

IN THE SUPERIOR COURT OF _____ COUNTY
STATE OF GEORGIA

SHANNON JOHNSON)

v.)

NO. 88-CV-1706-N

KELLY BOWEN)
_____)

STATEMENT OF STIPULATED FACTS

I.

Stacey Vicious was arrested on October 29, 1988, and charged with Driving Under the Influence of Alcohol in violation of Official Code of Georgia Annotated, Section 40-6-391; Homicide by Vehicle in violation of Official Code of Georgia Annotated, Sections 40-6-393; and Failure to Yield the Right of Way, in violation of Official Code of Georgia Annotated, Section 40-6-72.

II.

Stacey Vicious was seventeen years old at the time of arrest.

III.

This civil action was filed November 17, 1988. The bifurcated proceeding is to consider liability only. Damages are not at issue in this mock trial.

IV.

Georgia law provides that "a person who willfully, knowingly, and unlawfully sells, furnishes, or serves alcoholic beverages to a person who is not of lawful drinking age, knowing that such person will soon be driving a motor vehicle, or who knowingly sells, furnishes, or serves alcoholic beverages to a person who is in a state of noticeable intoxication, knowing that such person will soon be driving a motor vehicle, may become liable for injury or damage caused by or resulting from the intoxication of such minor or person when the sale, furnishing, or serving is the proximate cause of such injury or damage." O.C.G.A. Section 51-1-40.

V.

The lawful drinking age in Georgia is 21 years of age.

VI.

The attached exhibits are authentic copies, and their admissibility may not be challenged on the ground of authenticity.

VII.

Blanks in the case style and facts refer to names of the city and county involved in the case. To make the facts more realistic, regional coordinators will supply local names to fill these blanks. Unless otherwise noted, participants may assume that the city and county will be the same city and county providing the location for the regional competition. For the state competition level, the following city and county will apply: City of Lawrenceville, County of Gwinnett.

"Mx." may be replaced with "Mr." or "Ms.," depending upon the witness playing that role.

VIII.

The case will be tried as if to a jury.

Respectfully submitted,

Attorney for the Plaintiff

Attorney for the Defendant

STATEMENT OF SHANNON JOHNSON, PLAINTIFF

My name is Shannon Johnson, and I live at 498 Oak Street in _____, Georgia. I am thirty years old and work as a sales manager of the furniture department at Sears.

On October 29, 1988, my spouse, Lee, and I had gone out for pizza and a movie and were driving home on Highland Boulevard. At the intersection with Jackson Street there is a four way stop--with bright street lights. I stopped, looked, and headed on. A red Mustang came right through the stop sign--never even paused--and smashed into the right side of the car. Lee was killed instantly. I got knocked around pretty good but was not hurt badly.

The Mustang was driven by a young person named Stacey Vicious, who was drunk as could be.

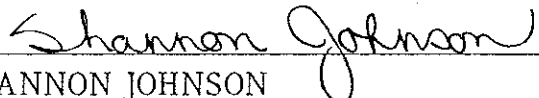
After the collision, I was stunned. I could see Lee was unconscious. I didn't know there was a fatal head injury. I just sat in the car. Stacey Vicious ran over to look in our car. Stacey looked in Lee's window, appearing wide-eyed and wild. I think I smelled beer.

Stacey asked if we were okay. Seeing the condition Lee was in, Stacey said "omigod" and ran off to a phone booth down the street.

The police and an ambulance came soon, and when the police talked to Vicious, Stacey was waving his hands all around.

The medics put Lee in the ambulance and then left in a hurry. The police put Vicious in the back of a police car. A second ambulance came, and the medics were looking me over when the police officer came to talk to me. The police officer said Vicious had been drinking, and there were beer cans in the car. Vicious was charged with DUI, running a stop sign, and vehicular homicide. He also said Vicious did have plenty of insurance coverage.

Whoever gave Vicious that beer should be put in jail. They as good as killed Lee.


