

STATE OF TEXAS v. SAM SMART

A Scripted Mock Trial

Learning Objectives: Students will

1. Participate in a mock trial that focuses on safety belt.
2. Analyze the facts of the case for the prosecution and defense.
3. Identify the importance of obeying laws.
4. Describe consequences of breaking laws.
5. Recognize courtroom procedures, the responsibilities of various courtroom positions, and the purpose of the judicial system.
6. Apply critical thinking skills by drawing conclusions about the testimony of witnesses, courtroom objections, safety belt, safety laws, and determining the verdict in a criminal case.
7. Express thoughts through verbal communication.


TEKS: Theater 3.2B, 3rd-3.9A&C, 3.14B; 3.15A&D, 4th– 4.19B, 4.21A-C, 5th-5.19A; 5.23B&D; 5.25A-C; ELAR 4th-13.E&H, 5th– 13.E&H, Theatre 3.2B

Materials Needed: Copies of the “Analyzing the Case” attachment or an overhead transparency of the attachment, copies of the attached scripted mock trial *State of Texas v. Sam Smart*, highlighters

Vocabulary: affirm, ambiguous, attorney, bailiff, clarify, cross-examine, decision, defense, deployed, disregard, evidence, harness, jurisdiction, jury, negligence, nonresponsive, object, opinion, offense, prosecution, relevant, restraint, testimony, verdict, violation

Teaching Strategy:

1. Distribute the mock trial *State of Texas v. Sam Smart* and have students read the “Facts of the Case.”
2. Give students copies of the “Analyzing the Case” attachment or use an overhead transparency of the attachment and have students list the strengths of the prosecution’s side of the case and the strengths of the defense’s side of the case.
3. Have the students discuss the issue that is to be decided.
4. Assign students to the various positions in the mock trial. Have everyone, except the jurors, read silently through the script, highlighting their parts. (Clarify any vocabulary words that are unclear and/or assist with pronunciation, if needed.) The teacher should have the members of the jury make a list of behaviors they think a juror should exhibit in order to assure that the defendant receives a fair trial.

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5. After students have reviewed their parts, the room should be arranged as much like a courtroom as possible. There should be seats for the judge and bailiff at the front of the classroom as well as an empty seat to serve as the witness stand. (If possible have the judge sit behind a table or desk.) The jury should sit adjacent to the judge and bailiff. Have the prosecuting attorneys sit together facing the judge on the side of the room near the jury and the defense attorneys sit together facing the judge on the other side of the room. (Diagram included on Level One-28.)
 6. The following questions should be discussed with students at the appropriate time in the trial or may be used at the end of the trial for evaluation:

- After listening to the opening statement made by the prosecution, what do you think the prosecution is trying to prove?

Possible answer: The driver of a car is responsible for making sure that all passengers have fastened their safety belts (according to the Texas Transportation Code).

- After listening to the opening statement made by the defense, what do you think the defense is saying happened?

Possible answer: Sam Smart made every effort to get the passengers in his car to fasten their safety belts, so he would not have to pay a fine.

- What do you think are the key facts that you learned from the testimony of Ima Duncan?

Possible answers: Sam asked the passengers to buckle up, Ima put her shoulder belt behind her; Sam didn't suggest Ima wear the shoulder belt correctly, etc.

- The defense objected to Ima's testimony several times stating that her answer was not relevant, was unclear, or that she was expressing an opinion. What purpose do you think objections have in a trial?

Possible answer: Objections are used to make sure that a trial is fair and prevent improper questions/answers.

- Every witness may be cross-examined by the opposing side. What do you think is the purpose of cross-examination during a trial?

Possible answer: The purpose of cross-examination is to bring out evidence that will help your side and show the weaknesses of the opponent's witnesses.

- What do you think were the key facts that you learned from Officer Copperfield?

Possible answers: Location of crash, driving conditions, who was wearing a safety belt, Texas Transportation Code, etc.

- After listening to the prosecution, do you feel that they proved what they claimed they would prove in the opening statement?

Possible answers: Answers will vary.

- How do you think the testimony of Amanda Gentry and Cynthia Champion helped Sam's case? ... hurt Sam's case?

Possible answers: Answers will vary.

- What do you think were the key facts that you learned from the testimony of Sam Smart?

Possible answers: Asked passengers to buckle up, crash details, called 911, got a ticket from Officer Copperfield, took a driver's education course, heard the click of Ima's safety belt, never gotten a ticket before, never heard of this safety belt law.

- What did you learn about the purpose of the closing arguments of both the prosecution and defense? Which side do you feel had the strongest closing and why?

