

**Genesee County Bar Association
2007 High School
Mock Trial Competition**

State of Michigan

v.

Teri Smith

Genesee County Circuit Court
900 S. Saginaw Street
Flint, MI 48502

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STATE OF MICHIGAN, Plaintiff

v.

TERI SMITH, Defendant

TYPE OF CASE

Criminal prosecution
Defense claims innocence
Jury Trial
Circuit Court (State)

NATURE OF LEGAL CLAIMS

The prosecution claims the defendant Teri Smith committed a Hate Crime causing bodily harm and property damage.

SUMMARY OF FACTS

On May 11, 2005 in the quad at State College in Michigan, defendant Teri Smith, a college freshman, is alleged to have called Chris Hussein names based upon his/her race and pushed him/her to the ground, causing bodily injuries. Defendant Smith claims innocence alleging Hussein tripped and tried to help.

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**STATE OF MICHIGAN
SEVENTH CIRCUIT COURT**

STATE OF MICHIGAN)
)
 Plaintiff)
 v.)
)
 TERI SMITH)
 DOB: 10/1/1987)
 SSN: 982-22-0985)
)
 Defendant)
)
 _____)
 Court No. 05-70420-FC

STIPULATIONS

1. Defendant is charged with violation of Michigan Penal Code (excerpt) Act 328 of 1931 750.147b Ethnic intimidation. Sec. 147b.
 - (1) A person is guilty of ethnic intimidation if that person maliciously, and with specific intent to intimidate or harass another person because of that person's race, color, religion, gender, or national origin, does any of the following:
 - (a) Causes physical contact with another person.
 - (b) Damages, destroys, or defaces any real or personal property of another person.
 - (c) Threatens, by word or act, to do an act described in subdivision (a) or (b), if there is reasonable cause to believe that an act described in subdivision (a) or (b) will occur.
 - (2) Ethnic intimidation is a felony punishable by imprisonment for not more than 2 years, or by a fine of not more than \$5,000.00, or both.
 - (3) Regardless of the existence or outcome of any criminal prosecution, a person who suffers injury to his or her person or damage to his or her property as a result of ethnic intimidation may bring a civil cause of action against the person who commits the offense to secure an injunction, actual damages, including damages for emotional distress, or other appropriate relief. A plaintiff who prevails in a civil action brought pursuant to this section may recover both of the following:
 - (a) Damages in the amount of 3 times the actual damages described in this

subsection or \$2,000.00, whichever is greater.

(b) Reasonable attorney fees and costs.

History: Add. 1988, Act 371, Eff. Mar. 30, 1989

Popular Name: Ethnic Intimidation

Popular Name: Hate Crimes

2. Chris Hussein's physical injuries include a dislocated shoulder and some minor bruises.
3. The presiding judge will conduct the trial according to Michigan Rules of Evidence. Trial will be by jury.
4. The jury will be instructed on the elements of the offense according to jury instructions.
5. The presiding judge will entertain no motions other than for an order sequestering the witnesses. Such a motion should be made after the introduction of counsel and before the plaintiff's opening statement.
6. All facts asserted in the witness statements are true and correct.
7. All exhibits included in these case material are authentic and are accurate in all respects; no objections to the authenticity of the exhibits will be entertained.

STATEMENT OF CHRIS HUSSEIN

[Plaintiff Witness]

My name is Chris Hussein. I am seventeen years old, and a freshman student at State College, in Michigan. I live in Grand Rapids, Michigan with my parents and brother, Tim. During this school year, I am living in the freshman dormitory, Jerry Hall. I have not declared a major yet, but am a liberal arts student with an interest in political science and history. I have given some thought to going on to law school, or teaching at the university level. Of course, my performance in my undergraduate work will have a lot to do with my ability to go on to law school – but I would like to try.

