**Criminal Mock Trial**

***People of the State of California***

 ***Plaintiff***

***v***

***Cut Eye Higgins,***

 ***Defendant***

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**Facts**

Cut Eye Higgins, is accused of kidnapping, a violation of the criminal law, as written in the California Constitution, Penal Code Sections 207, 208, and 209. To prove that Cut Eye Higgins is guilty of kidnapping, the prosecutor must prove beyond a reasonable doubt that Cut Eye Higgins moved any one of the Jacksons’ a substantial distance, using force or fear, and without their consent.

In addition, it must be proven that 1) the Jacksons were not fugitive slaves, 2) **and** that Cut Eye was aware of this fact when he took them forcefully.

**Opening of Trial:**

**Bailiff:** Please rise. The Court 1 is now in session, the Honorable \_\_\_\_\_\_\_\_\_\_\_\_is presiding.

*(Everyone remains standing until the Judge enters and is seated).*

**Judge**:Bailiff, what is today’s case?

**Bailiff:** Your Honor, today’s case is the People of the State v. Higgins.

**Judge**: I will decide this case solely on the evidence presented in this courtroom.

I will hear testimony of the witnesses, and will have to make judgments about the believability of the witnesses. As the judge, I will listen carefully to all of the testimonies until I hear the entire case.

 Is the prosecution ready? Is the defense ready?

**Attorneys**: Yes, your Honor.

**Prosecution Attorney Opening Statement:** Your Honor, my name is Praiseworthy and I am the prosecuting attorney representing each member of the Jackson family in this case. (*First part of the student essay, prosecution’s summary thesis)* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Defense Attorney Opening Statement**: Your honor, my name is \_\_\_\_\_\_\_\_and I am the defense attorney representing Mr. Cut Eye Higgins, the defendant in this case. We intend to show that Mr. Higgins is not guilty of the crime charged against him. *Student input: summary thesis:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Bailiff:** Witnesses, please stand and raise your right hand. Do each of you swear to tell the truth, the whole truth, and nothing but the truth?

**Witnesses**: I do. (Mrs. Clapp, Jack, Sheriff (with Cut Eye’s credentials), Cut Eye Higgins

**Judge:** Prosecuting Attorney, call your first witness.

**Prosecuting Attorney Praiseworthy:** Thank you,your honor; I call Mrs. Louise Clapp to the stand.

(Mrs. Clapp walks up to testify, led by the bailiff)

**Prosecuting Attorney Praiseworthy**: Mrs. Clapp, would you please tell us where you live, and your occupation.

**Mrs.Clapp:** Yes. I am Louise Clapp, also known as Dame Shirley. I write newspaper articles for the Herald. I live in town, next door to the Jackson family.

**Prosecuting Attorney:** Have you ever seen Mr. Higgins, the defendant in this case?

**Mrs. Clapp**: Yes, I sure have. He is right there (pointing). He is the evil character wearing the bow tie and the dirty jacket with the hole in it!

**Defense Attorney**: I object, your honor. Irrelevant, non-responsive, and unduly prejudicial!

**Judge**: Sustained. Mrs. Clapp, in this courtroom, we will refrain from name-calling. Simply answer the questions asked of you to the best of your ability.

**Mrs. Clapp**: Of course your honor, I apologize.

**Prosecuting Attorney**: Let the record reflect that the witness has identified the defendant.

**Judge:** The record will so reflect.

**Prosecuting Attorney**: When did you see Mr. Higgins?

**Mrs. Clapp**: I don’t remember the date but it wason the evening of the Town Hall meeting, at about 7:00 pm.

**Prosecuting Attorney**: What did you see the defendant do on the night of the Town Hall meeting?

**Mrs. Clapp**: He was swinging a sword cane at toward Mr. and Mrs. Jackson. He was dragging Mrs. Jackson and her daughter, Sally, into the back of his truck, yelling and screaming. He called them fugitive slaves…and said he had a warrant that authorized him to pick them up. When Mr. Jackson frantically showed him what he said were his family’s Free Papers, the defendant grabbed the papers from him. Then he shoved them all in the back of the truck and secured the lock! The entire family was crying out, and begging him to release them!

**Prosecuting Attorney**: After he locked the Jacksons in the truck, did you have any other contact with the defendant, Mr. Higgins?

**Mrs. Clapp**: Yes, I tried to stop him, and I grabbed for the identified Free Papers. The defendant shoved me to the ground!

**Prosecuting Attorney**: No more questions your honor.

**Judge: Defense Attorney**: Do you care to cross-examine the witness?

**Defense Attorney**: Yes, thank you, your honor. Mrs. Clapp, are you aware of the Fugitive Slave Act?

**Mrs. Clapp**: Of course I am. I am a writer and very well educated!

**Defense Attorney**: That is well and good, Mrs. Clapp, are you *so well* educated that you understand that the Fugitive Slave Act, written within the Compromise of 1850 states that it is illegal to *(Student input here….)*

**Prosecuting Attorney:** Objection, your Honor. Hearsay and counsel’s tone is argumentative. Mrs. Clapp is not the one on trial here.