SHANNON JOHNSON

SIGNED AND SWORN to before me on this 1st day of December, 1988.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add.
The material facts are true and correct.

Shannon Johnson
SHANNON JOHNSON

SIGNED AND SWORN to before me at 8:00 a.m. on the day of this round of the
1989 Georgia Mock Trial Competition.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

STATEMENT OF CHRIS MacINTOSH

My name is Chris MacIntosh, and I live at 800 Broadview Avenue, in _____, Georgia. I am seventeen years old and a senior at William Marcy Tweed High School. I was present at Terry Bowen's party on the night of October 29, 1988.

I don't exactly know Terry Bowen, but I knew about the party. There was an invitation circulated in class at school. I wasn't invited by Terry, but the invitation didn't say you had to be invited. Terry doesn't go to Tweed High. Terry goes to Thomas Nast High on the other side of town. We play them in football. I guess you could say that the schools are rivals.

I arrived at the party about 9:30 p.m., and things were already very loud. The stereo was going full blast, and everybody was drinking and dancing or sitting around talking. A lot of the kids were playing "quarters" and drinking beer. Quarters is a game where you try to flip a quarter into a beer cup, and if you miss you have to "chug" the beer. There was punch and snacks on the picnic table in the yard, and there was beer and wine in the refrigerator in the kitchen. Somebody said the punch was "spiked."

I saw Stacey Vicious at the party. Stacey must have arrived some time before I did, because Stacey was already drunk. I knew Stacey was drunk because Stacey was laughing and shouting and carrying on, and normally Stacey did not behave like that. I saw Stacey playing "quarters," but I did not see Stacey take a drink during the game. I did see Stacey later with a beer in hand.

I had a few beers myself, but I wasn't drunk. I don't really know if the punch was spiked. I don't drink punch; that's kid stuff. I saw Stacey Johnson with a cup in hand, and later I saw Stacey with a beer. I don't know how many drinks Stacey had, but I'm sure Stacey was drunk.

Shannon Johnson had to have known what was going on; the party was so loud Mx. Johnson couldn't have failed to hear it. I saw Mx. Johnson in the kitchen. I'm not sure what time it was when I saw Mx. Johnson. Mx. Johnson had been out in the yard where the party was mostly going on, so Mx. Johnson had to have seen that there was drinking going on. I saw Stacey Vicious take a beer from the refrigerator while Mx. Johnson was in the kitchen. I don't know if Mx. Johnson saw Stacey Vicious or not, but Stacey was right by the picnic table with the group playing quarters, so Mx. Johnson must have seen Stacey.

Later, when I saw Mx. Johnson in the kitchen of the house, Mx. Johnson yelled at me because I was getting a beer out of the refrigerator, and told me to leave. Mx. Johnson threatened to call the police. I don't know why Mx. Johnson

was so mad; I hadn't done anything. Mx. Johnson said I had taken some liquor out of the liquor cabinet, but that wasn't true. All I had was a few beers.

I don't know if Mx. Johnson thought I had crashed the party. There were a lot of people there from Tweed High. I don't really know who was making more noise, the people from Tweed or from Nast. I couldn't say if the Tweed kids or the Nast kids were drinking more; I just saw a lot of beer and punch and a lot of rowdy behavior. I don't know if anybody was fighting or not; I didn't see anybody. I don't know if the police came; I left after Mx. Johnson yelled at me.

Chris MacIntosh
CHRIS MacINTOSH

SIGNED AND SWORN to before me on this 1st day of December, 1988.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add.
The material facts are true and correct.

Chris MacIntosh
CHRIS MacINTOSH

SIGNED AND SWORN to before me at 8:00 a.m. on the day of this round of the
1989 Georgia Mock Trial Competition.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

STATEMENT OF KELLY BOWEN

My name is Kelly Bowen, and I live at 407 Mockingbird Lane in _____, Georgia. I am thirty-nine years old and the parent of Terry Bowen, who is a student at Thomas Nast High School. Two weeks before Halloween, my child, who is very popular at school, asked my permission to hold a Halloween party on the Saturday evening before Halloween. Terry planned on inviting some friends from the 11th and 12th grades at school. I believe that it is important for parents to provide a place for their children to gather under appropriate supervision. I agreed to allow Terry to put on the party, but only on the condition that Terry made sure that there was no rowdiness at the house.