I have been raised with a great love and respect for this country and our democratic form of government. My grandparents instilled this emotion in my parents, and them in me, I guess. For that reason, I have always been involved in student government in some way. I was class president in both seventh and eighth grades. In high school I served for three years on the student council.

I decided to run for class representative to the State College student government because I felt that I had the skills and ability to hold that office. I never thought it would cause such difficulties.

On May 1, which I know is “Law Day” I found a horrible picture of what was supposed to be Saddam Hussein hanging taped to my door. The words “Democracy over Evil” were written across the drawing. The whole floor seemed decked out in red, white and blue. On several of the other doors on the floor, pictures of the students were on the doors with construction paper over the ears and the words “hear no evil” were written on the pictures.

A week later, someone tripped me with a mike wire and made me look like a fool in front of all the students gathered to hear candidates in Schechter Hall. Someone even yelled “Hooray for the fall of Hussein” from the back of the room. I felt so disgraced – like they were comparing me to Saddam, just because we have the same last name – which is just simply outrageous. We are not from the same country, we are not related, and we certainly do not hold any of the same beliefs.

Now I know that it was Kim who yelled that at the candidates forum. Kim is one of the group of students led by Teri Smith and is Teri’s campaign manager. They say that they are patriotic, but I think they just get together to talk about other people. I think they are mistaken about American values and would never join in any of their “discussion groups or activities.

These same students poured sand all over my room in the dorm. My books, my clothes, my bed, and my stereo were all covered with sand. I am sure that my stereo is permanently damaged, although the repair shop cleaned and repaired it.

On May 11, I was walking across the quad, from my math class back to my dorm when a group of students led by Teri Smith confronted me. They started talking to me, and then called me names. I tried to keep walking, but Teri blocked my path. Teri said I had to be tough if I was going to stay in the election race, and that they were there to toughen me up. I remember saying something like I was tough enough, and tried to walk away, but couldn’t get past the group of them. There was Teri Smith, who was running against me in the election, and Jim Jones, Tammi Green, Kim Black, and

two others I didn't know. I moved around Kim and was going to run away when Teri pushed me over onto the ground. I hit my shoulder hard, felt a crack, and knew that I was seriously hurt. I dislocated my left shoulder, and dropped my laptop computer, doing serious damage to it, also. I was treated at the student medical center.

On May 16, 2005 I went to see Dean Douglas as soon as I was able. I also had a talk with my dorm residence director about the incidents in May. I told them that I was scared, and asked for their help. They told me that they had alerted campus security, and that they would be more sensitive to my special needs. But, realistically, there wasn't much that they could do to insure that these things would stop. So, I decided to withdraw from the student government election. I believed that all of the things that happened to me were because of my name, and because I was running for class office. I felt that while I couldn't and wouldn't change my name, I could get out of the election. So I did.

But the next day, I felt that for my own self-respect, and for the other students, I needed to let them know what had happened to me. We all have these obligations in a democratic country. I wrote a letter to the editor of the student newspaper that warned the students of the hate mongers on our campus. I realized at the time that it might cause more problems for me, but I couldn't just walk away.

Teri Smith's letter infuriates me. I can't believe that a person can say and do hateful things, and then wrap themselves in the First Amendment for protection. I felt threatened and frightened. I was injured and my property was damaged. I withdrew from an election I wanted to win. Someday, my acceptance to graduate school may depend on extracurricular activities, and student government won't be there. I brought this criminal action, in part, so that I will have an explanation for that.

My grandparents came to this country because they believed that names and social position would not matter—they could be whatever they wanted to be. My parents raised me with those same beliefs. I want to believe that about our country, but right now, I guess I can't.

STATEMENT OF TERI SMITH

[Defendant]

My name is Teri Smith. I am seventeen years old, and a freshman student at State College. I live in Jerry Hall, the dormitory on the south side of campus where most of the freshmen live. I am currently majoring in journalism, and hope someday to write for a city newspaper, or be a correspondent for a news network. I live in Muskegon, Michigan with my parents and my two sisters.

