

SECONDARY SCHOOL #2

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

Plaintiff, :
vs. : Case No.: 04-232
Felony (DUI with Death)
(Crystal Meth)
JACK SMITH, :
Defendant. :

DUI (Driving under the Influence)

FACTUAL BACKGROUND

Jack Smith is eighteen years old. His friend, Michael Jones, 19 years old, had pestered him for weeks to try Crystal Meth, to which Mike had become addicted. Jack noticed that since Mike had been doing Meth regularly, his personality had changed; that he seemed to be agitated more easily and get into fights more often; noticed that Mike was always scratching and picking at sores on his arm he called “speed bumps,” and that Jones often had a bad body odor. He noticed too, though, that Mike had lost a lot of weight, and Jack thought that might be a good thing to try and see if it could help him lose some weight. He also didn’t want to disappoint his friend, and looked up to Mike as being older, and more experienced in life, than him. Mike was pretty popular at school. Mike’s description of a Meth “high” was also tempting to Jack. He called it “tweaking,” and said it was a lot of fun, and that it made you so intense that you can really get into whatever you are doing. Mike told him one day that he was “tweaking” with his computer the night before, and got so into trying to repair it that he took the whole computer apart and that it was now in hundreds of pieces on his bedroom floor. Jack resisted Mike’s pleas for a number of weeks, but finally told Mike he would try some Meth. Mike offered him a pill which he said was “Meth” one night when they were with their girlfriends, watching a movie at Mike’s house. Although Jack’s girlfriend Britney and Mike’s girlfriend Mandy did not know the guys took “Meth” that night, they did notice that they were both very talkative, almost euphoric. After the movie, Mike suggested that they take Jack’s car and drive over to the bowling alley, telling Jack, outside the presence of the girls, that it would be fun to “tweak” at the bowling alley. All four hopped into Jack’s car, and Jack drove. On the highway, Jack felt great, like he was “king of the road,” and had the car up to eighty miles an hour on

the interstate. Everyone was having fun, and no one asked Jack to slow down. When Jack heard a siren behind him, and saw a police car's flashing lights coming up on him fast on the interstate, he became paranoid, didn't know what to do, and almost without thinking, he stepped on the gas, and no more than three or four seconds later, he accidentally steered off the edge of road, and lost control of the car, which veered into the guard rail, and rolled over twice before coming to rest in the middle to the west bound lane. Britney and Mike were killed instantly. Mandy and Jack suffered serious injuries, but lived. A toxicology screen at the hospital showed a significant amount of Methamphetamine in Jack's blood. The day he was discharged from the hospital, he was served with a felony indictment alleging two felony violations of the West Virginia Code, for causing two deaths while under the influence of drugs.

TRANSCRIPT OF TRIAL

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

JUDGE: Please be seated. Ladies, and Gentlemen, this is an indictment alleging that Mr. Smith is guilty of two felony counts of the DUI laws for driving under the influence of a mind altering drug, for violating a duty imposed on him by the laws of West Virginia in the operation of that motor vehicle, and further alleging that this violation was reckless, and caused the death of two individuals, Mike Jones, and Britney Walker.

Remember, an indictment is just a charge of wrongful conduct. It is not proof of wrongful conduct. A person in the United States is presumed to be innocent unless proven guilty beyond a reasonable doubt, and the fact that a person is indicted is not to be considered by you as any evidence of wrongdoing. Do you understand?

The first part of the case is VOIR DIRE, which means to "speak the truth". It is the process by which we pick a jury. We have to find an impartial jury that swears to make their decision not on any prejudices, or preconceived notions, but solely on the evidence as it comes in the case. Do you think you, as prospective jurors, can do that?

JURORS: Yes Judge.

JUDGE: Now, in any criminal trial, the State has the burden of proving the defendant guilty beyond a reasonable doubt. A GUILTY VERDICT is a finding by the jury that the defendant is guilty as charged. The Court will give you a VERDICT FORM upon which you can write your decision at the end of the trial. In any criminal trial, because the State has to prove the defendant guilty, the State will go first. You will first hear the OPENING STATEMENT of the Prosecuting Attorney. You will then hear the opening statement of the defendant's attorney. Then the State will call its WITNESSES. Then the defendant will call its witnesses. Then you will hear CLOSING ARGUMENTS from the State and from the defense, and then, and only then, will the Court instruct you on the LAW of the case, and you will be asked then and only then to deliberate together to determine if the defendant is guilty as charged in the indictment. Is the Prosecution ready to proceed?

