



Judges in the Classroom

Juvenile Justice – Fact-Finding Hearing

Source:

Written by Margaret Fisher, Institute for Citizen Education in the Law, Seattle, WA, and revised in 2012. More extensive lesson plans for the teachers' use in preparing students appear in ICEL publications, *Juvenile Justice in Washington State* and *Washington Supplement to Street Law*. Staff at the Washington State Administrative Office of the Courts (AOC) edited the lesson. For more information, contact AOC Court Services, 1206 Quince St SE, PO Box 41170, Olympia, WA 98504-1170. For an electronic copy of this lesson, or to view other lesson plans, visit Educational Resources on the Washington Courts Web site at: www.courts.wa.gov/education/.

Objectives:

1. To list the role of prosecutor and the role of defense counsel.
2. To state the elements of robbery and defense of duress.
3. To conduct a mock hearing, follow the sequence of steps in an fact-finding hearing, and employ good techniques for each role.
4. To demonstrate skills in listening, rapid critical analysis, and extemporaneous speech.
5. To make complex, prepared oral presentations as attorneys and witnesses.

Grade Level:

Grades 7-12

Time:

One class period (approximately 50 minutes) to conduct the mock hearing. However, the teacher will have work with the students prior to the judge's visit in order to prepare them. It is recommended that students work five classroom hours in preparation.

NOTE: This lesson assumes the teacher prepared the students for the mock hearing before this hearing. Since there are no jury trials in juvenile court, this is a bench trial. However, in order to involve more students, the teacher may choose to vary the actual practice and use a jury. If that occurs, the statements of the judge should be modified to serve as jury instructions.

Materials:

One copy of Handout 1 (Mock Fact-Finding Hearing Packet) for each student who plays the role of an attorney or witness.

One copy of the stipulated facts and explanation of the law from Handout 1 for each of the other students.

Procedures:

1. **Begin the class by introducing yourself** and setting the students at ease. Tell students that the purpose of this mock fact-finding hearing is to familiarize them with the juvenile court process, to develop analytic and communication skills, and to help them understand more about juvenile law.
2. **Start the hearing** by following this agenda:

Mock Hearing Enactment (40 minutes)

- (1) Bailiff calls court to order as the judge enters.
- (2) Judge announces the case of *State v. Jackie Demathers* and reads aloud the following:

This is a criminal case brought by the State of Washington charging the defendant, Jackie Demathers, with second degree robbery. In support, the State claims that on March 15, Jackie Demathers, a 15-year-old juvenile, robbed an Excel Gas Station of \$227.58 by threatening the attendant with injury. The State denies that the defendant acted out of duress.

Jackie Demathers admits that he was present during the robbery on March 15, but claims that he participated in the robbery under force from Raymond Carr who threatened to inflict immediate death or bodily harm upon his mother if he refused to participate.

The burden of proof in this case is on the prosecution and is proof beyond a reasonable doubt. The defendant must prove his defense of duress by a preponderance of the evidence.

The case will now follow in this order. First, the prosecutor will make an opening statement, outlining the evidence to be presented on behalf of the prosecution's case. The defense lawyer will then make an opening statement, outlining the defense case. Second, the prosecutor will introduce evidence. At the conclusion of the prosecutor's evidence, the defense may introduce evidence. Third, after all the evidence has been presented, the lawyers will make closing arguments. Then I will decide the case.

(3) Judge asks counsel to introduce themselves and their clients.

(4) Prosecution's Opening Statement (3 minutes*)

*Time for each activity is tracked by a clerk who notifies the judge and lawyer of remaining time by holding up cards indicating "2 min.," "1 min.," and "0" remaining.

(5) Defense's Opening Statement (3 minutes; there is no reservation to the end of the Prosecution's Case-in-Chief.)

(6) Prosecution's Case-in-Chief (consists of three witnesses with direct examination of 4 minutes each and cross-examination of 3 minutes each):

Officer Tina Rogers
Dana Wright, Excel Gas Station attendant
Raymond Carr, Participant in the robbery

Note: The bailiff, not the judge, swears in witness.