**Judge**: Sustained. Restate the question, counselor.

**Defense Attorney**: Mrs. Clapp, are you aware that there is a fine of $1,000, even possible jail time, for people who interfere with the capture of fugitive slaves?

**Mrs. Clapp:** Yes.

**Defense Attorney**: Yet you chose to break the law by trying to stop Mr. Higgins?

**Mrs. Clapp:** Of course not!I am a law-abiding citizen. The Jacksons’ are not fugitives; I did not break the law.

**Defense Attorney:** Mrs. Clapp, you say that the Jackson’s are not fugitives.

**Mrs. Clapp:** That is correct.

**Defense Attorney**: Do you have documents that prove that the Jacksons are free people?

**Mrs. Clapp:** I tried to get the Free Papers that Cut Eye Higgins ripped from Mr. Jackson’s hands, but the defendant pushed me down and took off with them in his truck.

**Defense Attorney:** Just answer the question, Mrs. Clapp.

**Defense Attorney:** Did you read these papers, Mrs. Clapp? Yes, or no.

**Mrs. Clapp**: No I did not.

**Defense Attorney:** Do you know for a fact that the papers you think you saw were legal Free Papers? Yes, or no.

**Mrs. Clapp**: Well no. I ….

**Defense Attorney**: (interrupting) No further questions your honor.

**Judge:** You may step down Mrs. Clapp. (Bailiff escorts Mrs. Clapp to her seat) Would the prosecution like to call another witness?

**Prosecuting Attorney**: Yes, thank you, Your Honor. I would like to call Jack to the stand. (Jack is escorted by the bailiff)

**Prosecuting Attorney**: Please state your name and your relationship to the defendant, Mr. Higgins.

**Jack**: My name is Jack and I became acquainted with Mr. Higgins when I came around from the Horn from Boston on the ship the Lady Wilma. He is sitting right next to the defense attorney. He is the defendant.

**Judge:** The record will reflect that the witness has identified the defendant.

**Prosecuting Attorney**: In what way were you acquainted with Mr. Higgins?

**Jack**: Well, first of all we discovered that Cut Eye had helped himself to our passage money! Then he stole Dr. Buckabee’s gold map, we kept him from getting hung by a tree for horse stealing, and…

**Defense Attorney:** Objection, your honor. No foundation. This is clearly a young man with a wild imagination!

**Judge:** Yes, Attorney Praiseworthy. I fail to see how this relates to the crime of kidnapping. Sustained.

**Prosecuting Attorney:** I am attempting to bring to light these prior incidents so that the jury can learn about the defendant’s character.

**Judge**: Were any of these prior incidents tried in a courtroom?

**Prosecuting Attorney**: Unfortunately not, your honor. One incident happened out at sea, and the others happened when we lived under vigilante justice. California did not have a Constitution at that time.

**Judge**: You are telling me that none of these alleged crimes have been proven in court. The defendant has not put his character at issue as part of the defense. The jury is instructed to disregard any mention of prior bad acts. Continue.

**Prosecuting Attorney:** No further questions, your honor.

**Judge**: Would you like to cross-examine the witness, Defense Attorney?

**Defense Attorney**: Yes, Your Honor…Isn’t it true that Thomas Jackson is your best friend?

**Jack:** Yes.

**Defense Attorney**: Is it true that you would do anything to help your best friend?

**Jack:** Of course!

**Defense Attorney:** Even make up stories so that he and his family were *not* taken away?

**Jack:** Of course not, I am under oath! I have promised to tell the truth! (together with Jack, Prosecuting Attorney starts speaking)

**Prosecuting Attorney**: I object, badgering the witness.

**Defense Attorney:** I take back the question**.** No more questions, Your Honor.

**Prosecuting Attorney**: Yes, Your Honor, I call Sheriff Jones to the stand… Sheriff Jones, how have you been involved in this case?

**Sheriff Jones:** When it was brought to my attention that there may have been a kidnapping, I called Cut Eye Higgins into my jailhouse office. I asked him if the Jacksons were in his custody and if he had a court-ordered warrant for the Jackson family.

**Prosecuting Attorney**: And what was his reply?

**Sheriff Jones:** He said he had the family in the back of his truck and he showed me a warrant. He said he was given this warrant to pick up the family and take them back to Mississippi.

**Prosecuting Attorney:** Do you have this document?

**Sherriff**: Not any longer, I gave it to the Defense Attorney.

**Prosecuting Attorney**: Judge, may counsel approach the bench?

**Judge:** Yes. (Both attorneys approach the bench and Prosecutor is furious)

**Prosecuting Attorney**: The law states I am to be made aware of any evidence that might show that the defendant is not guilty before the trial begins. I was not told that a warrant to take away the Jacksons’ had been submitted to the sheriff. How do we even know this warrant is legal?

**Defense Attorney**: Judge, I would like to officially enter the warrant into evidence! The warrant issued to Mr. Higgins is to arrest the Jackson family, as fugitive slaves.