PROSECUTING ATTORNEY: Yes, Your Honor.

JUDGE: Is the Defense ready to proceed?

SMITH'S LAWYER: Yes, Your Honor.

JUDGE: Okay, Prosecuting Attorney, you may proceed.

PROSECUTING ATTORNEY: Ladies and Gentlemen of the Jury, in the opening statement, it is my duty to tell you what the evidence will be. I'll tell you what we will prove. We will prove that Mr. Smith is an adult. He is 18 years old. He and Michael Jones decided on January 3, 2005, to try crystal meth. The guys took some "Meth" that night; both became very talkative, very high. Mike suggested that they take Jack's car and drive over to the bowling alley, telling Jack, outside the presence of the girls, that it would be fun to "tweak" at the bowling alley. All four hopped into Jack's car, and he drove. On the highway, Jack felt like he was king of the road, you will hear that this was the drug's influence, and that Jack got the car going up to eighty miles an hour on the

interstate. That is a 55 mile per hour zone in which he was driving. He violated that duty, required by law. And he did so “recklessly.” Even when Jack heard the siren, and saw a police car’s flashing lights coming up on him fast on the interstate, he sped up, instead of slowing down, sped up the car even faster. That’s reckless conduct. Within a few seconds, he had lost control of the car, which veered into the guard rail, and rolled over twice before coming to rest in the middle to the West bound lane. Britney and Mike were killed instantly. Mandy and Jack suffered serious injuries, but lived. A toxicology screen at the hospital showed a significant amount of Methamphetamine in Jack’s blood. I will be asking you at the end of this case to find Mr. Smith guilty.

SMITH’S
LAWYER:

Now, ladies and gentlemen, the State says it will prove that Mr. Smith is guilty but I want to tell you that it’s not enough for the State to say my client is guilty, it must prove he is guilty beyond a reasonable doubt, and although there was some meth in his body after the wreck, the State still has to prove that he was speeding, and not only that he was speeding, but that he was doing so “recklessly.” Negligence is not enough. He had to have been reckless in his violation of any duty imposed upon him in the operation of a motor vehicle. And ladies, and gentlemen of the jury, Jack did not mean to kill anyone. He had never tried crystal meth before this night. He only took it because Mike Jones kept pestering him to try it. Britney was his girlfriend. Yes, they died because of the car accident, but Jack wasn’t reckless; he may have been negligent. But he was not reckless, and the State has to prove that he was “reckless” to prove him guilty of a felony DUI with death. Thank you.

JUDGE: Now, Prosecuting Attorney, call your first witness.

PROSECUTING
ATTORNEY: I call Mandy Brown.

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

MANDY
BROWN: I do.

PROSECUTING
ATTORNEY: Please state your name.

MANDY
BROWN: My name is Mandy Brown.

PROSECUTING
ATTORNEY: Mandy, were you out with the defendant on the night of January 3, 2005?

MANDY
BROWN: Yes, he and his girlfriend Britney were out with me and my boyfriend, Mike Jones.

PROSECUTING
ATTORNEY: Did you know Jack had taken Meth the night of January 3, 2005?

MANDY
BROWN: No I didn't, I mean, if I knew, I wouldn't have let him drive us to the bowling alley.

PROSECUTING
ATTORNEY: How was Jack acting in the car, driving you all to the bowling alley?

MANDY
BROWN: He seemed like he was really in a good mood. Like overly confident. Jack is not usually like that, he's usually kind of quiet, and withdrawn. Not that night, he was acting like he was smarter than everyone, more confident than anyone, and even arguing with my boyfriend Mike. Not in a mean way, he wasn't nasty, just talkative, like non-stop, I mean, I never saw him like that before.

PROSECUTING
ATTORNEY: How was his driving?

