrooms.
9:10 – 9:20 AM	Students arrive in their designated courtrooms.
9:20 – 9:30 AM	Students assume their pre-assigned roles and positions. Court staff will direct students to their positions.
9:30 – 10:20 AM	Mock trial (there should be a designated timekeeper to ensure everyone adheres to the script time line).
10:20 – 10:30 AM	All gather in the Jury Assembly Room.
10:30 – 11:30 AM	Judge Murguia will review the day and the verdicts reached. Career information presentations by court staff.
11:30 – 11:45 AM	Students board buses and return to their school.

Court Works

Fact Pattern:

One day a teacher at North-South Jr. High named Mr. Angel Sullivan walked by a school restroom and thought he smelled cigarette smoke coming from the girl's restroom. Mr. Sullivan angrily called for whoever was in the restroom to come out. Two girls emerged: Tammy Lopez-Garcia and Ruthie Hamilton. Mr. Sullivan escorted both girls to Mr. Theodore Kuban's office. Mr. Kuban was the Vice Principal of North-South Jr. High. The girls waited in the hall while Mr. Sullivan spoke with Mr. Kuban.

Inside the Vice Principal's office both girls denied that they had smoked cigarettes in the restroom. After brief questioning the Vice Principal sent Ruthie back to class because she rarely broke school rules. The Vice Principal knew Tammy had a history of frequently getting into trouble at school and asked her more questions. Tammy further denied smoking in the restroom and claimed she did not smoke at all. Tammy adamantly denied doing anything wrong.

The Vice Principal called Tammy a liar and demanded to see the purse she held on her lap. The Vice Principal took Tammy's purse and opened it. Tammy screamed for him to stop, but the Vice Principal proceeded to look inside her purse. The Vice Principal found a pack of cigarettes. He pulled the cigarettes out of her purse, held them up and said, "I knew you were lying!" When he glanced back down in the purse, he noticed a package of rolling papers, so he continued to completely search Tammy's purse and found what looked like marijuana, a pipe, and an index card containing a list of students who owed Tammy money. The Vice Principal also unfolded and read a note written to Tammy that suggested marijuana dealing.

This find prompted the Vice Principal to call the school's onsite security guard, Officer Garcia, who determined the substance was an illegal drug and arrested Tammy for possession of a controlled substance. All the while, the Tammy insisted that she had never done drugs and had no idea how any drugs could have gotten into her purse.

Tammy was charged with possession of a controlled substance.

Questions for Everyone to Consider:

1. **Legality of the Search (4th Amendment)**
 - a. Was this a reasonable search?
 - b. Was the whole search reasonable?
 - c. Was the search intrusive?
 - d. Does it make any difference who found the drugs?
 - e. Does it matter that the search was conducted on school grounds?
2. **Burden of Proof ("Beyond a reasonable doubt")**
 - a. Did the prosecution make it clear that the search was permissible?

Court Works

Roles:

- Judge
- Courtroom Deputy
- Court Reporter
- U.S. Marshal
- Defendant (Tammy Lopez-Garcia)
- 2 Attorneys for Oral Argument
- 2-3 Defense Attorneys
- 2-3 Prosecuting Attorneys
- 2 Witnesses for the Defense (Ruthie Hamilton, Tammy Lopez-Garcia)
- 3 Witnesses for the Prosecution (Mr. Angel Sullivan, Vice Principal Theodore Kuban, Officer Garcia)
- Jurors

Defense Witness

Tammy Lopez-Garcia (defendant)

The suspect is hot tempered and has gotten in trouble many times in the past as a result of her temper. She is the youngest of three children and one of her older siblings has been arrested in the past for possession of drugs.

Defense Witness

Ruthie Hamilton (other girl in the school restroom)

This girl is less innocent than she appears, often using her charm to get out of trouble. In fact, she is a smoker and other girls have witnessed her smoking in the bathroom in the past.

