

**ELEMENTARY SCHOOL #4**

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	CRIMINAL INDICTMENT
	:	No.: 777
	:	
LITTLE RED RIDING HOOD, and	:	
TOM WOLFE	:	
	:	
Defendants	:	

**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 private persons are 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**, in which the State has accused both Little Red Riding Hood and Tom Wolfe of unlawfully distributing prescription medications to Little Red Riding Hood’s grandmother, who was ill at the time, but did not have a prescription for the drugs she was given to take.

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

JUDGE:

Please be seated. Ladies and gentlemen of the jury, I first want to thank you for serving on this jury. Your time is very much appreciated, so be proud of your service.

Now this is a criminal case alleging that on July 7<sup>th</sup>, 2007, defendants Little Red Riding Hood, and Tom Wolfe, unlawfully distributed a controlled substance, the pain pill known as Percoset, to Little Red Riding Hood's grandmother who was at the time ill and in bed at her home on Forest Drive. You will be instructed on the law at the end of this case. You need to know from the outset, however, that it is up to the state to prove, beyond a reasonable doubt, that each defendant is guilty as charged in the **INDICTMENT**, based solely on the evidence you will hear in this case, and not based on any preconceived notions of guilty or innocence of the parties, or anything you may have read in the past about Little Red Riding Hood or Mr. Wolfe.

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 I must determine whether or not each and every juror is free of prejudice and can make a fair and impartial **VERDICT** based solely upon the evidence that you hear in the case, not what you have heard or read in the media, or in any books you may have read. Therefore, I first want to know if any potential jurors have heard anything in the past, or read anything about either Little Red Riding Hood or Mr. Wolfe?

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 must prove guilt beyond a reasonable doubt, it is up to the state to proceed first, so you will first hear the **OPENING STATEMENT** of the state's **ATTORNEY**. You will then hear the **OPENING STATEMENT** of the attorney, also called "counsel," for Little Red Riding Hood and then counsel for Tom Wolfe.

After Opening Statements, you will then hear the state's **WITNESSES** and after that, either or both defendants may call any witnesses they choose. Any witness called by any party may

be cross-examined by any opposing party. After you hear all of the evidence from the witnesses, you will then hear the **CLOSING ARGUMENTS** from the attorneys for all sides, and because the state has the burden of proving its case beyond a reasonable doubt, the state is permitted a short **REBUTTAL** after the **CLOSING ARGUMENTS** of both defendants, and that will be the last argument heard in this case.

After the **CLOSING ARGUMENTS** are made, I will give you **INSTRUCTIONS** on the **LAW** to help guide you in your **DELIBERATIONS**.

Is the state ready to proceed?

STATE'S  
ATTORNEY: Yes, Your Honor.

JUDGE: Is the Defendant Little Red Riding Hood ready to proceed?

RIDING HOOD DEFENSE  
COUNSEL: Yes, your Honor.

JUDGE: Is the Defendant Tom Wolfe ready to proceed?

WOLFE DEFENSE  
COUNSEL: Yes, your Honor.

JUDGE: The State may proceed with its opening statement.

STATE'S  
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 Little Red Riding Hood was on her way to Forest Drive on July 7<sup>th</sup>, 2007, to bring her grandmother, who was sick, some chicken soup prepared by her mother, and that along the way she met Tom Wolfe. Tom asked her where she was going and Little Red Riding Hood told him that her grandmother was sick, and she was bringing her some chicken soup prepared by her mother. The evidence will be that Tom then told her that he had some "prescription" pills that he took from the medicine cabinet at his house that would make her grandmother feel better, and that although Little Red Riding Hood knew they had not been

prescribed by a doctor for her grandmother, she purchased the pills from Tom Wolfe and gave them to her grandmother, who took them and became even sicker than she was before. Because both these defendants knew that Little Red Riding Hood's grandmother did not have a "prescription" for the drugs, they are both guilty of distributing a controlled substance. Distributing a controlled substance is a felony in the State of West Virginia.

JUDGE: Counsel for Ms. Riding Hood, you may proceed with your opening statement.

#### RIDING HOOD DEFENSE

COUNSEL: Thank you Judge. Ladies and gentlemen of the jury, Little Red Riding Hood should not be convicted of a serious felony offense for trying to make her grandmother feel better. She didn't know that those pills would hurt her grandmother. She didn't make any money on them—in fact, she used her hard earned money to buy them from Mr. Wolfe to help her grandmother. She was just walking up Forest Drive when she was approached by Tom Wolfe. He is the one who distributed the drugs! You should not find Little Red Riding Hood guilty.