MANDY
BROWN: Well, at first, I didn't notice anything, but all of a sudden, we were traveling real fast, and then we heard the police siren, and Jack seemed to freak out, asking what am I'm going to do, what am I going to do, and the next thing I knew he stepped on the gas and we were going faster. I remember saying Oh my God, and that's the last thing I can remember, before I woke up in the hospital, and the nurse told me what happened.

SMITH'S
LAWYER: Objection, HEARSAY!

JUDGE: Ms. Brown, do not tell us what the nurse said, just what you remember. You may proceed counsel

PROSECUTING
ATTORNEY: No further questions, Ms. Brown.

JUDGE: Does the defense have any questions?

SMITH'S
LAWYER: Yes, I do, Your Honor.

CROSS-EXAMINATION

SMITH'S
LAWYER: You said if you knew that Jack had taken crystal meth you would not have gotten into the car with him?

MANDY
BROWN: Yes sir, that's right.

SMITH'S
LAWYER: Well, you said at one point while you were in the car you noticed he was going real fast. Did you mean faster than the speed limit?

MANDY
BROWN: Yes, I'm sure he was going about 75 to 85 miles an hour.

SMITH'S
LAWYER: And how long was he traveling that fast?

MANDY
BROWN: Well, we got on the interstate in Elm Grove, driving West, and the accident occurred around the Washington Ave. exit, so I guess it was a few minutes.

SMITH'S
LAWYER: And did you even once during that few minutes period of time tell Jack to slow down, or that you wanted to get out?

PROSECUTING
ATTORNEY: Objection, irrelevant.

JUDGE: Overruled, you may answer.

MANDY
BROWN: No.

SMITH'S
LAWYER: So you didn't feel he was acting recklessly did you?

MANDY
BROWN: I don't know what I thought. I just didn't want to appear to be afraid in front of my friends.

SMITH'S
LAWYER: So, do you think you have some responsibility for the death of Mike Jones and Britney Walker?

MANDY
BROWN: I didn't give Jack the Meth, Mike did. I didn't even know he took any Meth. It wasn't my fault. I didn't want anyone to die.

SMITH'S
LAWYER: No further questions, Ms. Brown

JUDGE: You may step down, Ms. Brown.
Call your next witness, Prosecutor.

PROSECUTING
ATTORNEY: Dr. Marcus Willobee.

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

DR.

WILLOBEE: I do.

PROSECUTING

ATTORNEY: Please state your name.

DR.

WILLOBEE: My name is Marcus Willobee.

PROSECUTING

ATTORNEY: And can you tell the jury your occupation?

DR.

WILLOBEE: Yes, I am a physician and toxicologist, licensed to practice medicine in the State of West Virginia, and I work at City Hospital. I did the toxicology screen on Jack Smith the night of the accident.

SMITH'S

LAWYER: Your Honor, I object to Dr. Willobee testifying unless a foundation is laid that he is an expert witness.

JUDGE:

Sustained. Ladies and Gentlemen of the jury, a witness usually may not give testimony in the nature of "opinions." As the old saying goes, we are interested in "just the facts." However, if scientific, technical, or other specialized knowledge will assist the jury to understand the evidence or to determinate a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion under certain conditions: if the testimony is based upon sufficient facts or data, if the testimony is the product of reliable principles and methods, and the witness has applied the principle and methods reliably to the facts of the case. Such a person is called an EXPERT WITNESS, and the jury should know that the court has made a preliminary finding that this person meets the threshold requirements of the expert witness rule for purposes of testifying, but the jury should not take from that that the court expresses either its agreement or

disagreement of the testimony to be offered. The weight and credence of any EXPERT WITNESS duly qualified to testify as such by a Judge is to be determined solely by the jury. All right counsel, you may lay a proper foundation for this witness.

PROSECUTING
ATTORNEY:

Can you give us a brief description of your education, training, and experience as a toxicologist? First, what is a toxicologist?

DR.