Prosecution Witness

School Teacher Mr. Angel Sullivan

Mr. Sullivan has been a teacher at North-South Jr. High for 20 years. He has had all three of Tammy's siblings in his class in the past and was not surprised when he saw her coming out of the smoke filled bathroom. Although he didn't actually see Tammy smoking, he accused her – and not Ruthie – when he took the girls to Vice Principal Kuban's office.

Prosecution Witness

Vice Principal Theodore Kuban

On the day of the incident, the Vice Principal was in a car accident on his way to school. His car was severely damaged and the other driver quickly drove off before the Vice Principal could get any information from him. The Vice Principal then had to pay to get his car towed and use a taxi to get to school. He was in a bad mood when Tammy and Ruthie arrived in his office for allegedly smoking in the girl's bathroom.

Prosecution Witness

Officer Garcia

The security guard just graduated from the police academy and is really concerned about doing a good job. In fact, the day of the incident was the security guard's first day at the school. The officer was concerned about the way the drugs were found, but he was afraid to say anything.

JUDGE: (after all rise)

"You may be seated. We are here today to hear case #1985, The State of New Jersey vs. Ms. Sullivan. Ms. Sullivan has pleaded NOT GUILTY.

First, I understand that there is a motion to suppress evidence. I will now hear from both sides regarding this matter. The defense as the moving party may proceed.

(Defense presents oral argument – the judge may interrupt with questions as he/she sees fit)

The prosecution may now make their oral argument.

(Prosecution presents oral argument – the judge may interrupt with questions as he/she sees fit)

Thank you.

(PAUSE – the court as a whole will discuss the outcome of the oral arguments)

I have determined that there was no constitutional violation when the defendant's purse was searched and the marijuana and other paraphernalia were seized. Because this search and seizure took place in the public school setting, the defendant as a student had a lower expectation of privacy. The evidence may be admitted. We will now proceed with the trial on the remaining factual issue.

Jury, I would like to remind you that the law does not require a defendant to prove innocence. Every defendant is presumed by law to be innocent. You must start with the presumption that the defendant is innocent.

It is your duty as a juror to decide this case by applying these jury instructions to the facts as you determine them. You must follow these jury instructions. They are the rules you should use to decide this case.

It is your duty to determine what the facts are in the case by determining what actually happened. Determine the facts only from the evidence produced in court. When I say "evidence", I mean the testimony of witnesses and the exhibits introduced in court. You should not guess about any fact. You must not be influenced by sympathy or prejudice. You must not be concerned with any opinion that you feel I have about the facts. You, as jurors, are the sole judges of what happened.

You must consider all these instructions. Do not pick out one instruction, or part of one, and ignore the others. As you determine the facts, however, you may find that some instructions no longer apply. You must then consider the instructions that do apply, together with the facts as you have determined them.

The State has the burden of proving the defendant guilty beyond a reasonable doubt. This means the State must prove each element of each charge beyond a reasonable doubt. In civil cases, it is only necessary to prove that a fact is more likely true than not or that its truth is highly probable. In criminal cases such as this, the State's proof must be more powerful than that. It must be beyond a reasonable doubt.

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

Prosecution you may make your opening statement.”

(WAIT for Prosecution to finish opening statement.)

JUDGE:

“Defense you may make your opening statement.”

(WAIT for Defense to finish opening statement.)

JUDGE:

“Prosecution you may call your first witness. Deputy swear them in.”

(WAIT: until done)

“Defense you may cross examine the witness.”

JUDGE:

“Prosecution you may call your second witness. Deputy swear them in.”

(WAIT: until done)

“Defense you may cross examine the witness.”

JUDGE:

“Defense you may call your first witness. Deputy swear them in.”

(WAIT: until done)

“Prosecution you may cross examine the witness.”

JUDGE:

“Defense you may call your second witness. Deputy swear them in.”

(WAIT: until done)

“Prosecution you may cross examine the witness.”

JUDGE:

“We have heard from all witnesses, Prosecution will you make your closing statement. “

(WAIT: until done)

“Defense will you make your closing statement.”