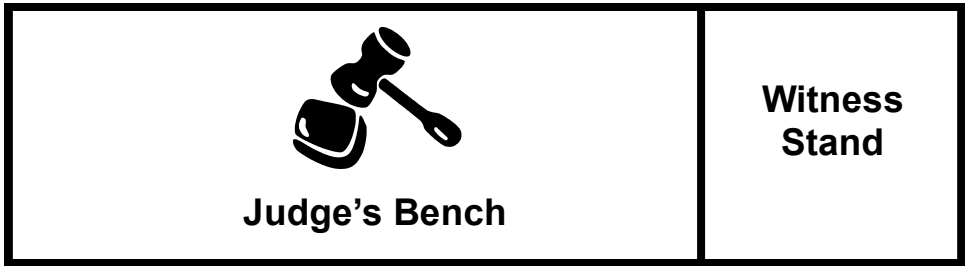
Possible answers: Answers will vary.

7. After the trial has been completed, debrief the activity by discussing the following questions:

- Why does Texas have a law regarding safety belt use?
- What are the consequences for breaking a safety belt law?
- Do you think that Sam Smart received a fair trial? Why or why not?
- Who has the most difficult position in the courtroom? Why?
- What did you think about participating in a mock trial? Explain.
- What new things did you learn by participating in the mock trial?

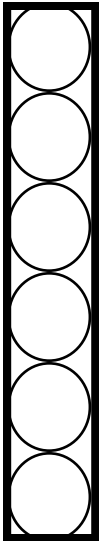
Extension for Gifted/Talented: Students will read and analyze the case of *Carlson v. Ferris* (attached) and compare it to the case of *State of Texas v. Sam Smart*, explaining how they are alike and how they are different.

Judge



Bailiff

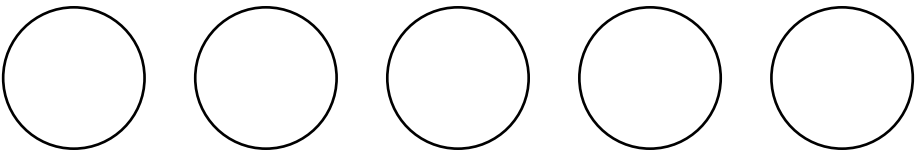
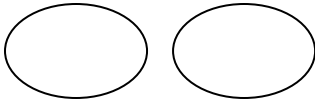
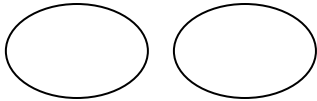
Court Reporter



Jury Box

Defense's Table

Prosecution's or Plaintiff's Table



AUDIENCE



ANALYZING THE CASE

**Facts that help the Prosecution
(State of Texas)**

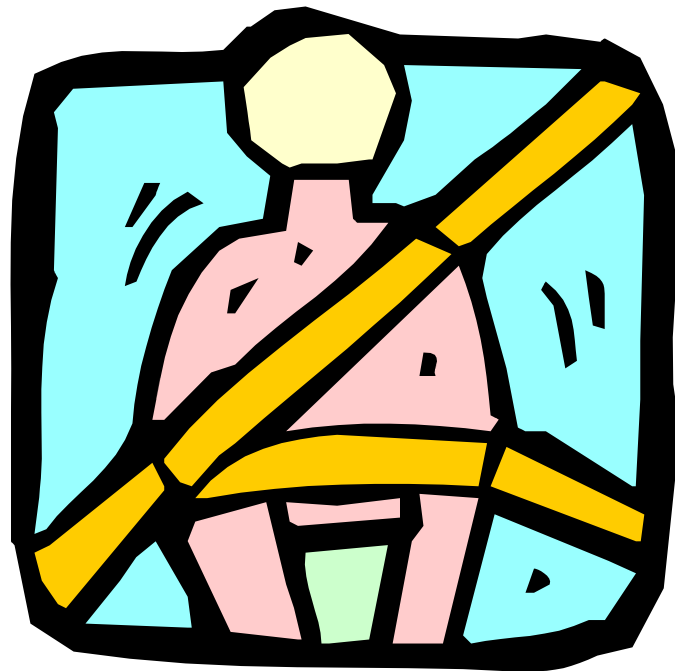
**Facts that help the Defense
(Sam Smart)**

STATE OF TEXAS

v.

SAM SMART

A Scripted Mock Trial



State of Texas v. SAM SMART

Facts of the Case:

Late on the rainy afternoon of November 22, 2____ Ima Duncan, age 14, was a front seat passenger in a car driven by Sam Smart, age 18. Another passenger, Amanda Gentry, was in the back seat.

While driving along Lavender Lane, Sam saw a small dog dart out into the street directly in front of him. He immediately slammed on his brakes and swerved to miss the dog. Because of the wet road conditions, Sam lost control of the car and hit a nearby tree, causing the airbags to deploy.