WILLOBEE:

A toxicologist is a physician or other specially trained individual who specializes in the study and treatment of toxins, poisons that affect bodily organs or functions. My training to become a toxicologist included an undergraduate degree in biology from Harvard College in 1980, a masters degree in toxicology from Yale, a medical degree from Georgetown Medical School in 1984, and post graduate training and residency in toxicology at St. Elizabeth's Hospital in Washington, D.C. I was Board Certified in toxicology in 1990. Since then, I have been engaged in the private practice of toxicology, and have been doing so for hospitals, governmental units, and others in West Virginia for the last ten years.

PROSECUTING
ATTORNEY:

Can you tell the jury what Board Certification means?

DR.

WILLOBEE:

Yes, It is a written comprehensive test in the area of your expertise that measures your competence and knowledge in a particular field of medicine. You don't have to be board certified to practice medicine, but I did take the boards, and passed them on the first try.

PROSECUTING
ATTORNEY:

Your Honor, I would ask that this witness be qualified as an expert toxicologist and to give opinions touching on his expertise.

JUDGE:

Motion granted.

PROSECUTING
ATTORNEY: What is a toxicology screen?

DR.
WILLOBEE: We take a sample of blood from the person to be tested, in this case, from Jack Smith, the night in question, and we run it through certain specialized equipment to determine if there is any alcohol or other controlled substances in his system.

PROSECUTING
ATTORNEY: And what did you find with respect to Mr. Smith's blood?

DR.
WILLOBEE: He was positive for methamphetamine, sometimes called Meth, or crystal meth.

PROSECUTING
ATTORNEY: Doctor, can you tell us a little bit about crystal Meth?

DR.
WILLOBEE: It is a powerful, highly addictive central nervous system stimulant that is toxic to humans.

PROSECUTING
ATTORNEY: Is it addictive?

DR.
WILLOBEE: Yes, about half of first time users report an intense desire to use it again after trying it once, and studies show that the vast majority of second time users begin a pattern of increasing use. Brain damage that occurs is referred to as "holes" in the brain and biochemical changes result in personality changes and other problems associated with meth use. These changes take place with the FIRST use of methamphetamines.

PROSECUTING
ATTORNEY: How does it affect the body or mind?

DR.
WILLOBEE: It affects both the body and the mind. First time users say they feel great, and may not even realize they are high. Meth gives a

mental rush that can last for up to 6 or 8 hours, it can allow you to stay awake for days on end, thinking you don't even need to sleep. Eventually users have to crash, and just sleep it off. It can make you talkative, happy, give you a false sense of confidence and power, like you're a superman, or superwoman, but it also promotes feelings of paranoia, and causes users to lose interest in food, water, sex, and sleep. Users get agitated, nervous, moody, irritable, and have episodes of "tweaking" or "geeking"-- meaning getting totally absorbed in doing something intensively for hours. Although it makes you feel hyper alert, it can also cause mental confusion, inability to focus & muscle spasms.

PROSECUTING
ATTORNEY:

Can it impair someone's driving ability?

DR.

WILLOBEE:

Most definitely, there have been many vehicular accidents attributed to Meth highs. In addition, prolonged use may cause blurred vision, dizziness, and loss of coordination, schizophrenia, toxic psychosis, kidney, liver, or lung failure, brain toxicity, heart disease, even death.

PROSECUTING
ATTORNEY:

Now, sir, do you have an opinion, to a reasonable degree of certainty that Jack Smith, at the time of the accident in this case, was under the influence of a mind altering drug?

DR.

WILLOBEE:

Most definitely. The level of Meth in his blood was significant enough to cause the short term effects that I have explained above.

PROSECUTING
ATTORNEY:

Thank you doctor, your witness.

CROSS EXAMINATION

SMITH'S
LAWYER:

Can you do a toxicology screen on someone who is already dead, such as Mike Jones?

DR.
WILLOBEE: Yes.

SMITH'S
LAWYER: Did you do a toxicology screen on Mike Jones also that night?

DR.
WILLOBEE: Yes.

SMITH'S
LAWYER: And what were the results?

DR.
WILLOBEE: He, like Smith, tested positive for crystal meth.

SMITH'S
LAWYER: And did you do a toxicology screen on Britney Walker or the prosecution witness, Mandy Brown?

