

ROLES TO ASSIGN

1. Judge
2. Courtroom Deputy
3. Prosecutor 1 – opening statement
4. Prosecutor 2 – direct of Dana Capro
5. Prosecutor 3 – direct of Jamie Medina
6. Prosecutor 4 – cross of Pat Morton
7. Prosecutor 5 – cross of J.D. Morton
8. Prosecutor 6 – closing argument
9. Defense attorney 1 – opening statement
10. Defense attorney 2 – cross of Dana Capro
11. Defense attorney 3 – cross of Jamie Medina
12. Defense attorney 4 – direct of Pat Morton
13. Defense attorney 5 – direct of J.D. Morton
14. Defense attorney 6 – closing argument
15. Dana Capro
16. Jamie Medina
17. Pat Morton
18. J.D. Morton

Theft in the 1st degree occurs when a person wrongfully obtains unauthorized control over the property of another with intent to deprive the owner of that property, and the value of the property is more than \$1,500.

United States of America v. Pat Morton¹

Courtroom Deputy: (bang gavel) All rise, the U.S. District Court for the Western District of Washington is now in session, the Honorable _____ presiding.

Judge (walk to judge's bench and sit): Please be seated. Before we begin, I will ask the courtroom deputy to administer the oath to the jurors.

Courtroom Deputy: Would the jurors please rise and raise your right hand.

DO YOU AND EACH OF YOU SOLEMNLY SWEAR THAT THE ANSWERS YOU SHALL GIVE TO THE QUESTIONS ASKED BY THE COURT, TOUCHING UPON YOUR QUALIFICATIONS TO ACT AS JURORS IN THE CAUSE NOW BEFORE THE COURT, SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH?

Jurors: I do.

Judge: Jurors you may be seated. This is a criminal case brought by the United States of America charging the defendant, Pat Morton, with theft in the first degree. The Government claims that Pat Morton, with an intent to deprive the owner, Mountain Top High School, of its property, stole an Apple Computer, valued at \$2,200 from the school. Pat Morton admits that s/he took the computer but denies that s/he had the intent to commit theft. Pat claims that s/he believed that s/he had permission to take the computer.

It will be your duty to decide whether or not Pat Morton is guilty of the crime of theft in the first degree. It is important that you decide the case based on what the evidence shows. It would be wrong to decide the case because you like some lawyers or some witnesses. You must decide what really happened.

It is my duty as the judge to instruct you on the law in this case. The law states that people are guilty of theft in the first degree when they wrongfully obtain unauthorized control over the property of another with intent to deprive the owner of that property, and the value of the property is more than \$1,500.

The government's lawyers must convince you that Pat Morton is guilty of theft in the first degree. If they fail to convince you that the Pat Morton is guilty beyond a reasonable doubt, then Pat Morton will go free. At the end of this case, you will be asked to decide whether or not Pat Morton is guilty of theft in the first degree.

¹ Written by Margaret E. Fisher, *Street Law Mock Trial Manual*, Social Studies School Service, Culver City, CA, 1984, updated 2008.

We now will begin the case. The attorneys for the government, who are called prosecuting attorneys, will go first.

Prosecutor 1: Your Honor, Counsel, and Ladies and Gentlemen of the Jury, my name is _____ and I am representing the United States of America in this case. This is a clear case of theft. The defendant, Pat Morton, really wanted to go on his/her 9th grade class trip to Washington DC. However, Pat's mother had told Pat that they did not have the money and that Pat would not be able to go. The evidence will show that Pat developed a plan to get the money – by taking and then selling one of the five new computers from Mountain Top High School.

Computer teacher Dana Capro will tell you about the purchase of the five new Apple computers in July of last year. Each one cost \$2,200. Dana will also tell you that in the second week of school, on September 15, that a student had a medical emergency during the last period of the day. The teacher went to the hospital with the student and was not able to return to the school until 7:30 that night to lock up the computer room. As the teacher arrived at the school, the teacher saw three young people at approximately 8 p.m., including the defendant Pat Morton, at the front of the school. Pat Morton was holding one end of one of the new Apple computers and was leaving the school. The teacher took the defendant with the other two young people to the office and called the police. They were each arrested and charged with theft in the first degree.