The only injury that occurred was to Ima Duncan, who was wearing only her lap belt. She had put her shoulder belt behind her back in order to protect the decorative sequins on her T-shirt. Both Sam Smart and Amanda Gentry were wearing their safety belts correctly. Emergency personnel took Ima Duncan to a local hospital.

Police officer Eric Copperfield investigated the crash. Sam was ticketed for failure to ensure that all his passengers were safely secured in safety belts.

Ima Duncan was treated for a dislocated shoulder caused by hitting the right front passenger door. She spent the next several months in physical therapy for her shoulder injury, ending her basketball season at her school and perhaps her hopes of improving to the point of playing college basketball.

Sam asked for a jury trial regarding his ticket. He felt it was unfair because he had told Ima to put on her safety belt, and he did not realize that she had put the shoulder belt behind her back.

Issue: Is Sam Smart guilty of violating Section 545.413 of the Texas Transportation Code?





Positions in the Mock Trial

Judge

Bailiff

Defendant—Sam Smart

Witnesses for the Defense—Amanda Gentry, Passenger

Witness for the Defense—Cynthia Champion, Coach/Instructor

Witnesses for the Prosecution—Ima Duncan, Passenger

Witness for the Prosecution—Eric Copperfield, Police Officer

Witness for the Prosecution—Bob Buckle, State Trooper

Prosecuting Attorney #1

Prosecuting Attorney #2

Prosecuting Attorney #3

Defense Attorney #1

Defense Attorney #2

Defense Attorney #3

Juror #1

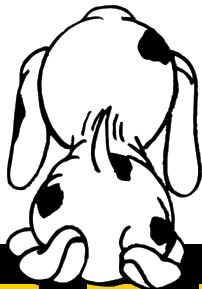
Juror #2

Juror #3

Juror #4

Juror #5

Juror #6





State of Texas v. Sam Smart

Bailiff: (STAND) All rise. (PAUSE) The Municipal Court of the City of Harmony is now in session. The Honorable Judge _____presiding.

Judge: (ENTER THE ROOM AND TAKE YOUR SEAT) Please be seated. The case of the *State of Texas vs. Sam Smart* is now ready for trial. Is the State ready?

Prosecuting Attorney #1: (STAND) The prosecution is ready. (SIT DOWN)

Judge: Is the defendant ready?

Defense Attorney #1: (STAND) The defendant is ready. (SIT DOWN)

Judge: The bailiff will swear in the jury.

Bailiff: (WALK OVER TO THE JURY) The jury will stand, raise your right hands, and be sworn in.

Each of you do solemnly swear that in the case of the State of Texas against Sam Smart, you will a true verdict render according to the law against the evidence (so help you God).


You may be seated. (RETURN TO YOUR SEAT)

Judge: It's my understanding that the defendant has been notified of the charges, has plead "not guilty", and has waived the right to have the charges re-read.

Defense Attorney #1: That is correct.

Judge: Sam Smart how do you plead to such charges.

Sam Smart: Not guilty, Your Honor.



Judge: (LOOK AT THE PROSECUTION) Does the prosecution have an opening statement?


Prosecuting Attorney #1: (STAND) Yes, Your Honor. May it please the court. Your Honor and members of the jury, my name is _____, and I am one of the prosecutors representing the People of the city of Harmony in this action against Sam Smart. This case involves the carelessness of an automobile driver who failed to make sure all the passengers in his car were safely safety belted, as required by Texas Transportation Code, Section 545.412. This carelessness led to the injury of Ima Duncan, one of the passengers riding with the defendant, when his car was involved in a crash. The defendant, (POINT TO THE DEFENDANT) Sam Smart, did not abide by the Texas Occupant Restraint Laws that require a driver of a vehicle to make sure that all passengers under the age of 17 be secured by a safety belt. Ladies and Gentleman, after you have heard and seen the evidence brought before you, we are convinced you will agree that Sam Smart did indeed break the law and should be required to pay the maximum fine as allowed by law. Thank you. (SIT DOWN)


Judge: Thank you. (LOOK AT THE DEFENSE) Does the defense have an opening statement?

Defense Attorney #1: (STAND) Yes, Your Honor. May it please the court. Your Honor and members of the jury, my name is _____, and I am one of the defense attorneys protecting Sam Smart's rights today. The evidence will show that Sam Smart reminded both passengers in the car to buckle their safety belts before he began driving his vehicle. We will show that he took every precaution possible to avoid injury to himself and others. It was a rainy day, and he swerved to miss a small, defenseless dog when the animal darted into the street. But because Ms. Duncan had placed her shoulder harness behind her, she was injured. In fact, it is because of Mr. Smart's quick reaction that the dog was not killed and only one passenger was slightly injured. He should not be required to pay this fine. Thank you. (SIT DOWN)

Judge: Thank you. Will the prosecution please call its first witness.