JUDGE:

“Ladies and Gentlemen of the Jury, you have heard all the testimony from all the witnesses in this trial and seen all the evidence. Please may I remind you that you will determine if the state has proven that Ms. Sullivan KNOWINGLY was in the possession of an illegal controlled substance. When you have reached a verdict, please elect one person from the jury to deliver the verdict and let the deputy know.”

Ms. Tammy Lopez-Garcia

Age: 14

Job: Student at North-South Junior High School

How long: 2 years

Family: Mom, 1 brother, 1 sister. Dad left home about 1 year ago.

Background

"I have been a student at North-South Junior High School for about 2 years. School is tough for me, but I do okay – mostly B's and C's. I hate following the rules my teachers have at school. They always seem like they are in your face about something. They say I have a bad attitude. I just think that's the way God made me. I don't have man friends at school and the other girls at school don't like me. They say I start drama all the time. They are all stupid. They don't know nothing about me! Whatever. I just go to school because my mom makes me. I don't know what I want to do when I grow up."

Family/Home Life

"My mom takes care of all of us. She works two jobs to support us, so she is never home and when she does come home all she wants to do is sleep. Usually my sister cooks for me and my brothers and sister. They are all older than me. My sister is a junior in high school, and my brother is 19 but he dropped out of school like 2 years ago. But then he got a REAL job. He is really cool and I know he loves me the most, but he never has time for me. I know he's done bad things in the past, and he doesn't realize I snuck some marijuana from his room once before. I still respect him though, and I want to make him proud, but I don't know how.

What she thinks of Ruthie

"I don't know much about her. She is in my homeroom class. I mean, I sit next to her in science and social studies. We talk about small stuff like music and boys. But I don't hang out with her after school or at lunch. She's very pretty, but she is way more popular than I am."

My morning

"I stayed up late the night before, because I got to spend time with my brother. We were watching scary movies in his room. I fell asleep on the floor of his room, but when I woke up he wasn't there. I guess he went out after I fell asleep. I got ready to go to school, but I remember trying to find my purse before I left. My sister said I had left it in my brother's room last night when I was watching movies in there. I grabbed it and headed toward the bus stop."

The incident

"I made it to school right on time, just before first period. I went to the girl's restroom to put on some eye liner, because my mom doesn't let me wear makeup at school. As I was putting on makeup, Ruthie came out of the bathroom stall. She was a total mess. She must have been crying in the bathroom, because her makeup was all smeared. She told me that her boyfriend, Ray, had dumped her last night. I didn't know what to say, but I listened anyway. She then pulled out some cigarettes and began to smoke.

She asked if I wanted one, but I don't smoke cigarettes. I tried one a few months ago but it tasted gross. I told her that she would find a new boyfriend really soon. I then noticed she had the exact same purse that I had. I told her to keep her head up and that I liked her purse. She smiled, but all of the sudden we heard a banging on the door and Mr. Sullivan yelling at us to get out. I quickly grabbed my purse and so did Ruthie. We walked out and he took us to Mr. Kuban's office. I remember sitting in the hallway while Mr. Sullivan spoke to Mr. Kuban, then about five minutes later Mr. Kuban came out of his office and told Ruthie to go back to class and that he would speak to her later. I thought that was messed up, that I was going to get in trouble because he hates me and Ruthie wasn't in trouble because she is a goody-two-shoes. When in his office he asked me what happened in the girl's bathroom, but I didn't say anything. He then asked me if I was the one smoking, but I told him I wasn't. He didn't believe me and began to get mad. He then asked to see my purse. I didn't want him looking at my stuff, cause half the time I don't know what's in there. He opened it up and pulled out a pack of cigarettes. He kept digging through my purse and took out some rolling papers, a pack of notecards, and some stuff in a plastic bag. He said it looked like drugs and asked where I got them. I told him I didn't know. I told him that the purse might not be mine. I could have mixed it up with Ruthie's purse! He didn't believe me. He then called for Mr. Garcia, the school security guard. When Mr. Garcia arrived he didn't say anything to me. He just talked to Mr. Kuban. He smelled the stuff in the bag and told me the substance was marijuana. He then proceeded to handcuff me and stated he was going to charge me with possession of a controlled substance. As he walked me out he read me my rights. He said I could call my parents at the police station."