JUDGE: Defense counsel for Mr. Wolfe you may give your opening statement.

#### WOLFE'S DEFENSE

COUNSEL: Now, ladies and gentlemen, Mr. Wolfe is not a drug dealer, he was just trying to help out his friend Little Red Riding Hood by giving her some medicine his own mother had to help out Little Red Riding Hood's grandmother---the better to get to know Little Red Riding Hood. His mother had a bad back, and had been taking pain medication for many years. It seemed to help his mother. He didn't know that the same medication would not be good for Little Red Riding Hood's grandmother. If it helped one person, how could it not help someone else—is how he thought. That doesn't make him a criminal.

JUDGE: State may call its first witness.

STATE'S  
ATTORNEY: Plaintiff calls Doctor Doolittle.

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

DR. DOOLITTLE: I do.

STATE'S  
ATTORNEY: Please state your name.

DR. DOOLITTLE: My name is Doctor Doolittle.

STATE'S  
ATTORNEY: (Showing pill bottle to the Doctor) Now, Doctor Doolittle, do you recognize this bottle of prescription pills?

DR. DOOLITTLE: Yes, I do. These were the prescription pills I prescribed for Mrs. Wolfe. See, it has my name on the bottle. These were prescribed for Mrs. Wolfe who has been a patient of mine for many years for a back problem.

STATE'S  
ATTORNEY: When did you prescribe them, and how many did you prescribe?

DR. DOOLITTLE: I prescribed 30 pills on July 1<sup>st</sup>, 2007, and I remember Mrs. Wolfe was out of them, and she needed one for that day - July 1<sup>st</sup>.

STATE'S  
ATTORNEY: Now, let me present to you that on July 7<sup>th</sup>, 2007, the police went to the home of Mrs. Wolfe and obtained this vial of pills, and that at that time there were only 21 pills remaining in the container. Does that indicate to you that there were two pills missing if Mrs. Wolfe had only taken one a day?

DR. DOOLITTLE: Oh yes. The pharmacy is very careful counting out the pills, and I specifically prescribed only one a day, so if Mrs. Wolfe took one on July 1<sup>st</sup>, she should have used only 7 by July 7<sup>th</sup>, not nine, so there would have been two that were improperly taken.

STATE'S  
ATTORNEY: Thank you, no further questions.

JUDGE: Counsel for Defendant Riding Hood, you may inquire.

RIDING HOOD DEFENSE

COUNSEL: No questions your honor.

JUDGE: Counsel for Defendant Wolfe?

WOLFE DEFENSE

COUNSEL: Yes, thank you Judge. Now, doctor, patients sometimes take more pills than you prescribe don't they?

DR. DOOLITTLE: Yes, although I don't encourage that.

WOLFE DEFENSE

COUNSEL: In fact, is it possible that Mrs. Wolfe herself took an extra pill two days between July 1<sup>st</sup> and July 7<sup>th</sup>?

DR. DOOLITTLE: Yes, of course it's possible, but that is strong medication, easily abused, and I caution all my patients not to exceed the recommended doses.

WOLFE DEFENSE

COUNSEL: So you have absolutely no evidence that the two pills missing were taken by Tom Wolfe or anyone else?

DR. DOOLITTLE: Of course not.

WOLFE DEFENSE

COUNSEL: Thank you doctor.

JUDGE: You are excused Dr. Doolittle.  
Call your next witness!

STATE'S

ATTORNEY: I call Mrs. Wolfe!

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

MRS. WOLFE: I do.

STATE'S

ATTORNEY: Now, Mrs. Wolfe, did you take any more than one pill a day of your pain medication prescription from July 1<sup>st</sup> thru July 7<sup>th</sup>?

MRS.WOLFE: Oh heavens no! The doctor told me only to take one per day, and I follow my doctor's advice. I don't want to get worse. I want to get better.

STATE'S  
ATTORNEY: No further questions.

JUDGE: Counsel for Ms. Riding Hood?

RIDING HOOD DEFENSE

COUNSEL: No questions, your honor.

JUDGE: Counsel for Mr. Wolfe?

WOLFE DEFENSE

COUNSEL: Yes, thank you Judge.

Mrs. Wolfe, do you keep your medication in a safe place that no one can access?

MRS.WOLFE: Well, no. I mean, I keep them in the medicine cabinet.

