

The New Hampshire Bar Association
Law-Related Education Program

The Trial of Gold E. Locks

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Funded by a grant from the
U.S. Department of Education,
Grant Award #S123A40116-95.

The New Hampshire Bar Association Law-Related Education Advisory Board gratefully acknowledges the authorship of attorney Kate Strickland in the publication of this curriculum guide. A special thanks is also extended to Linda Massimilla, Lisbon Elementary School, Lisbon, New Hampshire, for her review of this material and to the Ohio Bar Association, for permission to reproduce the accompanying videotape.

August, 1996.

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I. Introduction

This videotape, which was originally produced by the Ohio Bar Association in 1983, illustrates the manner in which a standard fairy tale can be adapted to help children learn about the operation of our judicial system. In *Gold E. Locks*, Goldilocks is charged with the crime of “**criminal trespass**” for entering the home of the Three Bears without permission. A “**crime**” is defined by the state or Federal governments, and becomes part of the laws of each state or of the country as a whole. If convicted of a crime, an individual like Goldilocks can be fined, sentenced to jail and/or ordered to pay restitution to the victim of the crime.

As in all criminal cases, the prosecutor in *Gold E. Locks* represents the state. The prosecutor has the “**burden of proof**” and must show “**beyond a reasonable doubt**” that Gold E. Locks committed all of the “**elements of the crime**” of criminal trespass. The accused individual, also known as the defendant, is represented by a “**defense attorney**” who generally tries to show either that the defendant did not commit the crime, or that there is a logical explanation for the defendant’s actions such as mistake, custom, or permission. Both the prosecutor and defense attorney present their cases through witnesses, whose testimony is regulated by “**rules of evidence.**” In a “**jury trial**”, the “**jury**” generally decides whether a defendant, or the person charged with the crime, is guilty or innocent. In lesser crimes, a judge may decide guilt or innocence in a “**court trial.**”

II. Components of a Trial

A. Jury Selection

If the case is being tried before a jury, a fairly large number of people, usually at least 100, will have received jury notices requesting that they appear in court for jury selection. The judge will generally tell the jury a bit about the case, and ask each juror if they are acquainted with either party, or any of the witnesses or attorneys involved in the case. No one who knows anyone involved in the case may sit, or serve, on the jury. The judge will also ask each juror if there is any reason why the juror does not feel they could make a fair and unbiased decision in the case. If a juror feels they cannot be fair, and evaluate the case only on evidence heard in court, then that juror is excused from serving on the jury. Once the jury is selected, the judge swears them in.

B. Opening Statements

After the jury has been selected and seated in the courtroom, the prosecutor makes the “**opening statement.**” In this statement, the prosecutor tells the jury briefly what he or she expects to prove in the case. The defense then also has an opportunity to preview its case for the jury.

C. Witnesses

After opening statements, the prosecution calls its witnesses. Each witness is required to swear to “tell the truth, the whole truth and nothing but the truth, so help me God.” A witness who does not tell the truth, and commits perjury, is guilty of a criminal act.

The prosecutor begins “**direct examination**” of the witness by asking questions about the events in the case. Once the prosecutor has finished questioning a witness, the defense attorney can “**cross-examine**” the witness about the witness’ testimony.

Certain “**rules of evidence**” apply to all cases, and govern the types of questions a witness can be asked, and what types of evidence a witness can provide. If an opposing attorney feels that a question, or the witness’ testimony violates one of these rules, the attorney will stand and state “**objection.**” The attorney then must state on what basis the objection is being made. If the judge agrees with the objection, the judge will rule “**sustained**” and the question must be rephrased. If the judge disagrees with the objection, the judge will state “**overruled**” and the witness must answer the question.

The rules of evidence are fairly complex, but in general, questions cannot be:

Irrelevant: About things which have nothing to do with determining whether the defendant is guilty of the crime charged. For example, where Baby Bear goes to school is not important in deciding whether Goldilocks is guilty of criminal trespass. However, why Goldilocks entered the home of the Three Bears is very important.