Prosecuting Attorney #2: (STAND) The State calls Ms. Ima Duncan.





Ima Duncan: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

Bailiff: (APPROACH THE WITNESS) Raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Ima Duncan: I do. (SIT DOWN)

Bailiff: (RETURN TO YOUR SEAT)

Prosecuting Attorney #2: State your name and address for the court, please.

Ima Duncan: I am Ima Duncan, and I live at 465 Dribble Drive.

Prosecuting Attorney #2: Where were you on the afternoon of November 22, 2_____?

Ima Duncan: I was coming home from basketball practice with Sam Smart and my friend, Amanda Gentry.

Prosecuting Attorney #2: Did Sam ask you and Amanda to buckle your safety belts when you got in the car?

Ima Duncan: He said something like “buckle up everybody,” but I had on a sequined T-shirt, so I fastened my lap belt and put my shoulder belt behind me.

Prosecuting Attorney #2: Did Sam suggest that you put your safety belt on the correct way?


Ima Duncan: No, he didn’t say anything about it.

Prosecuting Attorney #2: Did Amanda put on her safety belt?

Ima Duncan: I guess so.

Defense Attorney #1: I object, Your Honor. Unless the witness can answer with a definite yes or no, the witness lacks personal knowledge.

Judge: The objection is sustained.



Prosecuting Attorney #2: What happened after you got in the car?

Ima Duncan: We were almost home on Lavender Lane when a little dog ran right out in front of us. I screamed, and Sam slammed on the brakes.

Prosecuting Attorney #2: What happened when Sam slammed on the breaks?

Ima Duncan: The car went crazy.

Prosecuting Attorney #2: Please describe for the members of the jury what you mean by that.

Ima Duncan: The car swerved to the right, and we slammed into a tree.



Prosecuting Attorney #2: Did the air bags deploy?

Ima Duncan: Yes.

Prosecuting Attorney #2: How did you feel after the air bags deployed?

Ima Duncan: I felt shooting pains in my shoulder, and the air bag was suffocating me.

Prosecuting Attorney #2: Did you receive medical treatment?

Ima Duncan: Yes, Sam used his cell phone to call 911 and I was rushed to the hospital.

Prosecuting Attorney #2: What injuries did you sustain?

Ima Duncan: My shoulder was dislocated, I am now in physical therapy, and my basketball career is ruined.

Defense Attorney #1: (STAND) Objection, Your Honor. The witness is being non-responsive. (SIT DOWN)

Judge: Sustained. (LOOK AT THE JURY) Ladies and Gentleman of the Jury, please do not weigh as evidence what the witness just said.





Prosecuting Attorney #2: I have no further questions, Your Honor. (SIT DOWN)

Judge: Does the defense wish to cross-examine this witness?

Defense Attorney #2: (STAND) Yes, Your Honor. Ms. Duncan, you have testified that Sam suggested that you buckle your safety belt. Is that correct?

Ima Duncan: Yes, he mentioned it when we got in the car.

Defense Attorney #2: But you didn't fasten it correctly, did you?

Ima Duncan: Well, I fastened the lap belt.

Defense Attorney #2: But you put the shoulder belt behind you so you wouldn't mess up your fancy shirt, isn't that right?

Ima Duncan: Yes, but it was a brand new shirt.

Defense Attorney #2: And now your shoulder is messed up, isn't it?

Ima Duncan: Yes.

Defense Attorney #2: So this could all have been avoided if you fastened your safety belt correctly, isn't that true?

Ima Duncan: The wreck was Sam's fault, not mine.


Prosecuting Attorney #1: Objection, Your Honor. The witness's answer was non-responsive to the question.

Judge: Objection sustained. Ms. Duncan, please answer the question that was asked.

Defense Attorney #2: Isn't it true that your injuries could have been avoided if you had done as Sam asked and left your shoulder harness the way it should have been—in front of you instead of behind?

Ima Duncan: I don't know.

Defense Attorney #2: Your Honor, I have no further questions. (SIT DOWN)



Judge: (LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the prosecution have any further witnesses?

Prosecuting Attorney #3: (STAND) The prosecution calls police officer Eric Copperfield to the stand.

Officer Copperfield: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)



Bailiff: (APPROACH THE WITNESS) Raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Officer Copperfield: I do. (SIT DOWN)

Bailiff: (RETURN TO YOUR SEAT)

Prosecuting Attorney #3: Please state your name and occupation for the court.

Officer Copperfield: My name is Eric Copperfield, and I am a police officer for the Harmony Police Department.