On the evening of the party, October 29, 1988, I assisted Terry with the preparations for the party. Terry had purchased snack food and soft drinks. We put the soft drinks and most of the food in our den. Terry also served punch. We scattered other food items around the first floor of the house. No one was to be allowed upstairs in the house, so no food or drink was placed there.

At about 8:00 p.m. the party guests began to arrive. I was downstairs and assisted Terry in greeting the kids. I knew most of them as I have met them over the years through various of Terry's activities. I mingled with the guests briefly, but since I did not wish to intrude on the party, I went upstairs to watch television.

It must have been an hour or an hour and a half later that I heard a ruckus downstairs. At first, I did not want to see what was happening because I felt confident that ^{Terry}~~Kelly~~ could handle any situation. The noise, however, did not subside, and I went downstairs to check the situation out.

To my surprise, I saw that many of the students had beer cans in their hands and were drinking. I asked Terry what was happening, and Terry informed me that Chris MacIntosh and friends from a rival high school had crashed the party. Chris was extremely rowdy and appeared to have been drinking heavily, as, to my shock, had been other people at the party.

I told Chris to leave immediately. Chris refused. Then I told Chris that I would be calling the police department if Chris did not leave. In fact, I did call the police department to see whether they could come to my house and restore order. Chris heard me call the police, and he and a number of other individuals at the party departed.

I found out that the kids at the party got into my beer and liquor. I was furious with my daughter and grounded her for two weeks. I told my child how disappointed I was that alcohol was being consumed at the party. I asked Terry

to have everyone stop drinking, but my child told me that there was nothing that could be done. There was nothing I could do either.

I remember seeing Stacey Vicious arrive at the party in a red car. He left the party alone, some time after I called the police. I believe I have seen Stacey before and that Stacey is a high school friend of ~~Kelly~~'s.

Terry

Kelly Bowen
KELLY BOWEN

SIGNED AND SWORN to before me on this 1st day of December, 1988.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add.
The material facts are true and correct.



KELLY BOWEN

SIGNED AND SWORN to before me at 8:00 a.m. on the day of this round of the
1989 Georgia Mock Trial Competition.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

STATEMENT OF LAUREN McCOY

My name is Lauren McCoy, and I live at 681 Rosemont Circle in _____, Georgia. I am sixteen years old, and Terry Bowen is my best friend.

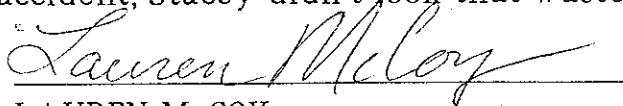
I got to the party about 9:00 p.m. I was late because mom and I had an argument about what I was wearing--she never lets me wear what I want to wear. When I got there, Terry was really mad at me, 'cause I was in charge of the music. Somebody else must have brought their tapes, 'cause the party was really rocking when I got there.

I grabbed a Coca-Cola from the fridge and joined the party. I had my camera. I took tons of pictures. We were having a great time. Then I noticed those jerks from Tweed High. Chris MacIntosh was with them. I couldn't believe they were at the party. I knew there would be trouble. I hate to be around those jerks; they're bad news--into drugs and drinking, you know. In fact they were drinking at Terry's party. They came in carrying a heavy grocery bag; it had to have had at least three six-packs in it. Every time I saw one of them, they had a beer in their hand--even Chris.

I don't drink or do drugs; I don't even smoke cigarettes. It's not that I'm a prude, but I just don't need it. Some of my friends like to drink. It really doesn't bother me; it's not any of my business.