One of the other young people, Jamie Medina, will testify that over a month before the theft, Pat had admitted a plan to steal one of the new computers to get the money for the school trip.

At the end of the trial today, I am sure that you will find the defendant, Pat Morton, guilty of theft in the first degree.

Defense counsel 1: Your Honor, Counsel, ladies and gentlemen of the jury, this case is not as simple as the prosecuting attorney has tried to make you believe. Instead this is a case of a younger sibling looking up to an older sibling and believing in what that older sibling says. Pat Morton is the younger sibling of JD Morton, who was also there on the night of September 15. Pat attended Village Secondary School and is a straight A student. Pat always looked up to the older sibling, JD Morton. It was JD's idea to steal the computer to get money for Pat's class trip.

JD was a senior at Mountain Top High School and had taken the computer class from Dana Capro the year before. JD will testify that on September 15 the night Jamie and JD planned to steal the computer that Pat showed up unexpectedly. JD could not get Pat to leave so JD told Pat that they had permission from the school to borrow one of

the computers for the weekend. JD will testify that Pat had no knowledge of how computers are used at the school and that no computers are ever loaned out.

Also, the prosecuting attorneys are not able to prove beyond a reasonable doubt that Pat Morton intended to steal the computer. This they simply cannot do because Pat did not have the intent to steal the computer. I will ask you to return a verdict of not guilty once you have heard all the evidence.

Judge: Is the prosecution ready to present its case?

Prosecutor 2: Yes, Your Honor. I would like to call my first witness, Dana Capro.

Courtroom Deputy (to Dana Capro): Raise your right hand. Do you swear or affirm that the testimony you are about to give is the truth?

Dana Capro: I do. (Sit down.)

Prosecutor 2: Please state your name for the court and spell it.

Dana Capro: It's Dana Capro, C-A-P-R-O.

Prosecutor 2: What do you do for a living?

Dana Capro: I am a computer teacher at Mountain Top High School.

Prosecutor 2: How long have you been a teacher there?

Dana Capro: I have taught there for 5 years.

Prosecutor 2: Can you describe the computer lab at your school?

Dana Capro: Up until this past summer, we had about 15 computers. They were pretty out of date. Last summer, the school board gave us money to buy an additional 5 computers, the newest Apple computers, each costing \$2,200. I ordered these five new computers and they arrived on August 12 of last year.

Prosecutor 2: What is the policy of Mountain Top High School on loaning out computers?

Dana Capro: The computers are never loaned out to anyone for any reason.

Prosecutor 2: Do you know the defendant, Pat Morton?

Dana Capro: No, up until the night of September 15 when I found that delinquent stealing my computers, I'd never seen him/her before.

Defense Attorney 2: Objection, your honor.

Judge: Sustained. Dana Capro please do not use terms like delinquent in referring to the defendant.

Prosecutor 2: Please tell the court what happened on September 15 of last year.

Dana Capro: I was conducting my afternoon study period when a young woman student became very ill. There was no medical assistance available at the school, so I made arrangements to take her to the hospital. I put one of the more responsible students in charge of the class and left. It took until 7:30 that night at the hospital to get her all settled. I

Defense Attorney 2: Objection, Your Honor, narration.

Judge: Sustained, counsel, please ask another question.

Prosecutor 2: What happened next?

Dana Capro: I headed back to school so that I could lock the computer room, as I normally do at the end of the school day.

Prosecutor 2: What did you find when you returned to the school?