Prosecuting Attorney #3: How long have you worked for the Harmony Police Department?

Officers Copperfield: This is my first year.

Prosecuting Attorney #3: Did you investigate a crash on the afternoon of November 22, 2_____?

Officer Copperfield: Yes, I did. I received a call about a crash in the 700 block of Lavender Lane. When I arrived, I found that a 2004 Ford Explorer had hit a tree close to the street.



Prosecuting Attorney #3: Was anyone injured?

Officer Copperfield: One female passenger had a shoulder injury.

Prosecuting Attorney #3: What were the driving conditions at the time?

Officer Copperfield: The streets were wet because it had rained that day.

Prosecuting Attorney #3: Was everyone in the vehicle wearing a safety belt?

Officer Copperfield: The driver and the backseat passenger were wearing their safety belts; however, the passenger who sustained the injuries was only wearing her lap belt.

Prosecuting Attorney #3: What does Texas law say about safety belts?

Officer Copperfield: According to Texas Transportation Code Section 545.413: A person commits an offense if he or she allows a child younger than 17 to ride in a vehicle without requiring the child be secured by a safety belt.



Prosecuting Attorney #3: In your expert opinion, did the defendant, Sam Smart, violate this law?

Officer Copperfield: Yes, that's why I issued him a ticket.

Prosecuting Attorney #3: I have no further questions, Your Honor. (LOOK AT THE DEFENSE) Your witness. (SIT DOWN)

Defense Attorney #3: (STAND) Officer Copperfield, you testified that you issued a ticket because one of the passengers was not buckled up, when in fact she was, isn't that correct?

Officer Copperfield: Ms. Duncan was obviously not using the safety belt as it was designed to be used, since the shoulder belt was behind Ms. Duncan's back.

Defense Attorney #3: Wouldn't you agree that it was Ms. Duncan's fault that she was not wearing her safety belt correctly?

Officer Copperfield: The law states that it is the driver's responsibility to see that passengers are safely secured.

Defense Attorney #3: Isn't it true that you have given out more safety belt violation tickets in your rookie year than any other police officer in the



history of the Harmony Police Department?

Officer Copperfield:

I have no idea how many tickets I have given out. I just do my job and carry out my responsibilities to keep the public safe.



Defense Attorney #3:

You are aware of the Rookie of the Year Award, aren't you?

Officer Copperfield:

Yes, I am.

Defense Attorney #3:

In your eagerness to write tickets and receive that award, you didn't really give Sam Smart a chance to explain his side of the story, did you?

Officer Copperfield:

The law is the law, and it was Sam's responsibility to make sure Ms. Duncan's safety belt was fastened correctly.

Defense Attorney #3:

I have no further questions, Your Honor. (SIT DOWN)

Judge:

(LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the prosecution have any further witnesses?

Prosecuting Attorney #1:

(STAND) The prosecution calls Trooper Bob Buckle to the stand.

Bob Buckle:

(MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

Bailiff:

(APPROACH THE WITNESS) Raise your right hand, please. Do you swear to tell the truth, the whole truth, and nothing but the truth?

Bob Buckle:

I do. (SIT DOWN)

Bailiff:

(RETURN TO YOUR SEAT)



Prosecuting Attorney #1:

Please state your name and occupation for the court.

Bob Buckle:

My name is Bob Buckle, and I am an officer with the Texas Department of Public Safety.

Prosecuting Attorney #1:

How long have you been a state trooper?





Bob Buckle: 18 years.

Prosecuting Attorney #1: Tell the court your experience in investigating traffic crashes in which safety belts were not properly used.

Bob Buckle: I have investigated many crash's over the years. The ones I hate the most are the ones where injuries could have been prevented.

Prosecuting Attorney #1: Prevented in what way?

Bob Buckle: If people would just wear safety belts correctly, many injuries would be prevented.

Prosecuting Attorney #1: We all agree that safety belts should be used, but whose responsibility is it that all people in the car are buckled up correctly?

Bob Buckle: According to the law, it's the driver's responsibility if the passengers are under 17 years of age.

Prosecuting Attorney #1: Do you agree with that law?

Bob Buckle: Well, you know how teenagers are. They get busy talking and sometimes don't think about how important it is to fasten their safety belts, so I think it's a good idea for the driver to make sure.


Prosecuting Attorney #1: I have no further questions, Your Honor. (LOOK AT THE DEFENSE) Your witness. (SIT DOWN)

Defense Attorney #1: (STAND) Trooper Buckle, did you investigate this crash?

Bob Buckle: No, I did not. This crash was not in my jurisdiction.

Defense Attorney #1: So you're really not familiar with Ms. Duncan's injury and what caused it, are you?