DR.
WILLOBEE: We did.

SMITH'S
LAWYER: And what were the results?

DR.
WILLOBEE: For both girls, negative for alcohol, negative for any controlled substance.

SMITH'S
LAWYER: Is it possible, Dr. Willobee that the results of the test were mixed up for any of the people involved in the accident?

DR.
WILLOBEE: You know, counsel, in medicine, we like to say anything is possible, but is it probable? No, the specimens are marked by name immediately upon the drawing of the blood. That type of error would be highly unlikely, almost impossible.

SMITH'S
LAWYER: Now Doctor, not having been in the car at the time of the accident, you are not telling this jury that you have an opinion that Jack Smith was being "reckless" in his driving just before the accident are you?

DR.
WILLOBEE: As a doctor, I am not able to say one way or the other.

SMITH'S
LAWYER: No further questions.

JUDGE: Any further questions, Mr. Prosecuting Attorney?

PROSECUTING
ATTORNEY: Your Honor, the State rests.

JUDGE: You may step down Dr. Willobee.
Counsel for Mr. Smith, are you ready to proceed?

SMITH'S
LAWYER: Yes, Your Honor.

JUDGE: Call your first witness.

SMITH'S
LAWYER: I call Jack Smith.

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

JACK SMITH: I do.

SMITH'S
LAWYER: Please state your name.

JACK SMITH: Jack Smith.

SMITH'S
LAWYER: Jack, did you take crystal meth on the night in question?

JACK SMITH: Yes, but I only took one tablet. Mike Jones took two. And although it may have caused me to be real talkative, I don't think it was causing me to be reckless. I mean, I didn't mean to hurt or to kill anyone, we were just having fun.

SMITH'S
LAWYER: Are you denying you were speeding just before the accident?

JACK SMITH: No, I know I was speeding, but I just felt good. It was like the drugs made me want to go fast, but I was on the interstate, I mean, it was negligent, maybe, but I wasn't like thinking I don't care what happens. I was just having fun. Then someone yelled the police were behind me, I saw the flashing light, and I guess, I wasn't thinking, I just sped up, and pulled the car a little to the right, and the next thing I knew, I was out of control, and the car was going around and around, and I don't remember anything else. But really, I didn't mean to hurt anyone.

SMITH'S
LAWYER: No further questions, Your Honor.

JUDGE: Mr. Prosecutor, do you have any questions?

PROSECUTING
ATTORNEY: Yes, Your Honor, Mr. Smith, you recall that the stretch of interstate, from Elm Grove, to Washington Ave, west bound, is only 55 miles an hour?

JACK SMITH: Yes, sir.

PROSECUTING
ATTORNEY: Are you in the habit of traveling that stretch substantially above the speed limit?

JACK SMITH: No, I always slow down out there. I don't think I ever went through there more than 60 miles an hour.

PROSECUTING
ATTORNEY: Except for the evening of January 3, 2005?

JACK SMITH: Yes, sir.

PROSECUTING

ATTORNEY: And you don't think that reckless?

JACK SMITH: I didn't mean to kill anyone. I was just having fun, and not really thinking about it.

JUDGE: Thank you Mr. Smith. You may step down. Now, are there any further witnesses?

SMITH'S
LAWYER

Nothing further, Judge.

JUDGE: The jury is excused while we take up any motions. Any motions counsel? (In a real court, the jury would leave the room)

SMITH'S
LAWYER:

Yes, Your Honor, although I believe there is enough evidence to go to the jury on misdemeanor violations, I would move to dismiss the felony indictments because as a matter of law the State has not proven that Mr. Smith's speeding was "reckless," or that it was his speeding that caused the deaths of Mike Jones and Britney Walker.

PROSECUTING
ATTORNEY:

Your Honor, The evidence is clear that the defendant was under the influence of a mind altering drug, that he violated a duty of the road in speeding just before the accident, and the jury may well conclude that his going off the road at that speed was the cause of these deaths, and that it was done recklessly, with disregard for the safety of others. He was speeding. He didn't deny it. He lost control of his vehicle. Two people died. He and another were seriously injured; this is enough to present this case to a jury, Your Honor.

