

# The 2003 Tennessee State High School Mock Trial Competition Case Materials

**IN THE CIRCUIT COURT  
FOR TENNESSEE COUNTY, TENNESSEE**

<b>State of Tennessee,</b>	)	
	)	
<b>    Prosecution,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CR-02-1991</b>
	)	
<b>Francis Conyers,</b>	)	
	)	
<b>    Defendant.</b>	)	

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\* All characters, names, events, and places contained herein are fictitious. This problem is adapted from materials developed by the Illinois State Bar Association.

### **Statement of Stipulated Facts**

Frankie Simmons, a student at Cumberland High School in Tennessee County, Tennessee, was murdered in front of the Public Affairs Center (PAC) at Smoky State University (SSU) at approximately 4:45 p.m. on October 4, 2002. The murder occurred on a clear day in broad daylight.

Simmons was entering the PAC front entrance with a friend when Simmons was shot once in the head. Simmons died immediately. The shot was fired by the passenger of a white pickup truck that was passing by on the road near where Simmons was walking. After the shot was fired, the truck sped away. Police and paramedics arrived on the scene approximately five minutes later. The police immediately began questioning potential witnesses.

The only witness with substantial information was Leslie Allen, a friend of Simmons. Allen told the police investigators that the assailant was in a white Chevy pickup truck. Allen stated that there were two people in the truck and that the shooter was on the passenger side. Allen also gave a rough description of the occupants of the truck, including their hair length and color, and the color of their shirts.

None of the other people interviewed could offer any eyewitness information concerning the crime itself. Some arrived on the scene after the fact. Others were nearby when they heard a shot, looked up, and saw a white truck speeding away. None of these people saw who fired the shot, nor could they identify anybody in the truck.

On October 5, police were contacted by Tracy Wheeler, who was playing soccer near the Public Affairs Center on the afternoon Simmons was killed. At around 4:45 p.m., Wheeler saw a white Chevy pickup truck speeding away from the direction of the PAC. Wheeler did not know at the time that Simmons had been shot, but read about it in the local paper the following morning.

Wheeler gave a description of the occupants of the truck that was consistent with the description Allen had given the police, except Wheeler had the driver and passenger switched from how Allen described them.

On November 8, 2002, local police stopped Shannon Reeves for disobeying a stop sign. While running a routine license check, police discovered that an arrest warrant had been issued for Reeves for failing to appear in court on a charge of public intoxication. It was also discovered that Reeves was on probation for possession of methamphetamine with the intent to distribute. After taking Reeves into custody on the warrant, both Reeves and Reeves' truck – a 1996 white Chevy pickup truck – were searched. The search revealed approximately one half pound of marijuana and a small quantity of methamphetamines. After noticing that Reeves and the truck matched the description of the truck and driver involved in the Simmons murder, police notified investigators involved in the Simmons case.

Reeves initially denied any knowledge of the Simmons murder. On November 12, 2002, however, Reeves admitted to police to driving the truck on October 4<sup>th</sup> when a friend, Francis Conyers, shot Simmons with a 9mm handgun. Reeves claimed that the shooting was not planned in advance and was completely Conyers' idea.

Based on the information Reeves provided, police obtained an arrest warrant for Conyers and a search warrant for Conyers' apartment. The search of Conyers' home uncovered a 9mm semi-automatic handgun similar to the one Reeves had described. Ballistics tests revealed that the gun was the one used to kill Simmons.

At first, Conyers would not answer any questions concerning the shooting. Several days after his arrest, Conyers gave a statement to police that Reeves was the shooter and Conyers was the driver. Conyers claimed the shooting was a complete surprise and that Reeves had done nothing to suggest that

anyone was about to be shot. Conyers has a prior conviction for theft and is currently on probation for robbery.

Conyers' version of events is supported by Perry Adams, a close friend of Conyers who claims to have overheard Reeves bragging at a party about shooting Simmons. Although Adams claims that several other people were present at the time of Reeves' alleged bragging, Adams has been unable to recall any of their names. Reeves says that Adams is lying to get revenge for a drug deal for which Adams claims Reeves still owes money. Reeves claims that Adams brought up the drug money several times and that Adams was quite upset about it.

The prosecutor's office has charged Conyers with first degree murder. Reeves was charged separately with concealment of a homicide and has pleaded guilty to that charge. Reeves is not expected to be sentenced until some time after Conyers' trial.

### **Other Stipulations**

1. All exhibits included in this problem are authentic and accurate in all respects. No objections to the authenticity of exhibits may be made. No props may be used in lieu of evidence included with this packet. e.g. no toy guns are permitted in the courthouse. Exhibits may be copied and enlarged for demonstrative purposes if the proper foundation for admission is laid at trial. Enlargements shall not exceed 20" by 30" in size. Teams may use markers and pens to assist in the presentation of witness testimony with respect to an exhibit. No other demonstrative aids are permitted.

2. All witness statements have been sworn to by the declarant.

3. Any similarity to prior mock trial problems is unintentional. Participants may cite only evidence contained herein. Cross-reference to other mock trial problems is prohibited.

4. "Chain of custody" for evidentiary issues is not in dispute.

5. No *Miranda* issues exist. The Court held a hearing prior to trial and determined that the Defendant's statement was freely given.

