

**PENNSYLVANIA STATEWIDE
HIGH SCHOOL MOCK TRIAL COMPETITION**

2002

COMMONWEALTH OF PENNSYLVANIA

v.

MORGAN MCGRATH

***SPONSORED BY THE YOUNG LAWYERS DIVISION
OF THE PENNSYLVANIA BAR ASSOCIATION***

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PROBLEM QUESTIONS & CONTACT INFORMATION

Questions regarding these case materials should be sent to David Trevaskis at the Pennsylvania Bar Association (PBA). Questions will be answered in cooperation with the Statewide Mock Trial Executive Committee. Questions regarding mock trial procedure, including any involving the Rules of Competition or Rules of Evidence (Pa. Mock Trial Version), should be directed to your District or Regional Mock Trial Coordinators.

Answers to legitimate and non-repetitive questions will be posted on the mock trial website www.pabar.org under the Young Lawyer's Division (YLD) heading (direct access at www.pabar.org/yldstatewidemock.shtml). The questions and answers will be posted in a single supplemental memo which will be continually updated through January 25, 2002.

You may begin submitting questions anytime. **The deadline for submitting questions is January 18, 2002.** The last update to the supplemental memo will be January 25, 2002. The January 25, 2002 memo will become the official supplemental memo and may be used in the Competition. Earlier dated copies may not be used. Please consult Rule of Competition B.4 regarding the evidentiary value teams are to give the official supplemental memo.

Questions must be sent in writing by one of the methods listed below. Please be sure to include return contact information in the event we need to reach you to clarify a question. **NO QUESTIONS WILL BE CONSIDERED UNLESS SUBMITTED UNDER THIS PROCEDURE.**

E-mail:	david.Trevaskis@pabar.org
Fax:	717.238.7182
Regular Mail:	David K. Trevaskis Pennsylvania Bar Association. 100 South Street PO Box 186 Harrisburg, PA 17108-0186

Teams without access to the website can request paper copies from Susan Donmoyer at the PBA (susan.donmoyer@pabar.org; 1-800-932-0311 ext 2223; same address and fax # as above). Please be sure to include your return address.

INTRODUCTION AND ACKNOWLEDGMENTS

Welcome to the 2002 Statewide High School Mock Trial Competition – one of the top high school academic competitions in the Commonwealth! The Competition, begun in 1984, is sponsored by the Young Lawyers Division of the Pennsylvania Bar Association (PBA/YLD). It provides high school students with a firsthand experience of the American judicial system.

This year's case materials were created by Todd Cook, a third year student at Temple University Beasley School of Law. John Drost, Temple University Beasley School of Law Visiting Professor and Director of the LL.M. in Trial Advocacy at Temple, supervised the writing of the problem during the Spring and Summer of 2001. The Statewide Mock Trial Executive Committee sincerely thanks Mr. Cook and Professor Drost for their efforts in the creation of these materials.

The problem centers around a March 14, 2001 fire that destroyed a science building on the campus of James State University. On trial is Morgan McGrath, a James State University student, charged with Arson Endangering Property. McGrath was working in one of the labs in the building, along with fellow students Jesse Dewar and Tracy Wayans, on the night of the fire. The Commonwealth alleges that McGrath intentionally placed a hot plate, set at 700 degrees, against the wall of the lab. It alleges McGrath's motive for destroying the lab was that s/he was angry at his/her English Professor for a low grade. McGrath's English Professor is married to his/her Chemistry Professor.

The 2002 case materials were revised and edited for competition purposes by members of the Statewide Mock Trial Executive Committee. Special thanks is given to YLD Chair-elect Chuck Eppolito for his committee's assistance and contributions to the problem, as well as to Jane Meyer, Mock Trial Co-chair, who coordinated the problem review. Special thanks is also deserved for our mock trial "dynamic duo" - David Trevaskis and Alan Boynton - who continue to provide invaluable advice and insight year in and year out.

We thank as well those volunteers who contributed greatly to the overall organization and running of this year's Competition, particularly Mock Trial Co-chair Desiree Petrus and YLD Chair Seth Mendelsohn. Last, but certainly not least, we thank the PBA's Susan Donmoyer, Traci Klinger and Janell Malone-Kline for their administrative support. Many others, too numerous to mention, provided valuable time and talent – without their help the Competition would not be a success.