(7) Defense's Case-in-Chief (consists of three witnesses with direct examination of 4 minutes each and cross-examination of 3 minutes each):

Jackie Demathers, Defendant
Mrs. Demathers, Defendant's mother
Kimberly Anson, Participant in the robbery

(8) After all of the testimony, the judge then reads aloud the following so that the students will understand the fact-finding process:

For me to find that Jackie Demathers committed the offense of robbery in the second degree, the prosecutor must have proved each of the following elements beyond a reasonable doubt:

- (1) That on or about the 15th day of March, Jackie unlawfully took personal property from the person of another, or in his or her presence;**
- (2) against his or her will;**
- (3) by the use or threatened use of immediate force, violence, or fear of injury;**
- (4) to that person or his or her property or the person or property of anyone.**

Robbery in the second degree includes all robberies that are not included in robbery in the first degree. Robbery in the first degree occurs when a person, in the commission of a robbery or in immediate flight from the robbery:

- (1) is armed with a deadly weapon;**

- (2) displays what appears to be a firearm or deadly weapon; or**
- (3) inflicts bodily injury.**

It is a defense to a charge of robbery in the second degree that the robbery was committed because of duress. To establish the defense, Jackie Demathers must prove by a preponderance of the evidence that:

- (2) he participated in the offense under compulsion (force) by another who, either by threat or use of force, created an apprehension in his mind that in case of refusal, he or another would be liable to immediate death or immediate bodily injury; and**
- (3) such apprehension was reasonable upon his part; and**
- (3) he would not have participated in the offense except for the duress involved.**

- (9) Prosecution's Closing Argument (2 minutes)
- (10) Defense's Closing Argument (2 minutes)
- (11) Prosecution's Rebuttal (1 minute)
- (12) Verdict:

The judge should then announce the verdict for the State or for the defendant.

- (13) Debriefing:

After the hearing, the judge should convene the students for debriefing. During the debriefing, the judge should acknowledge the contributions of the bailiff and clerk. The judge should then offer constructive comments to the students, explaining the reasons for rulings on objections, discussing the effectiveness of their strategies, and commenting on the performance of witnesses. The judge may describe how this mock fact-finding hearing differs from actual cases. The judge may also describe how juvenile fact-finding hearings differ from adult trials, particularly with the absence of juries.

- (14) Adjournment

- 3. Conclude the class session** by thanking all students and observers. Frequently, other classes of students or students' family members come to observe the mock hearing. If time permits, respond to questions.

In the event that the judge sits in juvenile court, the judge may arrange for students to observe an actual fact-finding hearing.

Handout 1

Mock Fact-Finding Hearing Packet

Stipulated Facts

Jackie Demathers, a 15-year-old juvenile, is accused of the Class B+ offense of robbery in the second degree. On the night of March 15, Officers Tina Rogers and George Ryan saw three youths come out of the Excel Station and run toward the alley behind the gas station. Confirmed by a radio call that the station had just been robbed, the police with a back-up car apprehended Jackie Demathers, Raymond Carr, and Kimberly Anson in the alley. Jackie Demathers had a paper bag with \$227.58 in his pocket. The station attendant then identified the three as the robbers.

Raymond Carr and Kimberly Anson pleaded guilty to robbery in the second degree. Jackie Demathers went to juvenile court where he is pleading the defense of duress. If he proves the defense of duress, he must be found not guilty.

The Law

A person commits robbery when he or she unlawfully takes personal property from the person of another, or in his or her presence, against his or her will by the use or threatened use of immediate force, violence, or fear of injury to that person or his or her property or the person or property of anyone.

Robbery in the second degree includes all robberies that are not included in Robbery in the first degree. Robbery in the first degree occurs when a person, during the commission of a robbery, or in immediate flight from the robbery:

- i. is armed with a deadly weapon;
- ii. displays what appears to be a firearm or deadly weapon; or
- iii. inflicts bodily injury.

The defense of duress requires that:

- i. the defendant have participated in the offense under compulsion (force) by another who, either by threat or use of force, created an apprehension in his mind that in case of refusal, he or another would be liable to immediate death or immediate bodily injury; and
- ii. such apprehension was reasonable upon the part of the defendant; and
- iii. the defendant would not have participated in the offense except for the duress involved.

In other words, Jackie must prove that he participated in the robbery under force from Raymond Carr who threatened or used force to make Jackie believe that if he (Jackie) refused to participate, his own mother would be liable to immediate death or immediate bodily injury. Jackie must also prove that it was reasonable for him to believe this and that he would not have participated in the robbery except for the duress involved.

Evidence

The prosecutor has the money bag with \$227.58.

Witnesses for the Prosecution

Officer Tina Rogers
Dana Wright, Excel Gas Station attendant
Raymond Carr, Participant in the robbery

Witnesses for the Defense

Jackie Demathers, Defendant
Mrs. Demathers, Defendant's mother
Kimberly Anson, Participant in the robbery

Witness Statements

Officer Tina Rogers:

On March 15, at about 10:27 p.m., as I was cruising the Excel Gas Station on the corner of Sixth and Wright, I saw three darkly-clad individuals run out in the direction of the alley behind the station. A call then came through over the radio that the alarm at the station had just gone off.