When Tammy's on the witness stand, remember:

- Tammy doesn't smoke cigarettes
- Tammy wants to make her brother proud
- Tammy left her purse unattended in her brother's room the night before
- Tammy has tried drugs before (when her brother wasn't home)
- Tammy thinks Vice Principal Kuban was out to get her
- Money is tight at home, and Tammy wants to help her mom any way she can

Ms. Ruthie Hamilton

Age: 14

Job: Student at North-South Junior High School

How long: 2 years

Family: Mom, Dad, 4 older sisters

Background

"I have been a student at North-South Junior High School for about two years. School is totally easy. I get very good grades and am never in trouble. Well, at least I never get caught. I believe that good girls are bad girls who never get caught. I am really popular with all the students at my school. In fact, I was voted our school's prom queen at our Valentine's Day dance two years in a row. Some girls just hate me because they can't be as beautiful or smart as I am.

Family/Home Life

"My mom and dad are totally cool. They treat me like a princess, because I am the youngest of four older sisters. Whatever I want I get. We live in a nice house in the nice part of town and I can't wait till I am 16, 'cause I will get a nice new car. My older sister smokes, so that's how I got started. I would sneak a smoke or two from her pack in the beginning, that was about a year ago. Now I'm totally addicted. I usually ask my sisters to buy me a pack from the store. They didn't want to at first, but I threw such a fit and cried until they gave in and bought me a pack. Now she does that every week."

What she thinks of Tammy

"I don't know much about her. She is in my homeroom class. I mean I sit next to her in science and social studies. We talk about school stuff only when in class. But I don't hang out with her after school or at lunch. She's actually kind of creepy. Kind of a loner. She is so not popular. Sometimes I think maybe I could make her my project and make her cool. You know, like that movie where they made the ugly girl all popular. That movie could be about me."

My Morning

"I stayed up late the night before, because I was on the phone with my boyfriend, Ray. We just broke up. He claimed that he wasn't in love with me anymore. I don't know what I am going to do this week. I mean the other girls in the school look up to me and if I'm not dating the hottest guy on the football team, then it will be totally whack! I cried all night and I was crying all day at school."

The Incident

"I made it to school early, because I didn't want for the other girls to see me crying about my breakup with Ray. My friends weren't there, so I just sat in the bathroom stall and cried by myself. After about ten minutes, I heard someone come into the restroom. I looked through the crack in the door and saw that it was Tammy, from class. I came out of the stall and told her that my boyfriend Ray had dumped me last night. She didn't know what to say, but I could tell she was concerned. I couldn't take this drama, so I pulled out some cigarettes and began to smoke. I asked her if she wanted one, but she

said no. She then noticed she had the exact same purse that I had. She smiled, but all of a sudden we heard a banging on the door and Mr. Sullivan yelling at us to get out. I quickly grabbed my purse and so did she. We walked out and he walked us to Mr. Kuban's office. I remember sitting in the hallway with Tammy, then about five minutes later Mr. Kuban came out of his office and told me to go back to class and that he would speak to me later. I thought he would smell the smoke on me and I would get busted. Or I thought Tammy would snitch on me. But nothing happened for the rest of the day. I guess she knew better than to tell on me."

When Ruthie's on the witness stand, remember:

- Ruthie does smoke cigarettes
- Ruthie has the exact same purse as Tammy
- Ruthie thinks the school loves her and that she is the greatest thing ever
- Money is not a problem for Ruthie

Mr. Angel Sullivan

Age: 47

Job: Teacher at North-South Junior High School

How long: 20 Years

How he knows Tammy

"Tammy is one of my students in my English class. In fact, I have also had her older sister and brother in my class as well. I'm so glad she is the youngest, because I don't think I could spend another school year with anyone else from that family."