Bob Buckle: I participated in the "Click it or Ticket" campaign, funded by the Texas Department of Transportation, and our statistics show that since we began that campaign, an estimated 1,200 fewer traffic fatalities and 28,000 fewer injuries have occurred in Texas as a





result of increased safety belt use. I've investigated enough car crashes to be able to tell you just about what happened in any of them. And safety belts are important, I can guarantee that.

Defense Attorney #1: But you were not at the scene of this particular crash and have no direct knowledge concerning Sam Smart or the passengers in his car, correct?

Bob Buckle: That is correct.
Defense Attorney #1: I have no further questions, Your Honor. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the prosecution have any further witnesses?

Prosecuting Attorney #1: No, Your Honor, the prosecution rests.

Judge: (LOOK AT DEFENSE) The defense may call its first witness.

Defense Attorney #3: (STAND) The defense calls Amanda Gentry to the stand.



Amanda Gentry: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

Bailiff: (APPROACH THE WITNESS) Raise your right hand, please. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

Amanda Gentry: I do. (SIT DOWN)

Bailiff: (RETURN TO YOUR SEAT)

Defense Attorney #3: Please state your name for the court.

Amanda Gentry: I am Amanda Gentry.

Defense Attorney #3: How do you know the defendant, Sam Smart?

Amanda Gentry: He is a neighbor and often gives me a ride home from school.



Defense Attorney #3: Is he a good and safe driver?

Amanda Gentry: Yes, my parents never object to me riding with him. He took a strict driver training course and is always very careful.

Defense Attorney #3: Did you hear him tell Ima and you to fasten your safety belts?

Amanda Gentry: Yes, as soon as we got settled in, he said, "Buckle up."

Defense Attorney #3: Did Ima fasten her belt?
Amanda Gentry: I heard the belt click when she fastened it.

Defense Attorney #3: I have no further questions, Your Honor. I pass the witness. (SIT DOWN)

Judge: Does the prosecution wish to cross-examine this witness?

Prosecuting Attorney #3: (STAND) Yes, Your Honor. Amanda, you say that Sam told you and Ima to buckle up, is that correct?

Amanda: Yes, when we first got in the car.

Prosecuting Attorney #3: But Sam didn't turn around and check to see if you had fastened your safety belt correctly, did he?

Amanda: No, but he knows I always buckle up.

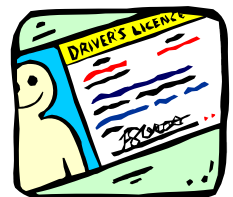
Prosecuting Attorney #3: What about your friend, Ima? She doesn't always buckle up, does she?

Amanda: No, she doesn't. But that's her fault, not Sam's.

Prosecuting Attorney #3: I have no further questions, Your Honor. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. (LOOK AT THE PROSECUTION) Does the defense have any further witnesses?

Defense Attorney #2: (STAND) Yes, Your Honor, we'd like to call Cynthia Champion to





the stand.

Bailiff: (APPROACH THE WITNESS) Raise your right hand, please. Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth?

Cynthia Champion: I do.

Defense Attorney #2: Please state your name and occupation.

Cynthia Champion: My name is Cindy Champion, and I am the Harmony High School basketball coach and a driver education instructor.

Defense Attorney #2: Do you know the defendant, Sam Smart?

Cynthia Champion: Yes. He took my driver education course when he was 16.

Defense Attorney #2: Was he a good student?

Cynthia Champion: He was one of my most dependable students, always there on time. And he did an exceptional job behind the wheel.

Defense Attorney #2: How much behind-the-wheel instruction did Sam receive?

Cynthia Champion: He received seven hours of in-car training.

Defense Attorney #2: From your observations, was Sam aware of the safety belt guidelines for the State of Texas?

Cynthia Champion: Yes, he always fastened his safety belt and made sure everyone else in the car buckled up, including me! In fact, Sam's classmates nicknamed him "Safety Belt Sam" because he made such a big deal about fastening safety belts.


Defense Attorney #2: How did he do on the written examination?

Cynthia Champion: He passed it with flying colors. I've rarely had a student do so well.

Defense Attorney #2: Wouldn't you agree that it was Ms. Duncan's fault that she was not wearing her safety belt correctly?

Cynthia Champion: I know that Sam Smart is a very responsible driver and that if Ms.





Duncan was not wearing her safety belt correctly, it was probably her fault.

Prosecuting Attorney #3: I object, Your Honor. The witness is not qualified to give an expert opinion on fault and is speculating.

Judge: Objection sustained. The jury will not weigh as evidence what the witness just said.

Defense Attorney #2: I have no further questions, Your Honor. (SIT DOWN)

Judge: Prosecution, do you wish to cross-examine this witness?