Dana Capro: Well, as I walked up to the computer room, I saw some figures in front of the school. It was about 8 o'clock and it was dark. So I shouted out, "Who's there?" A boy who I now know to be Pat Morton said, "Oh, it's just us coming to borrow the computer." I see that Pat Morton is holding one end of one of our brand new Apple computers and Jamie Medina, a junior in my computer class at Mountain Top, is holding the other end.

Prosecutor 2: What happened next?

Dana Capro: I saw a third person there, at the door of the computer room. S/he must have been trying to lock the door. I realized that it was JD Morton, who took my computer class the year before. Well I ordered all three of them to the office. I called the police. While I was waiting for the police to show up, I noticed Pat Morton was looking pretty scared and was crying.

Prosecutor 2: What happened next?

Dana Capro: During the 45 minutes it took the police to get there, I heard the two siblings talking. It turned into an argument. Pat said, "You told me that the teacher said you could have the computer for the weekend." Then JD said, "Shut up, Pat, you were

in this from the beginning. You knew this was for your trip money. You are the one who told Mom not to worry about the money.”

Prosecutor 2: No further questions, Your Honor.

Judge: Defense Counsel, would you like to cross-examine this witness?

Defense Attorney 2: Yes, Your Honor. Dana Capro, isn't it true that when you first saw Pat Morton, that s/he said “Oh, it's just us coming to borrow the computer?”

Dana Capro: Well, yes.

Defense Attorney 2: Isn't it also true that at the time that you gave a written statement, you indicated that Pat Morton seemed quite open and natural about having the computer?

Dana Capro: Yes, but Pat Morton must be a really crafty

Defense Attorney 2: A yes or no answer is sufficient. No further questions.

Judge: Dana Capro, you may step down. Does prosecution have any additional witnesses?

Prosecutor 3: Yes, Your Honor, the prosecution calls Jamie Medina to the stand.

Judge: Jamie Medina, please come forward and be sworn.

Courtroom Deputy (to Jamie Medina): Raise your right hand. Do you swear or affirm that you will tell the truth?

Jamie Medina: I do. (Sit down.)

Prosecutor 3: Jamie, please tell the court your name.

Jamie Medina: Jamie Medina

Prosecutor 3: What do you do for a living?

Jamie Medina: I'm a junior at Mountain Top High School.

Prosecutor 3: How old are you?

Jamie Medina: I'm 17 years old.

Prosecutor 3: Do you know the defendant, Pat Morton?

Jamie Medina: Yes.

Prosecutor 3: How do you know Pat Morton?

Jamie Medina: I'm a good friend of Pat's older sibling, JD Morton. We used to play basketball together after school. The only thing that I never liked about being with JD was that his/her little sibling, Pat, used to follow JD everywhere. Pat annoyed me by trying to act like a big shot when s/he was only a little kid.

Prosecutor 3: Please tell the court about what happened on August 14 of last year.

Jamie Medina: I was talking to JD, and Pat was there as usual, and I told JD about the new Apple computers coming to the school. I was going to take the computer class in my junior year and would get a chance to use the new computers. I told them that the new computers cost \$2,200 each.

Prosecutor 3: How was Pat reacting to this information?

Jamie Medina: Pat was unusually quiet and then Pat said, "Maybe that's how I can get my trip money."

Defense Attorney 3: Objection, Your Honor, hearsay.

Judge: Prosecution?

Prosecutor 3: Your Honor, this statement is an exception to the hearsay rule, an admission against interest, and should be allowed.

Judge: Objection overruled. The witness may answer the question.

Prosecutor 3: So what did Pat Morton say?

Jamie Medina: Pat said, "Maybe that's how I can get my trip money."

Prosecutor 3: Jamie, what happened on September 11 of last year?

Jamie Medina: JD said that he had a plan for making some easy money, and talked me into agreeing to steal one of the new computers.

Prosecutor 3: Did JD explain this plan?

Jamie Medina: Yes.

Prosecutor 3: What was the plan?

Jamie Medina: Since I was in the computer class, I was supposed to look around the room and see how we could steal one of the new computers.