What he thinks of Tammy

"Tammy is not the sharpest tool in the shed. She gets average grades at best. She's definitely a bit of a trouble maker. I guess she takes after her brother in that regard, but she's nowhere near as bad as he was."

What he thinks of Ruthie

"Ruthie is one of my star students. She always turns in her homework on time and gets very good grades in my class. I had heard rumors that she smokes in the girl's bathroom, but I know they can't be true. Ruthie would never do something like that."

His Morning

"I got to school early that morning to grade papers. Coincidentally, I had graded Ruthie's and Tammy's papers last, right before I left my classroom to go to the teacher's lounge for some coffee. Not surprisingly, Tammy got a C- on the test, while Ruthie got an A, as always."

The Incident

"I had just finished grading a stack of tests and was heading to the teacher's lounge to get some coffee before the day started. As I walked by the girl's bathroom, I definitely smelled cigarette smoke. Of course I couldn't go into the girl's bathroom, so I pounded on the door and yelled at whoever was in there to come out. Ruthie and Tammy came out together, and I marched them both to Vice Principal Kuban's office. They sat in the hallway while I talked to Mr. Kuban about what happened. I told him I caught Tammy smoking in the girl's bathroom. He asked me if I had seen her with a cigarette, and I said of course I did. I mean, I didn't actually see the cigarette in her hand, but I know it had to be her. I just wanted to save Mr. Kuban the trouble of interrogating both girls, because it was so obvious who the culprit was."

When Mr. Sullivan's on the witness stand, remember:

- He only smelled cigarette smoke coming from the girl's bathroom
- He didn't actually see Tammy smoking
- He told Mr. Kuban that Tammy, and not Ruthie, was the one smoking
- He doesn't think much of Tammy or her family

Mr. Kuban

Age: 45

Job: Vice-Principal of North-South Junior High School

How long: 2 years

How he knows Tammy

"Tammy has been a student at my school for about two years. In those two years I have seen Tammy several times under unpleasant circumstances. It seems like she is in my office for something every other week. Tammy has a bad temper and that is what gets her into trouble with teachers, the special area teachers, and other kids at school.

Tammy doesn't like authority and she is intent on doing what she wants at school, when she wants to do it. She gets average grades. I know her home life is pretty bad. Her dad doesn't live at the house anymore, so it's just her mom raising her and her brother and sister. Her mom told me that her brother had been arrested and served time in jail for a drug possession and that she didn't want Tammy to go down that same path."

What he thinks of Tammy

"She is an average student academically, and her behavior gets on my last nerve. I have given her multiple detentions and even suspended her on a few occasions, but nothing seems to work. Sometimes I wish she would just go away for good."

What he thinks of Ruthie

"I don't know much about her. She has very good grades and I have never seen her in my office. She also seems pretty popular with the other girls in school."

His Morning

"I was on my way to work as usual and I got into a car accident. Some guy rear-ended my car. I just finished paying it off, so I was very upset. When I got out of my car, the guy sped off! I didn't get his license plate. I had to call a tow truck to get my car towed to the mechanic. Then to make things worse, I had to call a cab just to get to school."

The Incident

"I made it to school right on time and headed straight to my office. Two minutes later, there was a knock on my door. It was Mr. Sullivan, who told me he caught Tammy in the girl's bathroom smoking a cigarette. I noticed Tammy sitting in the hall next to Ruthie, and I asked Mr. Sullivan why Ruthie was there. He responded that she was in the bathroom with Tammy, but that he knew it was Tammy who was smoking. I thought I should still interview both girls, but I sent Ruthie back to class because there was no point in her waiting outside my office if I could get Tammy, the more likely suspect, to admit that she was the one smoking. I called Tammy into my office and began asking her who was smoking in the girl's bathroom. She said it wasn't her. I asked her, "Well, if it isn't you, then you have nothing to hide, do you?" She didn't answer, so I asked to see her purse. She refused to let it go, but I yanked it away from her. I searched through it and immediately found a pack of cigarettes right on top of her backpack. I knew she was lying, but when I showed her the cigarettes she said they weren't hers. I was just about to hand back her purse, when I noticed what appeared to be rolling papers in the purse.