6. Participants may not cite legal authority outside that presented in this problem, the Rules of the Competition, and the Mock Trial Rules of Evidence.

7. The defendant is charged only with first degree murder, and not any lesser-included offense.

8. The defendant's sanity is not at issue. A hearing has already been held at which the Court determined that the defendant was competent to stand trial.

9. Stipulations cannot be contradicted or challenged.

## STATEMENT OF LESLIE ALLEN

### (Witness for the Prosecution)

My name is Leslie Allen. I am 17 years old and was with Frankie Simmons the day Frankie was killed.

Frankie and I had stopped at Smoky State University to buy tickets for the Widespread Panic concert as a birthday present for Frankie's brother. We had parked only about 50 feet from the main entrance of the Public Affairs Center. That's where the ticket office is located. It was a nice day and we were taking our time getting from the parking space to the main doors. Just as we started walking from the truck, an old white pickup truck drove by slowly. There were two people in the truck. The driver was thin with long, light colored hair. The passenger was heavier with dark hair that was also cut quite long. Both were wearing red shirts and both appeared to be about the same age as me.

I wouldn't have paid much attention to them except they seemed to be staring at us as they drove by. This made me stare back.

The drive makes a loop in front of the doors so I got a look at them both when they passed by and when they headed back up the loop. After they passed by, I quit watching them. Frankie and I were just outside the doors when I heard a loud noise from my left. I looked up and saw the passenger in the same white truck I had just seen pulling a gun back in the passenger window. At the same time, Frankie fell to the ground. There was a pool of blood that seemed to spread everywhere. The next thing I heard was an engine racing and I saw that truck speeding away. I started yelling and screaming and some people came. Someone went to call the police and others tried to help Frankie. Frankie didn't move again.

I have reviewed the map attached to the investigating officer's police report and believe it to be true to the best of my knowledge.

## STATEMENT OF SHANNON REEVES

### (Witness for the Prosecution)

My name is Shannon Reeves. I am 20 years old. I have known Francis Conyers for a little over two years.

On the afternoon of October 4, 2002, Francis and I were riding around in my truck. I drive a 1996 white Chevy pickup truck. We weren't doing anything in particular but listening to music and getting high. I decided to drive out by Smoky State because there's not much traffic out there and usually not any cops either. Anyway, we're driving along and Francis tells me to go down this circle drive. It goes down in front of the Public Affairs Center. Francis says, "See that shirt?" I looked down the drive. There were only two people out there. One of them had on a green t-shirt that said "4-H! GET INTO IT!!" Francis says, "It's one of those Four Corners freaks. I've got some business to do here."

The Four Corners are a gang. It's really "Four Corners of Hell." They usually put four H's on their stuff or sometimes just 4-H. I remembered hearing that some Four Corners members had messed with Francis a few weeks before. Anyway, Francis tells me to just drive by slow, so I did. When we went back up the circle, Francis told me to go around again. I asked Francis why and Francis just told me to do it. So, I went back down there. By the time we got to the bottom of the drive, the two people were getting close to the doors of the building. Francis pulls out a gun and pops off a round. Then I saw the one with the 4-H shirt go down.

When that happened I just put the pedal to the floor and got out of there as fast as I could. I wasn't saying anything. I was driving as fast as I could, trying to get out of there. Francis just kept saying "That'll teach 'em to mess with me." Once we got back toward town, I slowed down. We parked the truck behind the house, got the beer and pot out of the truck, and split up.

Francis kept the gun. I told Francis I was afraid the person who got shot was dead. Francis just said, "That was the idea, wasn't it?" After that, I still hung around with Francis some, but not as much. The whole thing just scared me and I didn't want to think about it.

As far as Perry Adams is concerned, we've had a little feud going on for awhile. I think Perry is just trying to get even. Back in August of 2002, Perry sold me some pot. I paid for half of it at the time and said I would pay for the rest in a couple of days. Perry and I have known each other for a long time so it was no big deal. We had done this type of thing for each other from time to time. The problem was that the stuff I took home with me wasn't the same stuff I had smoked before I paid my money. The stuff I smoked before was good, but the stuff I took home was ditch weed that probably wasn't worth what I had already paid. When Perry asked for the rest of the money, I made it real clear that I wasn't paying another cent. I also made it real clear that I was insulted that someone I considered a friend had tried to rip me off. We haven't had anything to do with each other since then. And, I think that is why Perry came up with this story about me being the shooter. If Perry and I were at the same party, which I doubt, we sure never spoke to each other.

## **STATEMENT OF DANA KING**

### **(Witness for the Prosecution)**

My name is Dana King. I am 17 years old and I have known Francis Conyers for about two years. We live in the same neighborhood and belong to the same gang, the Street Dawgs.

In August of 2002, Francis and I were walking to Francis' house from the video store. The store is only about four or five blocks from Francis' house. We were only about a block from the store when we noticed a van coming toward us. The van passed by but it looked like the people in the van had on Four Corners colors. They wear denim jackets with an "H" on each shoulder front and back or sometimes just "4-H." We couldn't tell for sure what the people in the van were wearing because it was dark, but it made us nervous. We always have trouble with the Four Corners people and we give trouble back to them whenever we can. Seeing a van full of them in our neighborhood could only mean trouble. It would be easy for them to figure out who we were with, since we had our colors on. Street Dawgs colors are a Georgia Bulldogs shirt or hat. Both of us had on Bulldogs shirts. The Georgia Bulldogs' school colors are red and black.