Leading: Intended to “put words” in the mouth of the witness. A leading question is one which can generally be answered by “yes” or “no.” Leading questions are objectionable because the jury is supposed to decide the case on what the witnesses testify to, not on what the lawyers say.

Hearsay: About things which the witness has not directly heard, seen, or sensed. Hearsay testimony is objectionable because the jury cannot judge if someone is telling the truth about an event unless they are able to hear and see that person testify. Often, there is conflicting evidence given by different witnesses. It is important that the jury be able to see and hear each witness testify about what they know about the events in question.

Once the prosecution has finished calling its witnesses, the defense may call its witnesses. The prosecution will have an opportunity to cross-examine each defense witness.

D. Closing Arguments, Jury Charge and Deliberation

After all witnesses have been called, the defense, and then the prosecutor, have an opportunity to present “**closing arguments.**” These arguments are designed to summarize for the jury what the jury has heard from the witnesses.

Following closing arguments, the judge will “**charge the jury.**” In the charge, the judge will tell the jury what the elements of the case are, and remind them that the prosecution must prove “**beyond a reasonable doubt**” that the defendant is guilty of all the elements

of the crime in order for the defendant to be convicted. ² The judge will also instruct the jury that they must reach their decision fairly and impartially, and that the defendant is innocent until proven guilty. Following the charge, the jury deliberates in private. When the jury has reached a verdict, it notifies the “**bailiff,**” who in turn notifies the judge that a verdict has been returned. The bailiff or “**clerk**” reads the verdict. The verdict, like all portions of the trial, is written down by the “**court reporter,**” who keeps a complete record of the entire trial.

III. Viewing this Videotape

The videotape is approximately 20 minutes long. It is recommended that teachers provide their students with a brief overview of the individuals involved in a trial (judge, bailiff, court reporter, clerk, prosecutor, defense attorney, defendant, witnesses) as well as a brief overview of the components of a trial (jury selection, opening statements, direct examination of witnesses, cross-examination of witnesses, closing arguments, jury charge, and jury deliberation) prior to viewing the tape. A brief overview of the Mock Trial Simplified Rules of Evidence and Procedure are available from the New Hampshire Bar Association. This material should generally be reserved for the upper grades.

IV. Deciding the Case

The videotape does not reveal the verdict reached by the jury in this case. Rather, the children viewing the tape are asked to decide the case. It is recommended that children viewing the tape be split up into small groups for this deliberation so that the jury experience is simulated. Each jury can then report the verdict, and explain why they reached their decision.

V. Follow-up Activities

There are many other fairy tales that can be adapted to simulate criminal trials. Although it is possible to purchase scripts for some of these adapted tales, it is recommended that children be given a general description of their character and testimony, so that memorization of parts does not become more important than the process.

The prosecutor should interview the prosecution witness (P) prior to the trial; the defense attorney should likewise interview the witness for the defense (D). The jury should be sequestered, or kept apart, from the lawyers and witnesses until the trial begins.

A. Jack and the Beanstalk

Synopsis: Jack's mother sends him to town to sell the cow. Instead of getting money for the cow, Jack trades the cow for magic seeds. His mother is so mad she throws the seeds out the window. The next morning, Jack looks out and sees a giant beanstalk. He climbs the beanstalk and sees a giant castle. Jack is hungry, and knocks at the castle door and asks for food. The castle belongs to a giant, but the giant's wife likes Jack and invites him in. The giant returns while Jack is eating, and the giant's wife hides Jack in the closet. Later, after the giant is asleep, Jack creeps out and sees gold lying all over the floor. The giant wakes up and chases Jack down the beanstalk. The giant accused Jack of breaking and entering, and stealing his gold. The police search Jack's house, and find a piece of gold under Jack's pillow. They arrest Jack, and charge him with theft, as well as breaking and entering.