Prosecutor 3: And was Pat Morton present for this discussion on September 11?

Jamie Medina: Yes, Pat was.

Prosecutor 3: What happened on September 15 of last year?

Jamie Medina: Well, this girl in class gets really sick during last period and the computer teacher left to take her to the hospital. I saw this was a perfect opportunity to get the computer and I talked to JD. He said we should come back to the school about 7:45 that night, and if the building was still open we'd get the computer. JD didn't mention Pat was coming along so I was really surprised when Pat showed up that night.

Prosecutor 3: Then what happened?

Jamie Medina: JD and Pat showed up at the school about 7:45. I was pretty nervous and none of us said much. Pat and I picked up the computer and went outside with it. JD was closing the door when the teacher appeared. I don't remember anybody saying anything, except that the teacher ordered us to the office where the police were called.

Prosecutor 3: What happened while you were waiting for the police?

Jamie Medina: Pat was crying like a baby. Pat and JD got into an argument, but I didn't really hear what they were saying. I figured that now Pat was sad because s/he wasn't going to get the trip money and might go to jail. If JD says now that Pat wasn't in on it, it's only because JD is trying to protect his/her little sibling.

Defense attorney 3: Objection, Your Honor, speculation.

Judge: Sustained. The last comment will be stricken from the record and the jury will be instructed to ignore it.

Prosecutor 3: No further questions, Your Honor.

Judge: Defense counsel, do you want to cross-examine this witness?

Defense attorney 3: Yes, Your Honor. Jamie, turning your attention back to the discussion on August 14, you testified that Pat was unusually quiet, didn't you?

Jamie Medina: Yes, that's true.

Defense Attorney 3: So, it's possible that Pat was not paying any attention to your conversation with JD?

Jamie Medina: Well, I guess it's possible.

Defense Attorney 3: And you were surprised that Pat was there at Mountain Top High School on September 15, weren't you?

Jamie Medina: Yes.

Defense Attorney 3: That was because Pat was not included in the plan to take the computer, was s/he?

Jamie Medina: Yes.

Defense Attorney 3: No further questions, Your Honor.

Prosecutor 3: Your Honor, the prosecution rests.

Judge: Defense counsel, do you wish to call your first witness?

Defense Attorney 4: Yes, Your Honor, the defense would like to call the defendant, Pat Morton, to the stand.

Judge: Would Pat Morton come forward and be sworn?

Courtroom Deputy (stand and raise your right hand): Please raise your right hand. Do you swear or affirm to tell the truth and nothing but the truth?

Pat Morton: I do.

Courtroom Deputy: You may be seated.

Defense Attorney 4: Please tell the court your name.

Pat Morton: My name is Pat Morton.

Defense Attorney 4: Where do you go to school?

Pat Morton: I am a 9th grader at Village Secondary School.

Defense Attorney 4: What kind of student are you?

Pat Morton: I have gotten straight A's every year and am at the top of my class.

Defense Attorney 4: Please tell the court about the events of September 15.

Pat Morton: I admit that I was there at the school on September 15, but I really thought that we were borrowing the computer and that the computer teacher said it was okay.

Defense Attorney 4: Please tell the court more about that.

Pat Morton: Well, my sibling, JD is a senior at Mountain Top High School. S/he took the computer class in his/her junior year. JD knew that the school was getting new computers that s/he wanted to learn how to use. I heard Jamie Medina say....

Prosecutor 4: Objection, Your Honor, hearsay.

Judge: Objection, sustained. Counsel, ask another question.

Defense Attorney 4: What happened on September 15?

Pat Morton: I ran into JD after school and JD invited me to go down to the school later that night to borrow one of the new computers. S/he was going to practice on it over the weekend. The computer teacher had agreed to let JD borrow it, provided JD got it back early Monday morning in time for school.

Defense Attorney 4: What happened then?

Pat Morton: I said sure I'd go with JD to get the computer. I've been taught to respect my sibling and would do anything to help him/her.