JUDGE: Okay. For now, I will deny the Motion. Bring back the jury.

JUDGE: Ladies, and gentlemen of the jury, you will now hear CLOSING ARGUMENTS, first from the Prosecuting Attorney.

PROSECUTING
ATTORNEY:

Ladies and gentlemen of the jury, the State has proven beyond a reasonable doubt that the defendant, Jack Smith, is guilty of two counts of felony DUI's causing death. You heard Mandy Brown tell you about Jack's erratic driving, Jack himself told you that it was not his habit to drive that stretch of road so fast, and ladies, and gentlemen, the fact that he didn't want to hurt anyone is irrelevant. He was under the influence of methamphetamine, a toxic mind altering drug, as testified to by Dr. Willobee, and he was driving recklessly by going so fast. And it was his speeding and the resulting failure of him to keep his car under control that caused the death of two of his best friends, and serious injury to another, witness, Mandy Brown. The evidence is beyond a reasonable doubt, beyond any doubt, and I ask that you return a verdict of guilty on the two felony counts. If, however, you decide that he is not guilty of two counts of felony DUI, you must still find him guilty of two counts of misdemeanor DUIs with death.

SMITH'S
LAWYER:

Ladies and gentlemen, the State has not proven that Mr. Smith was guilty of any felonies beyond a reasonable doubt. He did not mean to hurt anyone. He did not mean to kill anyone. He may have been driving too fast, but he was not driving recklessly, and yes, maybe he was being negligent, but that isn't necessarily recklessness. The State in this case has charged my client with felony counts, not misdemeanor counts, and the State has failed to prove that he was guilty beyond a reasonable doubt, so we ask that you find the defendant not guilty

JUDGE:

Now it's time for the Charge to the Jury: the Jury is instructed that the crime of DUI with Death is defined in West Virginia as:

- (a) Any person who operates a vehicle while under the influence of alcohol or any other intoxicating or mind altering drugs shall be guilty of a misdemeanor for the first offense, and shall be confined to the county jail for not less than one nor more than 30 days, and fined not more than \$1,000; Any person who operates a vehicle while under the influence of alcohol or any other intoxicating or mind altering drugs shall be guilty of a

misdemeanor for the second offense, and shall be confined to the county jail for not less than four months nor more than one year, and be fined not more than \$5,000; Any person who operates a vehicle while under the influence of alcohol or any other intoxicating or mind altering drugs shall be guilty of a felony for the third offense, and shall be confined to the West Virginia Penitentiary for not less than one year, nor more than five years, and fined not more than \$10,000.

- (b) Any person who, while under the influence of alcohol or any other intoxicating or mind altering drugs, violates any duty imposed by law for the driving of a motor vehicle, which violation causes serious physical injury or death to any person, shall be guilty of a misdemeanor, and shall be confined to the West Virginia penitentiary for a period of not less than one, nor more than five years.
- (c) Any person who, while under the influence of alcohol or any other intoxicating or mind altering drugs, recklessly violates any duty imposed by law for the driving of a motor vehicle, which violation causes serious physical injury or death to any person, shall be guilty of a felony, and shall be confined to the West Virginia penitentiary for a period of not less than two, nor more than ten years.

It is the state's duty to prove Mr. Smith guilty of a crime BEYOND A REASONABLE DOUBT. The State has charged felony counts against defendant. The statute does not require that the State prove that the defendant did not intend to cause injury or death to the victims, nor does the statute require the State to prove that Meth was the cause of the accident in question. The statute requires the State to prove that the defendant was under the influence of an intoxicating or mind altering drug while operating a motor vehicle, that he violated some duty imposed upon him by law in the operation of that motor vehicle while under the influence, that this violation was reckless, and that this violation of duty caused the death or serious injury of any individual. You are further instructed that

there are lesser included offenses to this charge. [Lawyer will explain]

JUDGE: It is now time for you, the jury, to deliberate on the guilt or innocence of Jack Smith. You shall first pick a FOREPERSON and when you have reached a VERDICT please advise the Bailiff. 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 defendant please stand. You may read the verdict.