Witnesses:

Jack's Mother:

- Testifies about the above events.
- Has never seen the gold piece.
- Did not know Jack had it. (P)

Giant:

- Testifies about the above events.
- Testifies the gold piece found under Jack's pillow is similar to his gold pieces.
- Testifies that he has so many gold pieces, he is not sure whether one is missing or not. (P)

Giant's Wife:

- Testifies, reluctantly, about the above events.
- Did not see Jack leave the castle because she was busy doing laundry in the basement.
- Does not know whether Jack took the piece of gold. (P)

Jack:

- Testifies about the above events.
- Did not steal the gold piece.
- Has no idea how the gold piece got under his pillow. (D)

Jack's Grandmother (surprise witness):

- Testifies she overheard Jack telling his mother he had lost a tooth and put it under his pillow for the tooth fairy to take.
- Testifies that she knew that Jack's mother had no money, but was too proud to accept charity.
- Testifies that she put a gold piece under his pillow as a surprise. She did not come forward before because she had been away on a trip and just found out about the trial.

B. Big Bad Wolf and Curly Pig

Synopsis: The Pig is charged with attempted assault and battery. The allegation is that the Pig placed a boiling pot of hot water right in a spot he was sure the Wolf would be.

To be convicted of assault and battery, the Prosecution must prove Curly Pig deliberately intended to inflict harm on the Wolf, and that Curly Pig was not acting in self-defense.

Witnesses:

The Wolf:

- Testifies that he was out walking and decided to pay his friend, Curly Pig, a visit.
- Testifies that he knocked at Curly's door very hard, but no one answered. He waited on the front porch, Curly didn't come back.
- Testifies that he thought Curly was asleep inside and he decided to go down the chimney to wake Curly up.
- Testifies that from the chimney he saw someone take the lid off a boiling pot of water, and suddenly the water and fire whooshed up, causing a severe burn on Wolf's tail. (P)

On cross-examination, Wolf admits that his favorite dinner is roast pork.

The Builder:

- Testifies that he helped the three little pigs each build homes after their mother threw them out of the house.
- Testifies that he helped the first little pig build a house of straw, but the Wolf came and "huffed and puffed" and blew the house down.
- Testifies that he helped the second pig build a house of sticks, but it met the same fate. (P)

Curly Pig: -Testifies to seeing the Wolf blow down the houses of his two brothers.

- Testifies that when the Wolf came to his house, Curly Pig ignored him.
- Testifies that when Wolf went on top of the roof, Curly Pig started a fire and put a kettle on.
- Testifies that his actions were all in self defense. (D)

On cross-examination, Curly Pig admits that he has attended several parties with the Wolf. Curly also admitted to being a heavy sleeper, and has been known to sleep through almost anything. Curly Pig further admitted that the chimney was built wide enough so it could be used as another entrance to the house because Curly always loses his key. In addition, Curly has told friends about this "secret entrance" and Wolf may have overheard this conversation.

Curly's Girlfriend:

- Testifies that Curly talked a lot of times about getting "Wolf" because Wolf destroyed the homes of curly's brothers.
- Testifies that Curly was trying to set a trap for Wolf.
- Testifies that she does not know what the trap was. (D)

VI. Civil Trials

In civil trials, one individual, the plaintiff, brings a case against another individual, the defendant, seeking to recover damages for a "wrong." The damages sought are usually monetary -- for lost wages, property damage, medical bills, and pain and suffering. The basic rules of evidence apply, but the standard of proof is the "**preponderance of evidence.**" That is, the plaintiff must prove that their version of the events is more likely to have occurred than the version presented by the defendant.

There are many possible civil trial scenarios that children could enact, including a fairly common civil suit, the 'rear end car accident.'

Witnesses:

The Plaintiff:

- Testifies that they stopped at a stop light and that their car was hit in the rear by the defendant's vehicle.

The Defendant:

- Testifies that the light was green, and the plaintiff stomped on the brake and stopped suddenly when the plaintiff dropped a coffee cup.