We watched until the van went around the corner and then we started walking toward Francis' house again. We had walked about another block when we noticed the same van coming up behind us. By this time, the van was just about even with us. At about the same time that we noticed the van, we heard a shot. The shot missed us. I think it hit a light pole that was right next to us. Anyway, as soon as we heard the shot, we took off running. There was a store right by us so we went in the front door, ran through the store, out the back door, and into the alley behind the store. Once we got into the alley we ran the rest of the way to Francis' house without any more problems. When we got to Francis', I was just glad we hadn't been shot. But, Francis

was mad more than anything else. Francis was punching the furniture and throwing stuff around and cussing the Four Corners about every way you can think of.

After we both calmed down we watched the movie we rented and then I went home. I didn't see Francis for three or four days after that. When I did see Francis next, Francis said, "Remember that problem with the Four Corners the other night? Never again my friend." Then Francis showed me a handgun that was tucked in the waist of the pants Francis was wearing. I would see Francis one or two times a week on average and I think every time we were together after that Francis made a point of showing me the gun.

I don't know anything about the Simmons shooting. Francis never said anything about it. I used to see Reeves until about the time Francis was arrested. I haven't seen Reeves since then. Reeves never said anything about Simmons either.

## STATEMENT OF FRANCIS CONYERS

### (Witness for the Defense)

My name is Francis Conyers. I am 19 years old. On October 4, 2002, I spent the afternoon driving around with Shannon Reeves. We were just out getting loaded in Shannon's truck, a '96 white Chevy pickup.

At first Shannon drove. Then, after we stopped for some gas, Shannon asked if I would drive. I agreed to drive for awhile. We were just drifting around with no particular place to go and just ended up out at Smoky State. I was just going to take a slow ride around the campus. I went down one road that just made a circle in front of a building. When we were going down the drive, Shannon told me, "Slow down, Four Corners." I looked over in the direction that Shannon was staring and there were two people on the sidewalk. One had on a white shirt with a green four leaf clover and "4-H! GET INTO IT!!" on the back of it. We drove by real slow and then headed back up the drive. When we got near the top of the drive, Shannon said, "Let's check this out again." So, I drove down the drive again. By the time we got to the bottom of the drive, the people were only a few feet from the doors to the building. Just before we were even with them, Shannon pulled out a gun from under my seat and fired a shot toward the two people. The one with the 4-H shirt dropped like a rock.

As soon as I saw that, I got us out of there as fast as I could. We went out into the country for awhile and then headed back into town. Shannon kept going on about "getting" that Four Corners.

Shannon and I are both with the Street Dawgs and we're always after the Four Corners and the Four Corners are always after us. Both the Street Dawgs and the Four Corners have male and female members. Shannon and I both thought for sure that the person who got shot had on a Four Corners

shirt. It wasn't until we saw the TV news that we heard about the 4-H Club. Neither one of us had ever heard of that before.

Anyway, we left the truck at Shannon's and got the rest of our stuff out of the truck.

Shannon asked me if I would keep the gun for awhile. Shannon said if we or the truck got identified, Shannon didn't want to get caught with the gun. I took the gun and kept it at my house. So now Shannon got in some trouble and is nailing me as a way to get out of it.

## **STATEMENT OF TRACY WHEELER**

### **(Witness for the Defense)**

My name is Tracy Wheeler. I am 20 years old and a student at Smoky State University.

On the afternoon of October 4, 2002, I was playing soccer with friends at a field on the SSU campus. We started at about 3:00 p.m. and quit a little before 5:00 p.m. The field is about a half a mile from the Public Affairs Center.

About fifteen minutes before we quit playing, I was retrieving a ball that had been kicked across the road. As I was starting to cross the road, an old white Chevy pickup truck came speeding by. I took a step back from the road and looked to see who the idiots were who were driving so fast. The driver had kind of a stocky build with dark hair. The passenger was thinner with light hair. Both of them were wearing red shirts. I would judge their ages to be about the same as mine, or maybe a little younger.

After they passed, I got the ball and asked my buddies if they had seen the morons who went by. My friends had all gone behind one of the goals to get some drinks out of a cooler we had there and none of them had noticed the truck. We sat around for a little bit after that and cooled off. Then we all went home.

I later heard sirens and saw police cars going toward the area of the PAC but I didn't think much about it or connect it to the truck that had sped by. It wasn't until the next morning when I saw the newspaper account of the shooting on campus that I made the connection. I immediately called the police and told them what I had seen. I have marked the map in the investigating officer's report, showing where I was at the time I saw the truck. I believe this to be true to the best of my knowledge.

## STATEMENT OF PERRY ADAMS

### (Witness for the Defense)

My name is Perry Adams. I am 17 years old. I have known both Shannon Reeves and Francis Conyers for about four years. We all live within a few blocks of each other. We have mutual friends and often see each other at parties or just around the neighborhood. This last October, we were all at the same party at a friend's house. I don't remember exactly when the party was, except that it was in October somewhere. I remember that because I remember that the World Series was on the television. Shannon and Francis and I didn't go there together. We just all ended up there. There were a lot of people there. Probably forty or fifty most of the time. We were really packed into the place. At one point, I was standing with Shannon Reeves and about six or seven other people. By this time, it was well after midnight and Shannon appeared to be pretty wasted.