Curious, I continued searching her purse, where I discover rolling papers, a pack of notecards with names of students in my school with dollar signs next to their names, a pipe, and what appeared to be a small amount of marijuana. I wanted to be sure, so I called Officer Garcia, the school's new security guard, to my office to identify the substance. Officer Garcia confirmed my suspicions and handcuffed Tammy. He said he was going to charge her with possession of a controlled substance. He said she could call her parents at the police station, and I told him I would follow up with them myself after he left.

When Mr. Kuban's on the witness stand, remember:

- Mr. Kuban wants to protect his school; he thought he was doing the right thing
- Mr. Kuban doesn't hate Tammy, but he does expect her to follow the rules
- Mr. Kuban thought the search was necessary
- Mr. Kuban knew what rolling papers were and was suspicious when he saw them in Tammy's purse next to the cigarettes

Officer Garcia

Age: 26

Job: School Security Guard

How long: 6 months; on day of incident, it was his first day at North-South Junior High

Family: Wife, no kids

Background

"I am the school security guard at North-South Junior High School. I had been training under the supervision of another police officer at a nearby high school, but on the day of the incident it was my first official day at North-South Junior High. I just graduated from the Police Academy. I wanted to start as a street cop, but I was put on school duty until I can demonstrate that I am ready. I did really well in police academy. I got straight A's in all my classes, but I didn't do well on the physical tests. The Police Chief told me that if I did a good job at the school, then he would find room for me full-time as a street cop, so I really want to do my best at North-South Junior High so that Mr. Kuban will recommend me to the Police Chief."

Family/Home Life

"My parents passed on when I was 18, but it didn't really affect me. I have been working my whole life and putting myself through Police Academy by working two jobs. I just graduated and am recently married. I work hard to support my wife. We don't have any kids, and I don't think we will have any either. I want to make my wife proud by becoming a full fledged street cop.

What he thinks of Tammy and Ruthie

"I don't know much about either one. I just met them on my first day of work."

His Morning

"I got to school early because I was excited to start my first day. I walked around and said hi to several students and teachers and introduced myself, however I didn't meet Tammy or Ruthie until I was called up to the office. After walking around the school I went to my office and began unpacking my stuff. That's when I got the call from Mr. Kuban."

The Incident

"I was called to the office by Mr. Kuban for my expert opinion on a possible drug paraphernalia incident. When I arrived Mr. Kuban met me outside his office. He then explained to me that he had done a search of Tammy's purse because he had suspected her of smoking cigarettes. He then explained to me that he discovered some rolling papers (which are commonly used in smoking marijuana), a notecard with kids and dollar amounts, and a bag of what he thought was marijuana. I asked Mr. Kuban if he searched Tammy, and he stated that he did not. I felt kind of uneasy about the way Mr. Kuban searched Tammy. It seemed like he did not follow proper procedures regarding search and seizure of a minor. I didn't say anything, because I wanted to make a good impression on him so that he could give me a good recommendation later on in the year. I walked into the room and explained to Tammy that she was being

charged with possession of a controlled substance. I placed her in handcuffs. Tammy cried and screamed, "This is not fair!" She didn't struggle with me when I placed the handcuffs on her. I then read her the Miranda rights (just as instructed at the Police Academy). As I walked her out to my squad car, I asked her if Mr. Kuban called her parents. She state that he did not. I told her we could call them once we got down to the jail."

When Officer Garcia's on the witness stand, remember:

- Officer Garcia is a rookie cop; he does not have a lot of experience
- Officer Garcia wants to do a good job so he can get promoted out of the school
- Officer Garcia felt uneasy about the way the search and seizure was conducted
- Officer Garcia did read Tammy her Miranda rights
- Officer Garcia was trained at the academy on the various kinds of drugs used in the area