I do not hate Chris Hussein. I never tried to force Chris out of the election. I think that all of this is a serious misunderstanding.

I am a very patriotic person. In our family we celebrate all national holidays, especially those that celebrate the American way of life, like the Fourth of July, Veterans Day, and Law Day. My dad even had a top hat that he wore on Lincoln's birthday and read the Gettysburg address to the family. All of the kids in my group of friends share this same love for our country. We believe that the United States is the greatest nation in the world, and that we need to stand up for America at all times. We follow world politics carefully and are fully aware of the troubles in the Middle-East. Sometimes we meet in one of our dorm rooms to talk about these things. We have tried to get Chris involved in our group, but Chris would never join us.

I was involved in decorating our dorm floor for Law Day. We put up red, white and blue streamers, and pictures. We put the construction paper and quotations on the pictures as a creative expression of our feelings about the current state of the world. Isn't that what all artists do? I was taking a basic art class in preparation for photojournalism, which I take next year. The Law Day decorations were as artistic as any of the projects that I completed for that class.

Ever since the first week of school we have been trying to get Chris Hussein be part of our group. We invited Chris to come out for pizza, to go to the movies, to go to the campus bars, but Chris would never go. Chris said it was because he/she had to study, but I think it was because Chris thought she/he was better than all of us. Both Chris' parents are doctors. They have a lot of money. Maybe that is why Chris always acted so proper and polite all the time. Too serious for a seventeen year old!

Since I was running for office, I was at Schechter Hall the night of the candidates forum. I do not know how or why Chris fell. I heard Kim, my campaign manager, make the joke about the "fall of Hussein" but I really didn't think much of it. After all, you have to admit, it was a pretty clever thing to think of so fast. We all just thought it was funny.

Chris makes too much out of the sand. Like I said before, Chris is always serious and has never gotten involved in any of the fun on our floor. We have done stuff like that to each other in our dorm rooms since the beginning of the school year. Someone filled my room with balloons. There has been shaving cream all over the place. We took all of Kim's books off the shelves and put them in the dresser drawers, and put all Kim's clothes on the book shelves. This is the kind of stuff everyone does in college dorms in America, isn't it? Maybe not where Chris is from.

On May 11, I was walking across the quad with my group of friends when we saw Chris coming towards us. We were going to ask Chris to come with us to the burger place, but Chris started acting like we were trying to hurt her/him. This really made me mad. I told him/her that we weren't a gang or mob, and if Chris was really serious about being involved on campus that she/he ought to be able to see that. When Chris was still acting all panicked, I told Chris to toughen up. Chris panicked and started to run away. I think Chris tripped on Kim's foot, and I saw Chris was going to fall. I reached to try to help, but Chris fell anyway. Chris is certainly no "All American" athlete. The injury is more Chris's fault than anyone else's.

When I read Chris' letter to the State College Crier claiming all of those ridiculous things about me and my group of friends I had to do something. So I wrote a response. In America we have freedom of speech. My future career choice is based on this freedom. I just set the record straight in my letter to the editor.

I am sorry that Chris withdrew from the election because I would have won fair and square. I think Chris knew that I would win, and trumped up all of this stuff to cover up for losing.

STATEMENT OF JORDAN MOORE

[Plaintiff Witness]

My name is Jordan Moore. I hold a Ph. D. from City College in sociology and am currently on the faculty of the University of Michigan. I teach graduate level sociology students and do an extensive amount of research and writing. I have spent the last twelve years studying the subject of hate crimes and trends in our culture.

I am aware that there is a growing number of incidents involving intolerance everywhere in our country, even on our college campuses. Despite the efforts of administrators to keep our institutions of higher learning on a “higher plane” and free from the tensions of our society, our campuses are being plagued by these incidents. Racism, sexism, homophobia, and prejudice of all kinds are rearing their ugly heads on campus.