Defense Attorney 4: Did you go to the school that night?

Pat Morton: Yes. We got there, and just like JD had said, the teacher had left the door open for us.

Defense Attorney 4: What happened next?

Pat Morton: Well, then the teacher came, and took us to the office and called the police. I saw that something was really wrong. I was frightened. I asked my sibling what was going on. S/he said we were going to get charged with stealing the computer.

Defense Attorney 4: What did you say?

Pat Morton: I yelled at JD and said I wasn't guilty of anything. JD must have been scared too, because JD then said that I knew that we were stealing the computer so that I could have my school trip money. We had an argument about that, but I don't really remember what I said.

Defense Attorney 4: What school trip is this?

Pat Morton: My class had a school trip planned to Washington, DC.

Defense Attorney 4: Were you planning to go to on the trip?

Pat Morton: No, my mother told me on August 12 that we didn't have the money.

Defense Attorney 4: Were you stealing the computer to get money for your class trip?

Pat Morton: No. I wouldn't steal to go on the trip.

Defense Attorney 4: No further questions, Your Honor.

Judge: Prosecutor, would you like to cross examine this witness?

Prosecutor 4: Yes, Your Honor.

Prosecutor 4: Pat, isn't it true that you really wanted to go on this class trip?

Pat Morton: Yes.

Prosecutor 4: And isn't it also true that you would do almost anything to go to Washington, DC?

Pat Morton: Well, yes, but

Prosecutor 4: A yes or no answer will be sufficient.

Prosecutor 4: On the night that Dana Capro caught you at the school, you were leaving the school building with one of the new Apple computers, correct?

Pat Morton: Yes, but like

Prosecutor 4: A yes or no answer is sufficient. And isn't it also true that your sibling JD Morton said that night in front of Dana Capro and Jamie Medina that you knew all along that they were taking the computer to get money for your class trip?

Pat Morton: Yes.

Prosecutor 4: No further questions, Your Honor.

Judge: Pat Morton, you may step down. Defense, call your next witness.

Defense Attorney 5: Your Honor, the defense would like to call JD Morton to the stand.

Judge: JD Morton, would you come forward and be sworn.

Courtroom Deputy (raise right hand): Raise your right hand. Do you swear or affirm that the testimony that you are about to give is the truth and nothing but the truth?

JD Morton (stand and hold up right hand): I do.

Defense Attorney 5: Please tell the court your name.

JD Morton: JD Morton.

Defense Attorney 5: What is your occupation?

JD Morton: I am a senior at Mountain Top High School.

Defense Attorney 5: How do you know the defendant, Pat Morton?

JD Morton: Pat is my younger sibling.

Defense Attorney 5: Please describe your relationship.

JD Morton: Well, Pat and I are very close. We don't live with our dad, so I look out for Pat.

Defense Attorney 5: What did you know of the class trip that Pat's class was going on?

JD Morton: Pat's class was going to Washington DC at the end of the school year, but my mother had told Pat that Pat would not be able to go, as we didn't have the money for it.

Defense Attorney 5: What did you do about this?

JD Morton: Well, I felt really bad about this. I wanted to help Pat out, so I thought up this whole plan to steal the computer. Jamie Medina, who is in Dana Capro's class this year, figured out where we could sell the computer so we could get enough money for the school trip and some for Jamie for helping us out.

Defense Attorney 5: What was Pat's role in planning this theft?

JD Morton: Pat didn't know anything about it. Pat hadn't ever taken computer classes and s/he doesn't even attend Mountain Top High School. Pat wouldn't even know that the school didn't lend out computers.

Defense Attorney 5: Tell the court what happened on Friday, September 15.

JD Morton: Well, Jamie came up to me after school and said the computer teacher had left on an emergency. This meant that the classroom would be unlocked and that would give us a chance to get the computer after it got dark.

Defense Attorney 5: Then what happened?