We hope that teams find the materials interesting and wish them the best of luck!

**IN THE COURT OF COMMON PLEAS
FOR THE COUNTY OF TEMPLE, PENNSYLVANIA**
Criminal Division

Commonwealth of Pennsylvania	*	Criminal Action No: 0846-01
	*	
	*	
	*	Charges: 18 Pa.C.S.A. §3301(c)
v.	*	Arson Endangering
	*	Property
Morgan McGrath, Defendant	*	

CRIMINAL COMPLAINT

I, the undersigned, do hereby state under oath (affirmation):

1. My name is Chief Colleen Gill, badge #11 of the Temple County Police Department;
2. I accuse Morgan McGrath, who lives at 2425 East Rusley Drive, with violating the penal law of the Commonwealth of Pennsylvania:
3. The day of the week and the date when the accused committed the offense was on or about Wednesday, March 14, 2001;
4. The place where the offense was committed was in the county of Temple;
5. The act committed by the accused was in violation of 18 Pa.C.S.A. §3301(c) Arson Endangering Property, which is against the peace and dignity of the Commonwealth of Pennsylvania and contrary to the Act of Assembly:
6. I ask that a warrant of arrest or a summons be issued and that the accused be required to answer the charges I have made; and
7. I swear to or affirm the within complaint upon my knowledge, information and belief, and sign it on April 11, 2001, before Paul Samione whose office is that of County Magistrate.

Commonwealth of Pennsylvania
County of Temple

/s/ Chief Colleen Gill #11

Personally appeared before me on April 11, 2001, the affiant above named who, being duly sworn (affirmed) according to law, signed the complaint in my presence and deposed and said that the facts set forth therein are true and correct to the best of his/her knowledge, information and belief.

/s/ Paul Samione, County Magistrate
Issuing Authority

**IN THE COURT OF COMMON PLEAS
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v.	*	Arson Endangering
	*	Property
Morgan McGrath, Defendant	*	

AFFIDAVIT OF PROBABLE CAUSE

I, the undersigned, do hereby state under oath (affirmation):

1. My name is Chief Colleen Gill, Badge #11 of Temple County Police Department;
2. I am a representative of the Temple County Police Department which has been, in conjunction with the Temple County Fire Department, investigating the causes of the fire at the Fraser Butterworth Natural Sciences Building, on the campus of James State University, in Temple County;
3. The Temple County Police Department has received the following information regarding the fire at the Butterworth building:
 - a) On March 14, 2001, Morgan McGrath caused a fire when s/he intentionally set up a hot plate against a wall in Lab 2A of the Butterworth Building. The burner ignited paper materials, a section of drywall, and other combustible materials in the lab.
 - b) On March 11, 2001, Morgan McGrath, a Chemistry minor, learned that Professor Hemingway Bode of the James State English department and husband of Professor Lillith Vedder, chair of the Chemistry department, gave McGrath a grade of B- in a creative writing class taken in the Fall 2000 semester.
 - c) The B- in creative writing is the first time (counting junior high school, senior high school and undergraduate university studies) that Morgan McGrath received a grade less than that of an "A."

- d) After receiving the B- grade, Morgan McGrath expressed his/her desire for retribution against Professor Bode.

Based on the aforementioned information, I request that an arrest warrant be issued for Morgan McGrath, whose residence is 2425 East Rusley Drive, Temple County.

I swear to or affirm the above information upon my knowledge, information, belief, and sign it on April 11, 2001, before Paul Samione whose office is that of County Magistrate.

/s/ Chief Colleen Gill #11

WARRANT

TO ANY AUTHORIZED PERSON:

Pursuant to this warrant, you are commanded to arrest Morgan McGrath, defendant, if found in the Commonwealth of Pennsylvania and bring said defendant before the undersigned to answer the foregoing complaint.