Prosecuting Attorney #2: (STAND) Yes, Your Honor. Ms. Champion, if Sam Smart did so well in your driver education course, you would think he'd know about the regulation stating that it's the driver's responsibility to make sure all his passengers are bucked up properly, wouldn't you?

Cynthia Champion: He was an excellent student, and I am sure he knows that all passengers should fasten their safety belts. As I said earlier, I have seen him practice using his safety belt.

Prosecuting Attorney: But it is still the driver's responsibility, isn't it, Ms. Champion?

Cynthia Champion: Yes.


Prosecuting Attorney #2: I have no further questions, Your Honor. (SIT DOWN)

Judge: (LOOK AT THE WITNESS) The witness is excused. Does the defense have any further witnesses?

Defense Attorney #1: (STAND) Your Honor, the defense calls the defendant, Sam Smart, to the stand.

Sam Smart: (MOVE TO THE WITNESS STAND AND BE SWORN IN BY BAILIFF)

Bailiff: (APPROACH THE WITNESS) Raise your right hand, please. Do you swear or affirm that the testimony you are about to give is the





truth, the whole truth, and nothing but the truth?

Sam: Yes.

Defense Attorney #1: Please state your name for the court.

Sam: I'm Sam Smart, and I go to Harmony High School.

Defense Attorney #1: Sam, tell us about what happened on the afternoon of Nov. 22, 2_____.

Sam: I was giving Ima and Amanda a ride home from school. They live in my neighborhood, and they like to hang out at the gym to watch basketball practice.

Defense Attorney #1: What was the weather like that afternoon?

Sam: Cold and rainy, if I remember correctly.

Defense Attorney #1: Go on, please.

Sam: We all piled in the car. I reminded them to buckle up, and we took off for home.

Defense Attorney #1: What happened on the way home?

Sam: Just as we turned onto Lavender Lane, a little dog ran out right in front of the car. I slammed on my brakes, which caused the car to skid a little sideways, and we hit a tree. I didn't think we had hit it that hard, but the girls were screaming.


Defense Attorney #1: What did you do then?

Sam: I was worried about Ima and Amanda, so I checked on them as quickly as I could. Amanda was scared but didn't seem to be hurt, but Ima was complaining about her shoulder, which had hit the side door, I guess.

Defense Attorney #1: Then what happened?

Sam: Well, I couldn't tell how bad Ima was hurt, so I just called 911 on





my cell phone. The EMS arrived a few minutes later. The police also showed up.

Defense Attorney #1: Was there concern about Ima when the ambulance arrived?

Sam: She seemed to be in pain, but neither the EMTs nor Officer Copperfield thought her injuries were that bad—certainly not life-threatening. I was worried about her shoulder.

Defense Attorney #1: Tell us about the ticket you got.

Sam: I couldn't believe that part. Officer Copperfield gave me a traffic ticket because Ima's safety belt was not fastened right. I heard the click of her safety belt when I told her to buckle up. I didn't notice that apparently she put the shoulder strap behind her back.

Defense Attorney #1: And Officer Copperfield said that it was your fault?

Sam: That's what he said. I never heard of that before.

Defense Attorney #1: Sam, did you do well in driver education class?

Sam: I sure did, but I never heard anything about that safety belt law in my driver education class.

Defense Attorney #1: Sam, have you ever gotten a traffic ticket before?

Sam: No, I haven't. My parents said they would take away my car if I ever got a traffic ticket.


Defense Attorney #1: Thank you, Sam. I have no further questions. (SIT DOWN)

Judge: Are there any cross-examine questions for this witness?

Prosecuting Attorney #1: (STAND) Yes, Your Honor. Sam, it sounds like you think safety is an important issue, is that correct?

Sam: Yes, I do. That's why I try to drive as safely as possible.

Prosecuting Attorney #1: But on the afternoon in question, you were obviously driving too fast for the road conditions at the time, causing you to lose control



of your car, slam into a tree, and injure one of your passengers. Isn't that so?

Sam: I wasn't going over the speed limit. I was traveling at a normal speed when that dog ran right out in front of me, and I had to stop real suddenly. I couldn't help it that the streets were wet.

Prosecuting Attorney #1: Sam, you know the importance that safety belts play in a crash, don't you?

Sam: Yes, Sir/Ma'am, I always wear my safety belt, and I ask my riders to wear theirs, too.

Prosecuting Attorney #1: But on Nov. 22, 2_____ you let Ima Duncan wear her lap belt, but didn't insist she wear her shoulder belt. In your viewpoint, is that safe?

Sam: Well, I didn't think anything about it at the time. I heard the safety belt click, so I figured we were good to go.