This is a terrible problem, especially at the university, The campus has always been a place of intellectual freedom. No other place in our culture has historically been as tolerant, as open, as free. Now we certainly are experiencing a new chapter in our history, as our campuses are becoming forced to limit academic freedom in order to insure the safety of minorities on campus.

Incidents are sometimes blatant and sometimes quite subtle. It could be a skit at a Christian fraternity party that makes fun of the Jewish fraternity or vice-versa. It could be a sexist joke in the student newspaper. It could be a fight between students of different races in the student union building. Students could begin wearing tee-shirts with an insulting saying printed on them. Nevertheless, when such incidents continue to be a part of the campus life, problems will arise.

This issue brings into conflict two closely held constitutional principles – First Amendment protection of free speech and Fourteenth Amendment protection of equality. Just as our Supreme Court has always found limitations to the broad protections of both of these amendments, the courts must continually work to find the appropriate balance of these values.

Those of us who study our society have reached the conclusion that as of this time, prejudice appears to be inevitable to some degree. The simple fact is that we are humans and not perfect. We will always make some discriminations just because of our feelings. We will like some people and not others. We really can't help that. It is, as we know, an imperfect world. But when these attitudes become systematic, or deliberate, or part of a pattern of behavior against an individual or group– we cannot stand by or dismiss them as innocent human nature.

I have interviewed Chris Hussein at some length. Chris gave me a thorough description of the activities of the students on the floor of the dormitory. I have also interviewed Dean Douglas and the resident assistant that heard Chris's complaints related to the incidents involved in this trial. I have spent many hours on campus, in various locations, including the student union building, restaurants, dormitory cafeterias, and sporting events. I have familiarized myself with the environment at State College, and Chris Hussein's role there.

I believe that the allegations contained in the complaint against the students in this case are believable and that Chris found them to be threatening. The behavior of these students seems based

in prejudice and intolerance. I have seen similar types of behavior on other campuses and have come to the same conclusion. The behavior crosses the line for me and others in my profession when it is systematic, deliberate and carries out a specific agenda. Here we see those factors. The students were able to terrify Chris Hussein which caused Chris to withdraw from the student election. The results speak for themselves.

STATEMENT OF KIM BLACK

[Defense Witness]

My name is Kim Black and I am a freshman at State College. I reside in Jerry Hall and hang around with Teri Smith, Kim Black, Jim Jones and a bunch of other students. I grew up in Bay City, Michigan and my parents still live there.

I would probably say that Teri is my best friends and that's why I agreed to be his/her campaign manager for State College 10' class representative. I take my responsibilities seriously and was disappointed when Chris Hussein dropped out of the race. I'm very competitive and know that we would have beat Chris, but he never gave us a chance.

The letter he wrote to the State College Crier was garbage. He said he was hurt by an angry mob of students in the quad. Chris said this supposed "mob" was led by Teri. First of all, we are not a mob, but just a bunch of friends who gathered at the quad in between classes. That's where everyone meets in between classes.

We ran into Chris and started talking about his/her chances for winning the election when Chris got all mad, took off, tripped and fell hard. On what, I don't know. But Chris is not real coordinated. The week before, Chris tripped on a mike wire during the candidate forum at Schechter Hall. I did make a wise crack about the "fall of Hussein" when Chris tripped, but instead of laughing it off, which is what I would have done, Chris was embarrassed and blamed his clumsiness on others. His parents are both doctors. I think they need to check him out. I admit that my mouth gets ahead of me, but when I do or say something stupid, I'll be the first to admit it. So, I apologized to Chris later about my comment and she/he blew me off. Bet Chris didn't mention that, huh?

As far as the student pranks go, well, it happens to all of us. But, when Chris gets so visibly upset, it just eggs people on even more. But, whoever put the empty sand bags in the dumpster outside of my window is trying to put the blame on me. Like I would be dumb enough to pull a stunt like that and not cover up my tracks better?