Shannon started talking about this shooting that took place out at Smoky State University earlier in the month. Shannon said that Francis drove the truck and Shannon shot at someone who looked like a Four Corners member. Shannon was laughing about how scared Francis was, and that Shannon had never heard of anything called a 4-H Club.

We all talked a little bit about how none of us had heard of 4-H, and then people kind of moved around like they do at parties. That was the last I saw of Shannon that night. I didn't say anything to anyone about what Shannon had said, because I considered Shannon a friend. But when I heard a few weeks later that Shannon was blaming Francis for shooting, I got hold of the police. I consider Francis a friend too.

I can't let Francis get convicted of something someone else did.

I know that Shannon says I am trying to get even for some drug debt Shannon owes. That's all just a big story, just like it's a big story that Francis

shot Frankie Simmons. I never sold any drugs to Shannon and Shannon doesn't owe me any money. I don't have anything against Shannon, except that Shannon is trying to get the wrong person convicted.

**TENNESSEE COUNTY COURIER**  
**October 5, 2002**

**MURDER AT SMOKY  
STATE UNIVERSITY**

Yesterday at approximately 4:45 p.m. a teenage student visiting the campus was gunned down at the door of the Public Affairs Center at Smoky State University. Frankie Simmons, a student at Cumberland High School was pronounced dead at the scene. Leslie Allen, a witness to the shooting, stated that two young men in an old white pickup truck drove by and shot Simmons.

Allen said that Simmons was well liked at school and that neither students were involved in gang activities. Police have found no motive for the shooting as yet.

Other "drive by" shootings have occurred in the past several months in Tennessee County which have been connected with warring gangs. Two prominent gangs taking credit for some of the recent violence are the Street Dawgs and the Four Corners of Hell.

Police are seeking other witnesses to the crime and ask that anyone with information on the shooting contact the CrimeStoppers Hotline at (800) 555-5555 or [crimestoppers@courier.net](mailto:crimestoppers@courier.net).

**TENNESSEE COUNTY COURIER**  
**October 8, 2002**

**CRIMESTOPPERS SEEK  
INFORMATION ON  
MURDER**

**CrimeStoppers of Tennessee County is seeking information on an October 4<sup>th</sup> shooting at the Smoky State University Public Affairs Center.**

**According to police reports, a gunman, a passenger in a white Chevy pickup truck drove by the entrance to the Public Affairs Center at about 4:45 p.m. and shot Cumberland High School student, Frankie Simmons. The driver of the vehicle is also being sought for questioning.**

**The gunman and driver were both in their late teens or early twenties, were wearing red shirts and had long hair cuts.**

**Anyone with information regarding this shooting or any other serious crime is asked to call (800) 555-5555 or email [crimestoppers@courier.net](mailto:crimestoppers@courier.net). You don't have to give your name and if your tip leads to an arrest, you will receive a cash reward of up to \$5000.**

## APPLICABLE LAW

### **Tenn. Mock Crim. Code § 1-1-10 - Presumption of Innocence - Reasonable Doubt - Burden of Proof Generally**

A defendant is presumed to be innocent of the charge(s) against him or her. This presumption remains throughout every stage of the trial and is not overcome unless from all the evidence in the case the jury is convinced beyond a reasonable doubt that the defendant is guilty of the offense charged.

The State has the burden of proving the guilt of the defendant beyond a reasonable doubt, and this burden remains on the State throughout the case. The defendant is not required to prove his or her innocence.

### **Tenn. Mock Crim. Code § 1-1-20 - Criminal responsibility for conduct of another.**

A person is criminally responsible for an offense committed by the conduct of another if:

(1) Acting with the culpability required for the offense, the person causes or aids an innocent or irresponsible person to engage in conduct prohibited by the definition of the offense;

(2) Acting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense; or

(3) Having a duty imposed by law or voluntarily undertaken to prevent commission of the offense and acting with intent to benefit in the proceeds or results of the offense, or to promote or assist its commission, the person fails to make a reasonable effort to prevent commission of the offense.

### **Tenn. Mock Crim. Code § 1-1-30 - Criminal homicide.**

Criminal homicide is the unlawful killing of another person which may be first degree murder, second degree murder, voluntary manslaughter, criminally negligent homicide or vehicular homicide.

### **Tenn. Mock Crim. Code § 1-1-40 – First Degree Murder**

(a) First degree murder is:

(1) A premeditated and intentional killing of another; or

(2) A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, act of terrorism, arson, rape, robbery, burglary, theft, kidnapping, aggravated child abuse, aggravated child neglect or aircraft piracy; or

(3) A killing of another committed as the result of the unlawful throwing, placing or discharging of a destructive device or bomb.

(b) No culpable mental state is required for conviction under subdivision (a)(2) or (a)(3) except the intent to commit the enumerated offenses or acts in such subdivisions.