WOLFE DEFENSE

COUNSEL: So anyone can get at them, and if they wanted, take pills from the bottle?

MRS.WOLFE: Well I never thought of that, I guess so.

WOLFE DEFENSE

COUNSEL: And you can't tell us if your son took two pills out of that bottle and gave them to Little Red Riding Hood?

MRS.WOLFE: OH NO! Little Tommy is a good boy. He wouldn't do anything like that.

STATE'S

ATTORNEY: Objection!

JUDGE: Sustained!

WOLFE DEFENSE

COUNSEL: Thank you Mrs. Wolfe, no further questions.

STATE'S  
ATTORNEY: Judge, the state **RESTS**.

JUDGE: Mrs. Wolfe, you may step down. Now, counsel for Ms. Red Riding Hood, call your first witness.

RIDING HOOD DEFENSE

COUNSEL: I call Grandmother Hood.

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

GRANDMOTHER

HOOD: I do.

RIDING HOOD DEFENSE

COUNSEL: Were you sick on July 7<sup>th</sup>, 2007?

GRANDMOTHER

HOOD: Yes, I was very sick and looking forward to Little Red Riding Hood coming to my house with some chicken soup.

RIDING HOOD DEFENSE

COUNSEL: What happened when Little Red Riding Hood arrived?

GRANDMOTHER

HOOD: Well, she brought me the chicken soup she promised but also some pills that she said would make me feel better.

RIDING HOOD DEFENSE

COUNSEL: Did you ask her about the pills?

GRANDMOTHER

HOOD: Yes, I asked her where she got them and she told me Tom Wolfe gave them to her. Tom told Little Red Riding Hood that these pills belonged to his mother and they always made her feel better. I was so sick, I was willing to try them.

RIDING HOOD DEFENSE

COUNSEL: What happened next?

GRANDMOTHER

HOOD: Well, I became deathly ill for several days - couldn't snap out of it so Little Red Riding Hood finally called the ambulance that took me to the hospital. I'm sure my grandchild would never make me sick on purpose.

STATE'S  
ATTORNEY:

**OBJECTION. IRREVELANT.**

JUDGE: I'm going to **SUSTAIN** the objection because whether or not Ms. Riding Hood intended to make you sick is irrelevant, the issue in this case is whether she intended to give you a controlled substance without a valid prescription.

RIDING HOOD DEFENSE

COUNSEL: No further questions. Thank you Grandmother Hood.

JUDGE: Any cross-examination State's Attorney?

STATE'S  
ATTORNEY:

No, your honor. We have no questions for Grandmother.

JUDGE: You are excused Grandmother, be careful stepping down out of that witness chair. Any more witnesses, counsel?

RIDING HOOD DEFENSE

COUNSEL: Yes, your honor, Little Red Riding Hood wants to take the stand and testify in this matter.

JUDGE: Very well, Ms. Riding Hood, please approach so you can be sworn in and then take the witness seat.

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

LITTLE RED RIDING

HOOD: I do.

JUDGE: Now, Ms. Riding Hood, you do know that in a criminal trial, a defendant does not have to take the stand and testify?

LITTLE RED

RIDING HOOD: Yes, Your Honor, I know that.

JUDGE:

And that you have the right to remain silent, and the state can prove its case beyond a reasonable doubt without you ever having to produce any witnesses whatsoever?

LITTLE RED

RIDING HOOD: Yes, Your Honor.

JUDGE:

So you knowingly waive that right and want to take the witness stand?

LITTLE RED

RIDING HOOD: Yes, Your Honor.

JUDGE:

O.K. you may proceed counsel.

RIDING HOOD DEFENSE

COUNSEL: Please state your name.

LITTLE RED

RIDING HOOD: Little Red Riding Hood.

RIDING HOOD DEFENSE

COUNSEL: Now, Ms. Riding Hood can you tell us what you were doing on July 7<sup>th</sup>, 2007?

LITTLE RED

RIDING HOOD: Yes, I was on my way up Forest Drive to bring my grandmother some chicken soup, when I was approached by Tom Wolfe, and I told him my grandmother was ill, and that I was bringing her some chicken soup.

RIDING HOOD DEFENSE

COUNSEL: What did he say?

LITTLE RED

RIDING HOOD: He said he had something I might like to buy—some pills that would make my grandmother better—he said “it’s better than soup – BETTER TO MAKE HER BETTER.”

RIDING HOOD DEFENSE

COUNSEL: Did he tell you where he got them?