The party had gotten pretty loud, so I went outside; I guess that's when Stacey left. People had been drinking outside; I saw a few beer cans on the picnic table outside on the patio. I guess they went outside 'cause Mx. Johnson kept walking through the house, and Mx. Johnson had already told Terry and me not to bring alcohol into the house. I saw Chris out there with somebody in a black leather jacket--I couldn't see who it was or what was going on 'cause they were at the corner of the house and it was dark. I did hear them laughing. I was so mad; the nerve of Chris! I went back inside.

I didn't see Stacey leave. I was still over at the house when the police arrived and told us about the accident. I was spending the night with Terry. I couldn't believe Stacey was in an accident; Stacey didn't look that wasted to me.


LAUREN McCOY

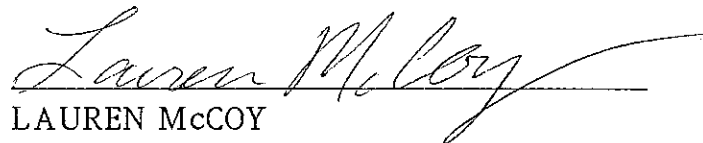
SIGNED AND SWORN to before me on this 1st day of December, 1988.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

WITNESS ADDENDUM

I have reviewed this statement and I have nothing of significance to add.
The material facts are true and correct.