FOREPERSON: *As to the charges against Jack Smith, Your Honor, we find the Defendant:*

OR _____ *GUILTY of Felony (DUI with Death)*
_____ *NOT GUILTY of Felony (DUI with Death)*

OR _____ *LESSER CHARGES (if you think he was NOT reckless)*
_____ *GUILTY of Misdemeanor (DUI with Death)*
_____ *NOT Guilty of Misdemeanor (DUI with Death)*

JUDGE: So say you all?

JURY: Yes.

We hope you have enjoyed learning about the CRIMINAL JUSTICE SYSTEM, and now we'll have a short summary and question and answer period.

*Script written by Patrick S. Cassidy, President
The WALs Foundation – 2005
The WALs Foundation Mock Trial Program©*

MOCK TRIAL ROLES - Secondary #2
State vs. Jack Smith (DUI)

- | | |
|--|-------------------|
| 1. JUDGE | VISITING ATTORNEY |
| 2. Bailiff – Instructions in <i>Other Role Instructions</i> | _____ |
| 3. Clerk - Instructions in <i>Other Role Instructions</i> | _____ |
| 4. Defendant – Jack Smith
(Also witness #3 for defense) | _____ |
| 5. Lawyer/Defense (Smith’s lawyer) | _____ |
| 6. Lawyer/Prosecutor | _____ |
| 7. Witness #1- Mandy Brown | _____ |
| 8. Witness #2 – Expert Witness
(Dr. Willobee) | _____ |
| 9. Court Reporter | _____ |
| JURORS – Instructions in <i>Other Role Instructions</i> | |
| 10. Juror #1 | _____ |
| 11. Juror #2 | _____ |
| 12. Juror #3 | _____ |
| 13. Juror #4 | _____ |
| 14. Juror #5 | _____ |
| 15. Juror #6 | _____ |
| 16. Juror #7 | _____ |
| 17. Juror #8 | _____ |
| 18. Juror #9 | _____ |
| 19. Juror #10 | _____ |
| 20. Juror #11 | _____ |
| 21. Juror #12 | _____ |
| (Juror Foreperson – Instructions in <i>Other Role Instructions</i>) | |
| <u>OPTIONAL</u> | |
| 22. Sketch Artist | _____ |
| 23. Journalist/Newspaper | _____ |
| 24. Camera Person/TV | _____ |
| 25. Police Officer | _____ |

PROP SUGGESTIONS
(Based on Role List
State vs. Jack Smith (DUI)

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

1. **JUDGE:** black robe (Goodwill, 2nd hand stores sometimes have them), or a graduation gown, a gavel, and a sign for the Judge
2. **BAILIFF:** name tag, toy badge
3. **CLERK:** name tag
4. **DEFENDANT/Jack Smith:** name tag
5. **LAWYER/DEFENSE (Smith's Lawyer)** name tag, (male) neck tie, (female) long scarf
6. **LAWYER/PROSECUTOR:** name tag, (male) neck tie, (female) long scarf
7. **WITNESS #1 – Mandy Brown:** name tag
8. **WITNESS #2 – Dr. Willobee** name tag, stethoscope, doctor coat
9. **COURT REPORTER:** old steno machine or lap top, name tag
- 10 through 21:
JURORS: JUROR name tags
JURY FOREPERSON: (included in 12) bell or buzzer, pencil and verdict form (included in materials)

OPTIONAL

22. **SKETCH ARTIST:** paper, pencil and name tag
23. **JOURNALIST from NEWSPAPER:** notebook, pencil and name tag
24. **CAMERA PERSON from TV station:** camera, name tag
25. **POLICE OFFICER – badge, name tag**

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

Lawyer/Attorney and Counsel ALL mean the same thing!

VERDICT FORM

WE FIND:

JACK SMITH

_____ GUILTY of Felony (DUI with Death)

_____ NOT GUILTY of Felony (DUI with Death)

OR

Lesser charges (if you think he was not reckless)

WE FIND:

JACK SMITH

_____ GUILTY of Misdemeanor (DUI with Death)

_____ NOT GUILTY of Misdemeanor (DUI with Death)

Name - Foreperson

Date