LITTLE RED

RIDING HOOD: He said they were his mother's, but that he would sell them to me for a good price. I just wanted my grandmother to feel better, so I bought them and gave them to grandmother.

RIDING HOOD DEFENSE

COUNSEL: What happened next?

LITTLE RED

RIDING HOOD: Grandmother got deathly sick, and I had to call an ambulance to take her to the hospital.

RIDING HOOD DEFENSE

COUNSEL: Did you ever talk to Tom Wolfe again?

LITTLE RED

RIDING HOOD: No, after I told the police what happened, I learned they were hunting for him, and I never spoke to him again. I haven't even seen him again until today.

RIDING HOOD DEFENSE

COUNSEL: Is he wearing the same thing today that he was wearing on July 7<sup>th</sup>, 2007?

LITTLE RED

RIDING HOOD: No, actually, he looks different today. He had a lot of wild stringy hair on Forest Drive, and he had on some old dirty clothes. Today he has his hair cut and has dress clothes on.

JUDGE: The state may cross-examine.

STATE'S

ATTORNEY: Now, Ms. Riding Hood, you have cooperated today, and that will be good for you if you are convicted. But you did know, did you not, that your grandmother should not have been taking any prescription medication except if it were prescribed to her by a doctor?

LITTLE RED

RIDING HOOD: Yes, sir, but she was feeling so poorly, and I just didn't think the chicken soup was enough.

STATE'S  
ATTORNEY: So you know these were prescription drugs of Mr. Wolfe's mother before you purchased them, and still knowing that, you bought them from Mr. Wolfe to give to your grandmother?

LITTLE RED  
RIDING HOOD: Yes.

STATE'S  
ATTORNEY: How much did you pay?

LITTLE RED  
RIDING HOOD: Five dollars.

STATE'S  
ATTORNEY: No further questions.

JUDGE: Would counsel for Mr. Wolfe like to cross-examine?

WOLFE DEFENSE  
COUNSEL: No questions, your honor.

JUDGE: Ms. Riding Hood, you may step down.  
Defense Counsel for Ms. Riding Hood, any further witnesses?

RIDING HOOD DEFENSE  
COUNSEL: No further witnesses your honor.

JUDGE: Does Ms. Riding Hood rest?

RIDING HOOD DEFENSE  
COUNSEL: She does your honor.

JUDGE: Mr. Wolfe, do you have any witnesses?

WOLFE DEFENSE  
COUNSEL: Mr. Wolfe believes no witnesses will be necessary your honor. He rests as well.

JUDGE: Well, in that case, ladies and gentlemen of the jury, you will now hear the closing arguments - first on behalf of the state, then defense counsels. Are you ready state's attorney?

STATE'S  
ATTORNEY:

Yes, Judge. Ladies and Gentlemen of the jury, this is an open and shut case. It is unlawful in the state of West Virginia to distribute a controlled substance, and prescription pain pills are a controlled substance, unless it is pursuant to a valid prescription by a medical doctor. Illegal drugs are not just cocaine, or crystal meth, or even marijuana, but prescription drugs themselves are illegal if distributed and/or taken without a doctor's prescription. The reason for this is that prescription drugs can be as powerful as the other drugs we always think of as illegal if they are used by people without a prescription. As Doctor Doolittle explained, a prescription drug not prescribed for the person who ingests it may be as lethal to that person as if someone gave him a lethal dose of heroin or cocaine. Not all people can take the same prescription drugs. We know that. You know that, and although Tom Wolfe was most guilty because he illegally sold prescription medication, I am sorry that Little Red Riding Hood is guilty of a felony as well, because she knew that her grandmother had not been prescribed that medication, and even if she wanted to help her grandmother, this was not a legal way of doing it. Accordingly, the state has proven beyond a reasonable doubt, that both Tom Wolfe and Little Red Riding Hood are guilty as charged.

JUDGE: Now we shall hear from Ms. Riding Hood's counsel.

RIDING HOOD DEFENSE

COUNSEL: Thank you Judge. Ladies and Gentlemen of the jury. Ms. Riding Hood took the witness stand and told you exactly what happened on July 7<sup>th</sup>, 2007. She did not have to take the stand. She did not have to admit to giving the pills to her grandmother, but she did. If she had gotten the pills from someone else, she would have told you that, too. What difference would that make to her **ADMISSION**? But she also told you that her intention was not to violate the drug laws of the State of West Virginia. Her intent was to help her grandmother. She is not a drug dealer, like Tom Wolfe. She should be found not guilty because the state has not proven guilt beyond a reasonable doubt.