(c) As used in subdivision (a)(1) "premeditation" is an act done after the exercise of reflection and judgment. "Premeditation" means that the intent to kill must have been formed prior to the act itself. It is not necessary that the purpose to kill pre-exist in the mind of the accused for any definite period of time. The mental state of the accused at the time the accused allegedly decided to kill must be carefully considered in order to determine whether the accused was sufficiently free from excitement and passion as to be capable of premeditation.

**State v. Tate, 405 Tenn. Reporter 238 (Tenn. 2001):**

“The State may prove a criminal offense by direct evidence, circumstantial evidence, or a combination of the two. *State v. Akers*, 402 Tenn. Rep. 822, 833-35 (Tenn. 1994) ("the cases have long recognized that the necessary elements of first degree murder may be shown by circumstantial evidence"). Before a jury may convict a defendant of a criminal offense based upon circumstantial evidence alone, the facts and circumstances "must be so strong and cogent as to exclude every other reasonable hypothesis save the guilt of the defendant, and that beyond a reasonable doubt." *State v. Jenkins*, 355 Tenn. Rep. 487 (Tenn. 1985). As in the case of direct evidence, the weight to be given circumstantial evidence and "the inferences to be drawn from such evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence, are questions primarily for the jury." *State v. Jones*, 322 Tenn. Rep. 111 (Tenn. 1982).”

**State v. Williams, 335 Tenn. Crim. App. 888 (Tenn. App. 1982):**

“As additional evidence of premeditation, the state suggests that the defendant's calmness immediately following the shooting proves that the murder was premeditated. Calmness immediately after a killing may be evidence of a cool, dispassionate, premeditated murder. In this case, however, no evidence exists of the defendant's demeanor immediately after the killing, except his own testimony that he was upset. Although the defendant waited an hour and a half to report the shooting and put his tractor and trailer in the barn before calling the police, there is no evidence concerning his emotional state during this time. Furthermore, the fact that he briefly went to the store and to see a friend without describing the incident does not prove premeditation. One who has recently killed another person recklessly, passionately, or even negligently may be extremely hesitant to reveal the details of the crime, and yet not be guilty of first degree murder. Thus, while the defendant's behavior manifests such indifference to the

victim and fear of detection that the jury might discredit his story, Williams' failure to report the shooting to the police fails to establish premeditation and deliberation in advance of the murder. Finally, the state claims that Williams' concealment of the gun is proof of premeditation. Again, we disagree. The court in *Rosen v. State*, 145 Tenn. Reporter 21, 23 (Tenn. Crim. App. 1971), held that the concealment of evidence may itself be evidence of guilt. The concealment of evidence, however, may be associated with the commission of *any* crime and the accompanying fear of punishment. One who kills another in a passionate rage may dispose of the weapon when reason returns just as readily as the cool, dispassionate killer. The fact that evidence is subsequently hidden from the police reveals nothing about a criminal's state of mind before the crime. Thus, while the concealment of evidence discredits defendant's self-defense excuse, it does not provide evidence of premeditation. *Rosen* simply permits the concealment of evidence to be used as evidence of the commission of a crime generally; it does not prove the specific element of premeditation."

**State v. Alfred, 399 Tenn. Reporter 124 (Tenn. 1999):**

"Tennessee Crim. Code Section 1-1-20(2) (1997) provides: A person is criminally responsible for an offense committed by the conduct of another if[,] . . . [a]cting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense. Furthermore, "[a] person can act knowingly irrespective of his or her desire that the conduct or result will occur." *State v. Ray*, 388 Tenn. Rep. 588 (Tenn. 1996). The proof adduced at trial revealed that the appellant deliberately shot into a moving vehicle with a high powered assault weapon, clearly aware that his actions could result in the death of an individual. Based upon the evidence presented, the jury could have found the essential elements of first degree murder beyond a reasonable doubt."

**State v. Kramer, 402 Tenn. Crim. App. 528 (Tenn. App. 2000):**

"The appellant contends that, as an accomplice, the evidence failed to show that he had the requisite intent to commit murder. Further, he claims that there was no evidence to prove the necessary elements of deliberation and premeditation. However, the appellant's attack is misguided. Felony murder is defined as "[a] killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, act of terrorism, arson, rape, robbery, burglary, theft, kidnapping, aggravated child abuse, aggravated child neglect or aircraft piracy." Tenn. Mock Crim. Code § 1-1-40(a)(2). In effect, the appellant is arguing that the jury was required to conclude that he intended to cause the victim's death. Again, the appellant's argument is misdirected. "When one enters into a scheme with another to

commit one of the felonies enumerated in [the felony murder statute] and death ensues, [all] defendants are responsible for the death, regardless of who actually committed the murder and whether the killing was specifically contemplated by the other. *State v. Ralph*, 334 Tenn. Reporter 791, 795 (Tenn. 1981).”