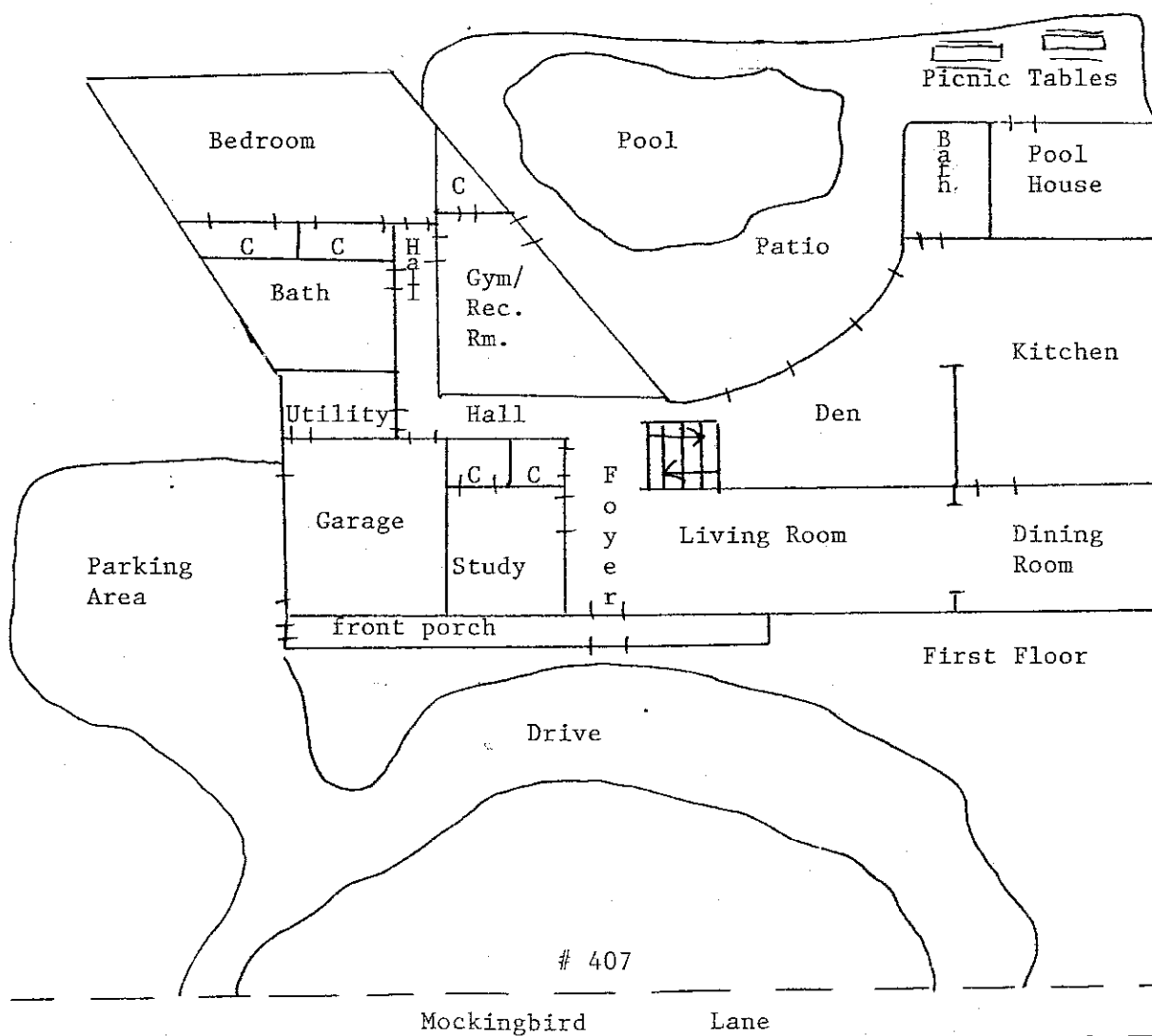
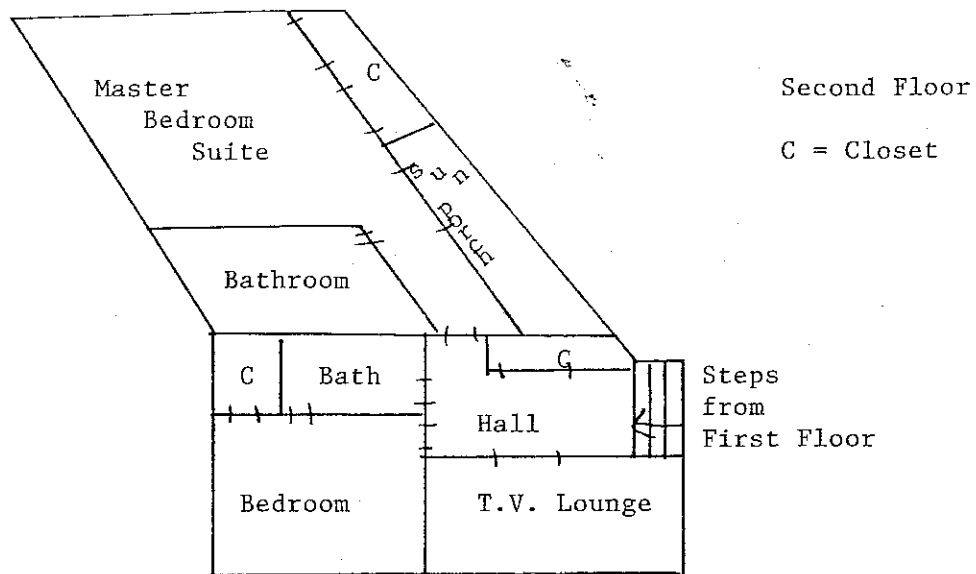
LAUREN McCOY

SIGNED AND SWORN to before me at 8:00 a.m. on the day of this round of the
1989 Georgia Mock Trial Competition.

C. M. McCormack, Notary Public
State of Georgia

My Commission Expires:

FLOOR PLAN OF BOWEN HOME--407 Mockingbird Lane [not drawn to scale]



LET'S HAVE A
GOOD TIME!

WEAR COSTUMES
BRING TREATS
"PUNCH"

OCTOBER 29
8:00 P.M. 'TIL . . .

JOIN US
SATURDAY

HALLOWEEN

PARTY

AT

TERRY BOWEN'S

407

MOCKINGBIRD
LANE

FREDDIE SAYS: "Come if you dare! I will be there!!"

ADDENDUM TO THE MOCK TRIAL MANUAL

Supplement to the Case Materials