**Prosecuting Attorney**: Why wasn’t I aware of this warrant?

**Judge:** This is too important and goes to the heart of the defense. We must enter the warrant into evidence.

**Arabella**: (Comes walking quickly down the courtroom aisle and is holding up papers)

**Prosecuting Attorney:** Your Honor, may I have a moment?

**Judge**: Yes.

**Prosecuting Attorney and Arabella:** (Meet and she hands him papers, they whisper head to head a few minutes)

**Prosecuting Attorney:**  (walks back up to the judge) Your honor, I would like to admit written evidence from this court that the Jacksons were granted Free Papers in this very courtroom six months ago. (He hands the papers to the judge).

**Judge:** This is my signature on these Free Papers! In fact, counselor, didn’t you represent the Jacksons with this case? It was illegal for them to testify because they are African Americans, and you handled it for them.

**Prosecuting Attorney:** That is correct Your Honor.

**Defense Attorney:** There has been a mistake. These are fugitive slaves, not free citizens we are talking about. I have the papers to prove it!

**Judge:** I will allow the admission of both the warrant for the arrest of the Jacksons as fugitive slaves, which will be entered as Exhibit A, as well as the Free Papers, issued by this court, which will be entered as Exhibit B.

The Court will take a recess so that both sides have time to study these two Exhibits. Court will reconvene tomorrow, at the same time, 9:00 am. Court dismissed.

**STOP READ THROUGH**

**Recess:**

Class studies and analyzes the two documents: the Warrant and the Free Papers.

Do they both appear to be authentic? Why or why not?

What additional questions need to be asked?

What needs to be analyzed about each document?

How does the Fugitive Slave Act apply to this situation? (use handout on the law)

What will it take to convict Cut Eye of kidnapping?

What will it take to prove Cut Eye innocent of kidnapping?

Do you need to change the final arguments your group decided upon?

 Is there more you wish to add to your closing argument now that new evidence has surfaced.

**Court Reconvenes:**

**Judge:** Yesterday, just before we broke for the day, new evidence was brought to the attention of the Court and counsel. Counsel has had time to review the evidence and it will be admitted. Exhibit A is a Warrant for the arrest of the Jacksons’ as fugitive slaves; The Free Papers for the Jackson family are marked as Exhibit B. Please note that the Free Papers were issued approximately six months before this trial began. The decision must be made as to what “evidentiary weight” each Exhibit should be given.

Prosecuting Attorney, call your next witness, but I remind you, that as African Americans, none of the Jackson’s may testify.

**Prosecuting Attorney:** Your honor**,** with the admission of the evidence, the Prosecution rests.

**Judge:** Does the defense intend to call any witnesses, or does the defense also rest?

**Cut Eye Higgins:** (Before the Defense Attorney can answer) I want to tell my side, let me settle this.

**Defense Attorney**: (Shakes his head) Cut Eye, sit down!

**Judge:** Mr. Higgins, you have the right NOT to testify, Sir.

**Cut Eye Higgins:** I wanna testify.

**Judge:** It is your choice sir. Take the stand.

**Prosecuting Attorney:** Mr. Higgins, I am showing you what has been admitted as Exhibit A. From which state courthouse did you get this warrant to arrest the Jackson family as fugitive slaves?

*Students: More questions?*

**Cut Eye Higgins:** What does that matter? I got it didn’t I? Look, I know about the Fugitive Slave Act. Slaves can’t escape thinkin I won’t find ‘em. I can get a good sum of money fer each one of ‘em. I got a whole truckload and I’m leavin’ tomorra. I’ll be gettin that boy of theirs too ~ you bet I will.

**Prosecuting Attorney**: No further questions, your Honor.

**Judge:** Do wish to cross-examine the witness, Defense Attorney?

**Defense Attorney**:No further questions, your Honor.

**Judge**: I will now hear the lawyers closing arguments. What the lawyers say is in closing arguments is not evidence, only what has been heard during the trial, or the exhibits that were admitted is evidence. Having said that, Prosecution, you may present your closing arguments.

**Prosecuting Attorney**: (Addresses the jury) Student arguments from essays will be used here.

**Judge:** Defense Attorney, your closing arguments, please.

**Defense Attorney:** My client has been unjustly accused of kidnapping. Yes, the Jackson’s who are fugitive slaves, were taken into custody. Exhibit A is the proof you need that my client had the legal authority to do so. The prosecution has the burden of proof, and has **not** proven beyond a seasonable doubt that the Jackson family was kidnapped. I am asking you to find my client not guilty.

(Or have a student written final argument)

**Judge:**

Ladies and Gentlemen, I am going to read the law that will be followed as I decide this case. Decisions must be made by looking at the facts of the case, and then, by analyzing the laws of our Constitution. The rule of law must be followed.

In order to prove the charge that Cut Eye Higgins is guilty of kidnapping, the prosecutor must have proven beyond a reasonable doubt that Cut Eye Higgins moved any one of the Jacksons’ a substantial distance, using force or fear, and without their consent.

In addition, it must be found that 1) the Jacksons were not fugitive slaves, 2) **and** that Cut Eye was aware of this fact when he took them forcefully.

The jury will begin deliberation.