**Section 204-32, *Criminal Jurisprudence*, “Responsibility for the Crimes of Another:”**

The principal of legal responsibility allows a person to be held responsible for a crime even if he/she did not personally perform the illegal act. See Tenn. Mock Crim. Code § 1-1-20, *supra*. For example, A hires C to shoot B. Assuming C kills B, A can be held accountable for B’s death even though A did not in fact kill B. The “hit man” example is a fairly obvious and easy one to understand. However, as with most legal principles, there are situations where responsibility may be less clear. It is well established that mere presence at the scene of a crime does not, in and of itself, lead to accountability. However, disputes often arise over whether the involvement of a defendant is sufficient to be considered aiding or abetting. Let’s go back to A, B, and C. Assume there has been no prior contact between A and C. A, B and C are in a room together and C suddenly pulls a gun and shoots B. Again, everyone would probably agree that A is not legally responsible for the shooting. What if prior to the shooting A tells C what a terrible person B is? What if A tells C the world would be better off if B were dead? What if A tells C “I wish you would kill B”? Just these mere words may change some minds about whether A is now responsible for B’s death. Other factors besides just what is said and done can also come into play. Things such as the relationship between A and C could be significant. Is A in a position of authority over C such that C will do whatever A desires? Also, words or actions that may seem innocent to most observers may have hidden meaning for A and C. The point of all of this is that in order to prove aiding or abetting, you must consider the words and actions of the parties in the total context. There are no magic words that automatically equal accountability.

**Section 205-48, *Criminal Jurisprudence*, “Proof of Gang Membership:”**

Generally, the prosecution is not allowed to offer evidence that the defendant is a generally bad person. The prosecution is required to prove that the defendant committed the crime for which he/she is charged. It can not simply argue that the defendant is an evil person, and because the defendant is evil, he/she must have committed the crime. For example, assume the defendant is charged with speeding. The fact that the defendant is having an extra-marital affair would probably not be relevant to the decision of whether

the defendant was driving in excess of the speed limit. Therefore, an attempt by the prosecution to offer proof of the affair would be denied by the judge.

Sometimes evidence that portrays the defendant as a bad person can be kept out of the trial by the defendant even if it is relevant. The defendant can argue that while the evidence may have some value to the jury in making a decision about the guilt or innocence of the defendant, it will make the defendant seem like such a bad person in the eyes of the jury that they will not be able to make an impartial decision. In other words, the jury will become so disgusted with the defendant that it will base its decision more on this disgust than on the actual proof. This is especially true if the disputed evidence regards the defendant's membership in, or association with, an unpopular group. In these instances the judge will have to balance between the importance of the evidence to the proof of the case and the degree to which the evidence is likely to improperly excite the emotions of the jury against the defendant. The more critical the evidence is, the more likely it will be admitted.

Because gangs are generally negatively perceived by juries and judges, proof of gang membership will only be allowed if it is relevant to the case being tried. It is also possible that even if relevant, gang membership may be excluded if it is not central to proof of the prosecution's case and the court is convinced that the evidence will unduly prejudice the jury against the defendant.

**IN THE CIRCUIT COURT  
FOR TENNESSEE COUNTY, TENNESSEE**

<b>State of Tennessee,</b>	)	
	)	
<b>Prosecution,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CR-02-1991</b>
	)	
<b>Francis Conyers,</b>	)	
	)	
<b>Defendant.</b>	)	

**COUNT I**

Davis Williamson, State’s Attorney, now appears before the Circuit Court for Tennessee County, Tennessee, and states that Francis Conyers has, on October 4, 2002, in Tennessee County, Tennessee, committed the offense of FIRST DEGREE MURDER in that Francis Conyers shot and killed Frankie Simmons with the intent to kill or do great bodily harm to Frankie Simmons or with the knowledge that there was a strong probability that the defendant’s acts would cause death or great bodily harm to Frankie Simmons in violation of Tenn. Mock Crim. Code § 1-1-40.

Davis Williamson  
State’s Attorney

Subscribed and sworn to before me November 23, 2002.

Learned Hand  
Judge

I have examined the above information and the person presenting the same and have heard evidence thereon, and am satisfied that there is probable cause for filing same. Leave is given to file said information. Warrant issued.

Learned Hand  
Judge

**IN THE CIRCUIT COURT  
FOR TENNESSEE COUNTY, TENNESSEE**

<b>State of Tennessee,</b>	)	
	)	
<b>Prosecution,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CR-02-1991</b>
	)	
<b>Francis Conyers,</b>	)	
	)	
<b>Defendant.</b>	)	

**COUNT II**

Davis Williamson, State’s Attorney, now appears before the Circuit Court for Tennessee County, Tennessee, and states that Francis Conyers has, on October 4, 2002, in Tennessee County, Tennessee, committed the offense of FIRST DEGREE MURDER in that Francis Conyers aided and abetted in the shooting and killing of Frankie Simmons with the intent to kill or do great bodily harm to Frankie Simmons or with the knowledge that there was a strong probability that death or great bodily harm to Frankie Simmons would result in violation of Tenn. Mock Crim. Code § 1-1-40.

Davis Williamson  
State’s Attorney

Subscribed and sworn to before me November 23, 2002.

Learned Hand  
Judge

I have examined the above information and the person presenting the same and have heard evidence thereon, and am satisfied that there is probable cause for filing same. Leave is given to file said information. Warrant issued.