With some assistance, we apprehended the three individuals, identified as Jackie Demathers, Raymond Carr, and Kimberly Anson. During the search, we found a bag containing \$227.58 in Jackie Demathers' pocket. All three wore a spent shell casing around their necks, a sign of a new gang in the area – the Slugs. Raymond Carr and Kimberly Anson each wore several gold chains, an expensive watch, and a beeper. Jackie Demathers did not.

Jackie Demathers asked to talk to me privately. I took him to the car and Raymond Carr yelled, "You better remember what I told you, Jackie." In the police car, Jackie stated that he had only become involved with the Slugs because they threatened to kill his mother.

Dana Wright, Excel Gas Station Attendant:

This is the fourth time our gas station has been robbed in three months – something has to be done! I was working the night of March 15, when three young people came in. Each had an empty shell casing around the neck. That one, the defendant, did all the talking. He was real macho, keeping his hand in his pocket and saying he'd hurt me real bad if I didn't turn over the money. So I gave over the money I had, \$227.58, and pushed the silent alarm at the same time. They left with the money and then the police came back about 45 minutes later with all three and I was glad to see them caught.

Raymond Carr:

I am 17 years old, and I pleaded guilty to robbery in the second degree of the Excel Gas Station on March 15. I used to belong to the Slugs, but I'm determined to change.

I met Jackie in August when my ex-girlfriend moved into Jackie's mother's rooming house. Jackie followed me and my friends around, trying to join our group – the Slugs. We weren't

really interested; he just seemed like a loser. He asked how he could get some nice clothes and gold like we all wore. I told him we didn't need him, but he pushed us and finally we agreed to give him a chance to prove himself.

In early October, Jackie showed us a newspaper article about a gas station that had been robbed a bunch of times and said it must be an easy target. My ex-girlfriend Kim and I decided this might be a good test for Jackie's admission to the Slugs. We did the job, with Jackie acting like a big hero, talking tough to the gas station attendant.

Then we got caught, and he's a little baby, trying to make out that we forced him to do something he didn't want to do. I don't remember saying anything to Jackie when we got caught. The truth is he wanted to be a Slug, and now he can't take his medicine.

My ex-girlfriend and I split up around that time because I was seeing another lady. She's angry at me now and lying to get even with me.

Jackie Demathers:

I am 15 years old and am a sophomore at Mt. Rainier Alternative School. My mother runs a rooming house; that's all the income we have for me, my mother, and my two sisters.

Kim Anson moved into the rooming house in August; she was a member of the Slugs and used to have noisy parties all the time. The people who came to her parties all wore slugs around their neck and dressed in fancy clothes and jewelry. She paid her rent on time, and soon a lot of the Slugs moved in.

I never wanted to have anything to do with the Slugs, but it was hard to ignore them since I was living in the same building. Raymond Carr, Kim's boyfriend, started to press me to join the Slugs, telling me I'd get some money, nice clothes, and jewelry. When I kept refusing, he said he had a way to get me to join. He knew how close I was to my mother; he told me if I didn't join up, he'd kill my mother. I was afraid. I'd known other people who'd gotten hurt because they refused to join.

On March 15, in the afternoon, Raymond came by and said this was the day. He said his patience had run out, and I was either going to help out with a robbery at the Excel Gas Station or I could say goodbye forever to my mother. I only went with Raymond and Kim that night because I was afraid they would kill my mother if I didn't come.

Mrs. Demathers:

My son is a good boy. I warned him to stay away from that Slug crowd. I had to keep those people in my rooming house, because the neighborhood has gotten so bad, they are the only paying customers. The police have been to the house several times for stabbings at their parties. They're a mean bunch, and I'm sure my son is innocent – that they forced him to do what he did.

Kim Anson:

I am 20 years old, and I've lived at the Demathers' rooming house for about a year. I used to be Raymond Carr's girlfriend, but we split up just after the Excel robbery. Raymond used to be so cool, but when he started threatening Jackie Demathers' mother, I said I'd had it.

I met Jackie in August when I moved into the rooming house. He was a sweet kind of kid, but pretty insecure and lonely. I think he looked up to us older folks who seemed to have it all – things like cars, money, jewelry, clothes. Raymond decided to play a game with Jackie – to see how far he would go. He knew that Jackie and his mother were real close, so he used that to get Jackie involved in the robbery. I wasn't there when Raymond talked to Jackie, but I'm sure he told him he'd hurt Jackie's mother if Jackie didn't join up with us.