Prosecuting Attorney #1: But as the driver of the car, especially when your passengers are underage, don't you think it's your responsibility to make sure that everyone is safe?

Sam: Yes, Sir/Ma'am, I do. That's why I told them to buckle up.

Prosecuting Attorney #1: So you agree with the law that states that the driver is responsible for the correct usage of the safety belt system in a car?


Sam: I think it's a good idea for drivers to watch out for their passengers, but I never knew I would get in trouble because Ima put her shoulder belt behind her back.


Prosecuting Attorney #1: No further questions, Your Honor. (SIT DOWN)

Judge: You may step down, Mr. Smart. Are there any more witnesses for the defense?

Defense Attorney #2: No, Your Honor, the defense rests.

Judge: Very well, now we will hear closing arguments. Prosecution, you





may go first.

Prosecuting Attorney #2: (STAND) Thank you, Your Honor. Ladies and Gentlemen of the jury, you have heard evidence today that clearly shows that Sam Smart disregarded the law when he allowed Ima Duncan to ride as a passenger in the front seat of his car without her safety belt being fastened correctly. His carelessness and reckless driving was directly responsible for her injury, causing her a great deal of pain and suffering. Ignorance of the law is no defense. I'm sure you will agree that Sam should be held responsible for the safety belt violation and be required to pay the fine of \$200 plus court costs. (SIT DOWN)

Judge: Defense, do you have a closing argument?

Defense Attorney #2: (STAND) Yes, Your Honor. Ladies and gentlemen of the jury, Sam Smart is obviously a good kid. You have heard testimony that he excels in school and is a responsible citizen of our community, often offering these girls a ride home when he could be hanging out with his friends. Don't we need more kids like Sam? Don't you wish Sam lived in your neighborhood? Yet, he is being held responsible for some obscure safety belt law. Did any of you know about that law? I seriously doubt it. How can you hold this fine young man responsible for knowing something that most people are not aware of? I'm sure you will agree, members of the jury, that Sam Smart should not be fined because Ima Duncan should have known how to wear a safety belt. She should not have put the shoulder belt behind her. If anyone should pay a fine, it should be Ima Duncan. Thank you. (SIT DOWN)

Judge: (LOOK AT THE JURY) Members of the jury, the defendant in this case is charged with violating the Texas Transportation Code Section 545.413, which states that a person commits an offense if they allow a child who is younger than 17 years of age to ride in a vehicle without requiring the child be secured by a safety belt. The fine range for this offense is \$100 to \$200. You have heard the evidence in this case. It is now your job to decide whether Sam Smart is guilty for Ima Duncan's failure to be properly restrained by her safety belt.

Colorado Supreme Court Opinions—December 1, 2003

No. 02SC395. *Carlson v. Ferris*. **Safety Belt Use Requirements—Statutory Interpretation -**

Failure to Mitigate by Nonuse of Safety Belt.



Leslyn Carlson filed suit against Kimberley Ferris after the two were involved in an automobile crash. At the time of the crash, the driver's seat of Carlson's vehicle was equipped both with a shoulder belt and a separate lap belt. Carlson indicated that she was wearing the shoulder belt, but not the lap belt, at the time of the crash. In her defense, Ferris sought to show that Carlson was in violation of Section 42-4-237(2), 11 C.R.S. (2003) because she was wearing only one of the two available safety belts. The trial court found that Carlson was not in violation of Section 42-4-237(2) because she fastened at least one of the belts that had been installed at her seat. The Court of Appeals reversed the judgment of the trial court and held that the plain meaning of section 42-4-237(2) requires drivers to fasten all safety belts included within a motor vehicle's safety belt system.

The Supreme Court analyzed the plain meaning of section 42-4-237(2) and concluded that it requires that drivers and front seat passengers of automobiles that have been equipped with a lap and a shoulder belt according to federal motor vehicle safety standards must wear both the lap and the shoulder belt in order to comply with the law. Unlike the Court of Appeals, the Supreme Court did not find that the plain language of Section 42-4-237(2) requires that a driver or a front seat passenger wear all belts included within a motor vehicle's safety belt system. Instead, the Supreme Court found that, consistent with federal motor vehicle safety standards, the distinct meanings of terms "safety belt system," "belt," and "safety belt" reflect the General Assembly's intent that the term "safety belt" refer to the belts that have been installed in a particular seat. Additionally, the Supreme Court found that use of the term "safety belt" signals the General Assembly's intent to require that drivers and front seat passengers of automobiles that have been equipped with a lap and a shoulder belt according to federal motor vehicle safety standards wear both the lap and the shoulder belt.

In light of the Supreme Court's plain meaning interpretation of Section 42-4-237(2), the Supreme Court supported the judgment of the Court of Appeals.

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