Witness 1 -Testifies that they saw the Plaintiff bent over about the time of the accident, but does not recall if Plaintiff was bent over before or after the accident.

Witness 2 -Testifies that they sold coffee to the Plaintiff just a few minutes before the accident. Plaintiff stomped on the brake and stopped suddenly when the plaintiff dropped a coffee cup.

Witness 3 -Testifies that the plaintiff's vehicle was totally stopped when the accident occurred.

The jury must decide if the defendant is at fault and should⁴ pay the plaintiff damages.

GLOSSARY

Bailiff: An officer of the court who has charge of the accused person while they are in the courtroom, and also looks after the jurors.

Battery: In legal terms the (a) intent to commit harmful or offensive contact; (b) proof that the plaintiff was touched or harmed; (c) proof that the plaintiff did not consent to the touching.

Beyond A Reasonable Doubt: The standard of proof necessary to convict a citizen of a crime.

Burden of Proof: The responsibility for proving.

Charge The Jury: Instructions given to the jury by the judge, prior to their deliberations, in which the judge explains the law pertaining to the case, the possible options the jury has, etc.

Circumstantial Evidence: Indirect facts about the circumstances involved in a case from which you can deduce or figure out how the event might have occurred.

Civil Judgment: A court decision in a civil suit which requires one party to pay a sum of money or to take certain actions, as a result of the breach of some legal duty.

Civil Matters: Matters or cases pertaining to the private rights of individuals.

Clerk: Court official who keeps court records, official files.

Closing Arguments: Summary remarks made to the jury by attorneys for both sides after all the evidence has been presented in the trial.

Comparative Negligence: In this defense, both parties share responsibility for negligence, but the plaintiff can recover damages if their negligence was less than that of the defendant.

Compensatory Damages: Those damages which reimburse the plaintiff for medical expenses, lost wages, and non-economic damages, such as "pain and suffering."

Court Trial: Bench trial where a judge (not a jury) determines guilt or innocence.

Court Reporter: A legal stenographer who records court proceedings.

Crime: An act which harms others physically, economically or psychologically and which is declared by legislative statute to be illegal.

Criminal Case: An action brought by the state, county, or city against an individual, charging the person with committing a crime.

Criminal Law: The body of law which deals with acts which are declared to be crimes against the government.

Criminal Trespass: Entering or remaining in a place, knowing you are not authorized to be there.

Cross-examination: Questioning of witnesses for the opposing side during a trial or hearing.

Damages: Money claimed by, or ordered paid to a person who has suffered injury or loss due to the fault of someone else.

Defense Attorney: The lawyer who represents the defendant.

Elements of the Crime: Parts of a crime which must be proved by the prosecution to sustain a conviction.

Fact: Something that really exists; a known event or thing.

Hearsay: Evidence that a witness has heard from someone else.

Hearsay Evidence: Second-hand evidence; something the witness did not personally see or hear.

Impartial: Fair; without prejudice, unbiased.

Irrelevant: Not relating to the matter at issue.

Jury: A certain number of individuals selected according to law, and sworn to declare the truth upon evidence presented at trial.

Jury Trial: A trial which is heard before a jury.

Leading: Imposing an answer to a question.

Liable: Responsible for paying the damages; having been found to have committed the tort.

Negligence: A person's failing to perform a legal duty to exercise a reasonable standard of care for others. Many negligence cases, for example, involve automobiles. Negligence is doing something that a reasonable person would not or should not have done, or the failure to do something that a reasonable person would have or should have done.

Objection: To disagree with evidence or procedure during a trial.

Opening Statement: A summary of the nature of the case and of anticipated proof presented by counsel at the start of a trial.

Overrule: To reverse or reject.

Preponderance of Evidence: A lesser degree of proof, used in civil cases, in which the jury or judge decides what, according to the evidence presented during the trial, is more likely to have happened.

Rules of Evidence: Rules used to regulate the admission of proof.

Sustained: To approve or agree.