JUDGE: Counsel for Mr. Wolfe, you may proceed with your closing statement.

WOLFE DEFENSE

COUNSEL: Thank you Judge. Ladies and Gentlemen of the jury, as Mr. Wolfe's mother said, Tommy is a good boy, and wouldn't do anything like this. The only evidence you heard in this case that Tommy distributed any controlled substance is from Little Red Riding Hood. And can you believe her? She is the one who gave her grandmother the pills. She can't even describe what Tommy was wearing on Forest Drive that day. Maybe she's just testifying against him today to make herself look good. Remember how the prosecutor praised her for "cooperation." "Cooperating?" She is the one who gave her grandmother the pills without a prescription. She knew better. Maybe she is the one who took them from Mrs. Wolfe, or got them from someone else. And maybe Mrs. Wolfe took a few too many---the better to relieve her pain!

STATE'S  
ATTORNEY:

**OBJECTION. SPECULATION!!**

JUDGE: Sustained!

WOLFE DEFENSE

COUNSEL: Anyway, if you do not believe the testimony of Ms. Riding Hood, you must find my client not guilty.

JUDGE: The State may give its rebuttal.

STATE'S  
ATTORNEY:

Thank you Your Honor. My fellow citizens, you have now heard from both defense counsels. Mr. Wolfe's counsel wants you to disbelieve Ms. Riding Hood. Ms. Riding Hood's counsel wants you to pity her, and excuse her from engaging in an unlawful act out of concern for her grandmother. But you heard the evidence. Ms. Riding Hood told you what happened on July 7<sup>th</sup>, 2007, and that is enough to convict both of them of a felony, because the fact that Ms. Riding Hood wanted to help her grandmother is no defense to a criminal charge of unlawfully distributing a controlled substance. Ms. Riding Hood did cooperate, and the Judge may take that into consideration when and if she is sentenced for this

crime, but that is not your job to consider her “cooperation.” She violated the law just as Mr. Wolfe did, and you must return a verdict of guilty against both, because the evidence does not support any other verdict. Thank you.

JUDGE: It is now time for me to instruct you on the law of this case, after which you will be asked to deliberate in this case and determine if the State has proven its case against either or both defendants **BEYOND A REASONABLE DEGREE OF DOUBT.**

The Court instructs the jury that the charge of distribution of a controlled substance is a felony offense in the State of West Virginia. The jury is further instructed that Percoset is a controlled substance and that unless distributed and taken pursuant to a valid prescription of a medical doctor, it is unlawful to sell, distribute, or ingest such a controlled substance. Therefore, if you find beyond a reasonable doubt that either Red Riding Hood, or Tom Wolfe, or both of them either sold, distributed or ingested a controlled substance without the benefit of a valid prescription by a medical doctor, you may find one or both of them guilty as charged.

You are further instructed that when you enter the jury room, 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. Bailiff, please give the jury five minutes to deliberate.

BAILIFF: Yes, Judge.

***AFTER THE JURY DELIBERATES AND COMES BACK TO THEIR SEATS.***

JUDGE: Will the foreperson of the jury please stand. Have you reached a verdict?

FOREPERSON: We have, Your Honor.

JUDGE: Will the defendants please stand. (Little Red Riding Hood and Tom Wolfe along with their lawyers stand) You may read the verdict.

FOREPERSON: (Foreperson will read verdict for both Riding Hood and Tom Wolfe).

*WE FIND:*

*Little Red Riding Hood*

\_\_\_\_\_ *GUILTY*

\_\_\_\_\_ *NOT GUILTY*

*AND*

*WE FIND:*

*Tom Wolfe*

\_\_\_\_\_ *GUILTY*

\_\_\_\_\_ *NOT GUILTY*

JUDGE: So say you all?

JURY: Yes.

JUDGE: (BANG GAVEL) This court is now adjourned.  
Once again, jurors, I want to thank you on behalf of the American Justice system and the state of West Virginia for serving on this case. (In a real case, the jurors leave the courtroom)

(Judge will talk about verdict – not guilty or guilty – Judge will talk about how and when sentencing is normally done).

JUDGE: NOW - we hope you have enjoyed learning about the criminal justice system, you may now ask questions!

*Script written by Patrick S. Cassidy, President  
The WALs Foundation – 2007  
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