I don't think Teri hurt Chris, intentionally or not. Teri is strong in his/her beliefs with all of that mom and apple pie stuff, but Teri would not hurt someone just because they were different. I don't buy it. I mean, I've been to Teri's house and all they talk about is what it means to be an American.

STATEMENT OF ALEX NORTH

[Plaintiff Witness]

My name is Alex North. I am twenty-two years old and am a graduate student at State College. I am majoring in educational psychology and received my Bachelor's Degree in Secondary Education with highest honors last year. Since graduation, I have served as residence director at Jerry Hall where Chris Hussein and Teri Smith live as students.

My duties as residence director include counseling students, compiling all of the statistics needed by the university administration on our dormitory, interacting with the cafeteria workers, and even on occasion, supervising the janitorial staff. I attend weekly meetings of the other directors in our dorm unit and monthly meetings of the directors of all of the dormitories on campus. Our dormitory is part of a group of four buildings that share the same common areas and cafeterias. Two of the buildings are mixed residences where both girls and boys live in the same building on alternate floors. The other building and Jerry Hall have boy and girl students on the same floor, but divided by common rooms. The makeup of the dorm population has a lot to do with the types of problems the director has to deal with.

Chris Hussein lives on 3 East, a floor made up almost exclusively of freshmen students. There has always been an attempt to mix the floors with students of different ages, but it is difficult because older students are free to live in campus apartments at less expense than the dorms. In this case, there is only one older student, an art major, I believe, who is always gone long hours at the art building, and hasn't been involved with the students on the floor very much.

I visit each floor regularly in the evenings when I am more likely to find students in their rooms. I get around to each floor about every 8 to 10 days, so I feel I am pretty current. I was aware that there was some tension on 3 East, because some of the kids didn't get along. I wasn't sure of the specifics, but I could tell that some kids were really close and some others were left out. That is not too unusual.

In this case, though, I think that the personalities were not all of the problem. I noted that the kids in one group all looked alike, and dressed alike, and seemed to exclude kids who didn't act and look like themselves. The excluded group was Chris Hussein, and some of the other foreign and minority students. I do not believe that this was just coincidental.

I saw the Law Day display and have a real hard time thinking of it as art. I also am aware of typical pranks. Kids do some crazy things to each other. I've never seen sand used as a prank before and I looked into the matter and sand bags were found in the trash dumpster under Kim's window.

Chris came to me after several of the incidents happened and asked me for help. I told Chris that I understood how she/he must feel and that I would follow up with higher authorities on everything we discussed. It is hard to prevent students from doing things like this, but I told Chris that I would visit 3 East every night.

I brought up Chris's situation at the next weekly meeting, and monthly meeting. Other directors

shared my concern for trends on our campus and we put together a Task Force to formulate a planned response and policy statement.

STATEMENT OF NICKI SMITH

[Defense Witness]

My name is Nicki Smith. I am forty-three years old, and am the parent of Teri Smith. I am a medical technician at Brooke Labs in Muskegon, Michigan. I have worked there since my graduation from State College.

When Teri was only three years old we took our first vacation to Washington, D.C., to see our nation's capital and all of our founding documents and historic places. Since that time we have taken great care to raise our children in an atmosphere that created pride in our family and our nation.

This probably sounds strange, but both of us lost close relatives in World War II and Viet Nam. We both have a family history full of military service and sacrifice for our nation. We realized that part of raising our children to have pride in their heritage required that we at the same time teach them to appreciate how our family had contributed to the life of our nation.

The war in Viet Nam was a difficult time for all of us. My brother was killed there, and my spouse's brother is still MIA. So, you can see that our patriotism is a personal, intense feeling, and very present in our lives.

We never taught our children to hate anyone. We did teach our children to value our Constitution and the ideals our relatives gave their lives for. We worry about all of the American people who have been put out of work by the large number of immigrants making up a cheap labor force. We worry about plant closings and foreign competition. We know that if America is to keep its position as a world power that we must defend our country militarily and economically.