JD Morton: At about 6 p.m., Pat saw me and decided to hang around. I tried to get Pat to leave, but I couldn't get rid of Pat. I made up this story that Dana Capro had agreed to lend me a computer for the weekend. Pat said s/he'd come to help me get it. So we

went to school together and met Jamie. I was just closing the door when Dana Capro appeared.

Defense Attorney 5: What happened then?

JD Morton: The teacher took us to the Principal's Office. Pat and I had an argument. I admit I said that Pat had been in the plan to steal the computer all along, but I just said that because I was scared. I realized I was in big trouble and I got frightened. The truth is that Pat believed that I had permission to take the computer.

Defense Attorney 5: No further questions, Your Honor.

Judge: Do you wish to cross-examine this witness, counsel?

Prosecutor 5: JD Morton, you've already been found guilty of theft, correct?

JD Morton: Yes, that's true.

Prosecutor 5: You are close to your mother, aren't you?

JD Morton: Yes, but what does that have to do with anything?

Prosecutor: Just answer the question, please. You'd hate to upset your mother further by letting her know that you involved her other child in a criminal act, wouldn't you?

JD Morton: Well, yes, but Pat didn't know about the plans to steal....

Prosecutor: Just answer the question, please. And you did say after Dana Capro caught you that Pat had been involved in the theft all along in order to get money for the school trip, correct?

JD Morton: Well, yes.

Prosecutor: No further questions, Your Honor.

Judge: JD, you may step down.

Defense Attorney 5: The defense rests.

Judge: You may proceed with closing arguments.

Prosecuting Attorney 6: Ladies and gentlemen of the jury, thank you for your service today. You heard yourself that the defendant, Pat Morton was at the school on September 15 and attempted to leave the school grounds with one of the new Apple computers, worth \$2,200. You have heard that Pat Morton had a motive to steal the computer – to get money to go on the class trip to Washington DC, that Pat's mother

had recently informed him/her that they had no money for. Did Pat know that this was a theft or did Pat think they were borrowing the computer for the weekend for his/her sibling to practice on? On the night of September 15, after they had been just been caught with the computer, JD stated that Pat knew all along that they were stealing the computer to get the trip fees. It is only now, that Pat claims s/he believed they were borrowing it. This explanation makes no sense. Pat may not have taken a computer class, but it is common knowledge and experience that students do not borrow expensive equipment from the school. In addition, in August, just after Pat learned that there was no money for the school fees, s/he overheard a discussion about the new Apple computers. Jamie Medina testified that it was at that moment that Pat said that that was how Pat would get the school fees.

The law states that a person commits theft in the first degree when that person wrongfully obtains unauthorized control over the property of another with intent to deprive the owner of that property, and the value of the property is more than \$1,500. The prosecution has proved beyond a reasonable doubt that Pat Morton is guilty of theft in the first degree.

Defense Attorney 6: Ladies and gentlemen of the jury, you must decide whether Pat Morton is guilty of theft in the first degree. The prosecution has failed to prove beyond a reasonable doubt that Pat Morton is guilty. There is a reasonable doubt that Pat had the necessary intent to steal the computer. In fact, Pat believed JD Morton when JD told Pat that JD had permission to borrow the computer. Even the teacher, Dana Capro, testified that when Dana found the students with the computer, Pat said that they had just come to borrow the computer. Dana Capro also testified that Pat was acting quite naturally when Dana found the three students with the computer on September 15. These are reasonable doubts, so therefore you must find my client not guilty of theft in the first degree.

Prosecutor 6: Remember that the facts show clearly that Pat took the computer from the school, that Pat had the motive for stealing the computer and that the explanation that Pat was borrowing the computer is not supported by the evidence. Please do justice today and find Pat guilty of theft in the first degree.

Judge: Ladies and gentlemen of the jury, it is your job to decide whether Pat Morton is guilty of theft in the first degree. If found guilty, Pat may be sentenced to jail and fined. We shall await your decision.