Learned Hand  
Judge

## **EXHIBITS**

## BALLISTICS REPORT

TO: FILE  
FROM: INSPECTOR CHRIS DOBBINS  
RE: TAG #3826

On 11/16/02, I conducted a test firing of a 9mm Browning, semi-automatic handgun containing evidence tag #3826. The weapon was obtained from the police evidence vault at 10:30 a.m. on 11/16/02. The weapon was transported to the firing range by me and test fired at approximately 11:15 a.m. After retrieving the slug and shell casing, I returned the weapon to the evidence vault at 12:10 p.m.

On 11/17/02, I compared the slug and shell casing retrieved after the test firing with a slug removed from the body of Frankie Simmons and a shell casing found at the scene of the Simmons shooting. The rifling of the slugs as well as the marks on the shell casings matched, indicating to me that the same weapon produced both sets of slugs and shell casings.

An accurate picture of the handgun I tested is attached hereto as Exhibit 'A.'

Chris Dobbins  
Inspector Chris Dobbins



**EXHIBIT 'A' TO BALLISTICS REPORT**

1 INCIDENT TYPE <b>HOMICIDE</b>				2 CLASSIFICATION (SUPERVISORY REVIEW)				3 FILE #		
4 TIME OF OCCURRENCE 10 04 02 AM '88		5 WHEN REPORTED 10 04 02 AM '88		6 LOCATION (HOUSE NO. STREET NAME) 334 - PAC				7 BEAT		
7 PERSONS INVOLVED ENTER APPROPRIATE CODE FOR EACH AND USE IN MATIVE IF REQUIRED A REPORTING PERSON OR WITNESS F1 1ST WITNESS OR F2 PERSONS WITH KNOWLEDGE INCLUDING REPORTING PERSONS CODE F IF DIFFERENT FROM VICTIM F PERSON INTERFERED WITH NO KNOWLEDGE OF INCIDENT OR NOT INTERVIEWED Y VICTIM										
8 NAME <b>ALLEN, LESLIE</b>			SEX RACE AGE D O B			ADDRESS		RES PHONE		BUS PHONE
W2 <b>Toni CERONI</b>										
W3 <b>CANDEN KENNON</b>										
9 NAME OF VICTIM <b>SIMMONS, FRANKIE</b>										
10 NATURE OF INJURIES <b>DEATH</b>						10 PERSON TREATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		WHERE		
						PERSON HOSPITALIZED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				
11 NARRATIVE DESCRIBE THE DETAILS OF THE INCIDENT RESPONDED TO CALL OF SHOOTING ON 334 CAMPUS FOUND CROWD GATHERED AROUND BODY OF VICTIM. I ADVISED AMBULANCE ALREADY ENROUTE. UPON INSPECTION V WAS NOT BREATHING, HAD NO PULSE AND HAD SUFFERED WOUND TO HEAD - BELIEVED TO BE A GUNSHOT WOUND. V DID NOT RESPOND TO EMERGENCY FIRST AID ADMINISTERED UNTIL AMBULANCE ARRIVED AT APPROX 16:51. W1 ADVISED WALKING WITH V WHEN GUNSHOT HEARD & V IMMEDIATELY FELL TO GROUND. W1 ADVISED V DID NOT MOVE AFTER SHOT. W1 BELIEVES SHOT CAME FROM A WHITE CHEVY PICKUP. EXAMINED STREET NEAR WHERE W1 STATES SHOTS CAME FROM. RECOVERED ONE (1) LARGE CALIBER SHELL CASING. NO OTHER PERSONS HAD INFORMATION REGARDING SHOOTING EXCEPT W2 & W3 VERIFIED SEEING WHITE PICKUP LEAVING SCENE AT TIME OF INCIDENT. W2 & W3 HEARD SHOT & HEARD W. SCREAM BUT DO NOT SEE SHOOTING W1 SAYS SHE LOOKED										
12 PERSONS ARRESTED OR SUSPECTS ENTER APPROPRIATE CODE A1 ARREST B1 AS ARREST B2 SI SUSPECT B1 B2 SUSPECT B2										
13 NAME			SEX RACE AGE D O B			ADDRESS				
14 PROPERTY LOSS <input checked="" type="checkbox"/> NO <input type="checkbox"/> YES			15 PROPERTY RECOVERED <input type="checkbox"/> NO <input type="checkbox"/> YES			16 DATE PLACED IN EVIDENCE M D Y		17 EVIDENCE NO		
18 TYPE OF TECH WORK PERFORMED <input checked="" type="checkbox"/> PHOTO <input type="checkbox"/> FINGERPRINT <input type="checkbox"/> OTHER			19 TECH WORK PERFORMED BY			PIN NO				
20 REPORTING OFFICER(S) PIN <b>RS 128</b>			ASSIGNED BEAT #			21 ASSISTING UNIT/PERSONS		1. White 2. Green 3. Canary 4. Pink 5. Goldrod		
22 FOLLOW UP BY <input type="checkbox"/> PATROL SEC # <input type="checkbox"/> TRAFFIC FILE <input checked="" type="checkbox"/> INV RECD <input type="checkbox"/> OTHER						23 SUPERVISOR APPROVING AND NAME				