Teri has always been a leader. We have always had many reasons to be proud of Teri. Teri has written award winning essays on interesting issues. Last year Teri won a writing competition for an essay on The Founding Principles at Work Each Day. The essay was mostly about the First Amendment and how it effects our daily lives.

Teri has never been malicious or mean spirited. Teri has a temper, just like anyone, I guess, but has never had any trouble like this before. Teri has always said what was on her/his mind, and sometimes our views have been unpopular. But we taught Teri to stand up for what we believe in and do what is right. Some of Teri's work in high school was considered controversial, at least by one art teacher. But after conversations with the teachers involved they appreciated how Teri was just doing what we had taught him/her to do and accepted Teri's work.

Teri has been misunderstood here. All of these actions have been misinterpreted. Teri is a good American kid. Teri has been quite upset by what is going on at school. On May 10th Teri came home with a friend named Kim during the afternoon. I took off work and we talked for several hours about American values. They returned to campus that evening.

STATE COLLEGE CRIER

May 17, 2005

Letter to the Editor:

Look around campus everyone. What do you see? If you see a peaceful college campus, an institution of higher learning, a place for academic freedom, tolerance and acceptance—look again! If you look carefully, you will see what is really happening quietly, yet effectively on our campus. Bigotry and intolerance are infiltrating our classes and dormitories. Minority students must now be watchful of their fellow students in order to maintain their personal safety.

I have been a candidate for class representative in the upcoming election. I have served on student government since I was twelve years old, and have a lot to offer. But recent incidents have convinced me to announce my withdrawal from the election, effective today.

I have been called terrible names, and compared with Saddam Hussein. I have had my room defaced by insulting posters, and property damaged. I was recently seriously injured by a mob of students on the quad, led by Teri Smith.

I am forced to withdraw, and hope that by doing so, I will save myself further harm and humiliation. But I cannot

silently endure this. I urge all of you to look carefully at what is happening around you. Stand up for others, do not give in to these terrorists who would destroy our university. Do the right thing. Where you see prejudice and intolerance, hatred and injustice based upon race, religion, national origin, or any other irrelevant criteria—speak up—do something!

If you are not part of the solution to this crisis, you are indeed part of the problem.

I have done what I can do. Now you must act. Become informed about this student election. Ask these candidates what they believe in. Their answers will shock you.

Chris Hussein, Class of 2010

EXHIBIT I

STATE COLLEGE CRIER

May 24, 2007

Letter to the Editor:

This column published a letter from Chris Hussein, a student running against me and the other candidates to represent the class of '10 in student government. I feel that I must answer some of the charges made by Hussein in that letter.

Chris Hussein is a serious student with a good record of participation in student government in the past. But, Hussein is not ready to lead on this campus, where we all must stand on our own, without our parents and teachers to protect us. Hussein is not in touch with campus life. Everything that happens seems to offend Hussein somehow. I live on the same dorm floor with Hussein, and know this to be true.

These so-called threats against Hussein's personal safety are totally unbelievable. No one intended to hurt Hussein in any way. You can't even joke around with Hussein, because it will be taken the wrong way as an insult or something.

Hussein says "Look around, What do you see?" I see a great American college. I see a place where American students can

learn and grow to become productive citizens. I also see a lot of students from a lot of other nations, taking places in our college, and then returning to their own country to be productive there, not here. I have friends from high school who could not attend State College because there were no vacancies in our class. They were put on waiting lists. Is this right?

If I am elected I want to give us a strong voice in the operation of this college. I want to make State College a place that we can be free to express our thoughts and beliefs, a place that accepts student expression on all issues, a place where student voices are heard. I have the ability to do that. Chris Hussein doesn't. Chris Hussein does not possess the strength to lead our class. I do.

Teri Smith, Class of '10

EXHIBIT II