W1  
W2  
W3  
PAGE 1 OF 1

incident report

police department

# ADDENDUM

A CONTINUATION OF A HO-11102 REPORT

FILE

3 VICTIM'S NAME (LAST FIRST MIDDLE) OR FIRM NAME IF BUSINESS

SIMMONS, FRANKIE

4 LOCATION OF INCIDENT (HOUSE NO. STREET NAME)

PSU - PAC

BEAT

5 DATE OF INCIDENT

CONTINUATION OF NARRATIVE REPORT

AT PICKUP IMMEDIATELY AFTER SHOT FIRED, W1 STATES W SAW PASSENGER WITH GUN IN HAND OUT THE WINDOW OF THE TRUCK. PASSENGER DESCRIBED AS HEAVY SET, LATE TEENS, DARK LONG HAIR, RED T-SHIRT. DRIVER WAS DESCRIBED AS THIN, LIGHT LONG HAIR, RED SHIRT LATE TEENS. W1 STATES ESCORT HAD DRIVEN BY W1 + V SLOWLY JUST BEFORE THE SHOOTING & THEN CAME BACK AROUND THE CIRCLE DRIVE, NEAR THE MAIN DOORS OF PAC, WHERE SHOOTING TOOK PLACE.

BODY OF V LOCATED APPROX 10' IN FRONT OF DOORS OF PAC. IT DID NOT APPEAR V HAD BEEN MOVED. (SEE DIAGRAM)

PAGE 2 OF 3

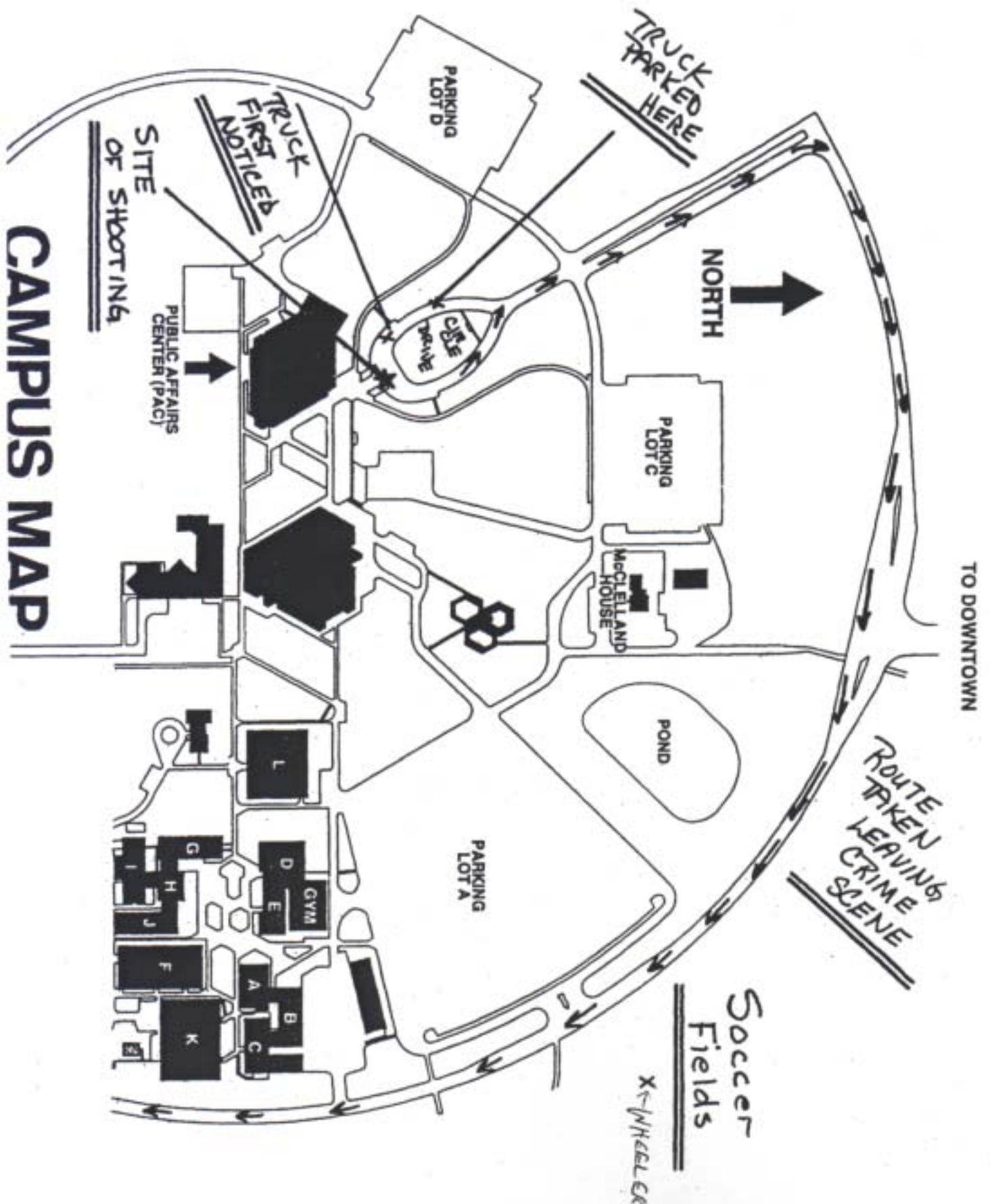
addendum report

police department

REPORTING OFFICER(S)

A.S. # 128

SUPERVISOR



**CAMPUS MAP**