/s/ Paul Samione, County Magistrate
Issuing Authority

DOCKET TRANSCRIPT

Paul Samione, County Magistrate
Issuing Authority

Morgan McGrath
Defendant

Colleen Gill
Affiant

Date of Arrest: April 11, 2001

Preliminary Hearing: April 16, 2001

Charges:

18 Pa.C.S.A. §3301(c) Arson Endangering Property

Offense Date:

On or about March 14, 2001

All charges bound over to court. Bail set at \$10,000 cash or bond. Bond posted. Defendant released subject to conditions of bail.

Certified this 16th day of April, 2001

/s/ Paul Samione
County Magistrate

I, the above-named Issuing Authority certify that this Transcript is a true and correct Transcript of the Docket.

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ARRAIGNMENT

I, Morgan McGrath, have been advised of the offense(s) charged in the criminal information against me by the District Attorney of Temple County and I/my lawyer have/has received a copy thereof.

I have been advised and fully understand that I/my lawyer have/has the right to request discovery or disclosure from the District Attorney as provided by the Rules of Criminal Procedure within fourteen (14) days of today's arraignment date.

I have been advised and I fully understand that I/my lawyer have/has the right to file with the Court any pre-trial application for relief in the form of a single omnibus pre-trial motion as provided by the Rules of Criminal Procedure within thirty (30) days of today's arraignment date.

I hereby enter a plea of Not Guilty to the above charges and request a trial by Jury.

Date: 10/16/2001

/s/ Morgan McGrath
Defendant

/s/
Attorney for Defendant

/s/
Attorney for the Commonwealth

**IN THE COURT OF COMMON PLEAS
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INFORMATION

The District Attorney of Temple County by this information charges that on or about March 14, 2001, in said County, Morgan McGrath, did, with intent to commit a specific crime, do an act which constituted a substantial step toward the commission of a crime.

Specific Crimes Attempted:

18 Pa.C.S.A. §3301(c) Arson Endangering Property

Acts done: Defendant did.....with intent to cause the ignition of a fire with the intent thereby to place in danger of or cause the destruction of or damage a building or structure of another.

All of which are against the Act of Assembly and the Peace and Dignity of the Commonwealth of Pennsylvania.

/s/ _____
District Attorney

**IN THE COURT OF COMMON PLEAS
FOR THE COUNTY OF TEMPLE, PENNSYLVANIA**
Criminal Division

Commonwealth of Pennsylvania

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*

Criminal Action No: 0846-01

v.

Charges: 18 Pa.C.S.A. §3301(c)
Arson Endangering
Property

Morgan McGrath, Defendant

RULE 600 WAIVER

I have been advised and I understand that under Rule 600 of the Pennsylvania Rules of Criminal Procedure that my trial in Temple County Court must begin on or before the 180th day from the date of the filing of the criminal complaint accusing me of the above charges. I am aware that these charges may be dismissed if my trial does not commence on or before the 180th day or within any additional time allowed to the Commonwealth under the provision of Rule 600.

I have been advised and I understand that by signing this "Waiver" I am waiving or giving up my right to be tried within 180 days from the filing of the criminal complaint, and I am agreeing that I can be tried after the 180th day.

I have not received any promises, nor have I been forced to sign this waiver. I read and write the English Language and have attended school to eleventh grade. I have reviewed this "Waiver" with my attorney.

Date: September 30, 2001

/s/ Morgan McGrath
Defendant

Date: September 30, 2001

/s/
Attorney for the Defendant

**IN THE COURT OF COMMON PLEAS
FOR THE COUNTY OF TEMPLE, PENNSYLVANIA**
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Commonwealth of Pennsylvania	*	Criminal Action No: 0846-01
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PRE-TRIAL ORDER

And now, this 1st day of November, 2001, it is hereby ordered that:

The Commonwealth brings this action against Morgan McGrath for Arson Endangering Property stemming from the March 14, 2001 fire at Fraser Butterworth Natural Sciences Building on the campus of James State University, in Temple County. The Commonwealth alleges that Morgan McGrath intentionally and unjustifiably ignited or took the necessary steps to ignite the fire that consumed said building by placing a hot plate set at seven-hundred degrees Fahrenheit against the wall of laboratory 2A, causing said wall to burn. The Commonwealth alleges that the Defendant's actions were in violation of 18 PA.C.S.A §3301(c) of the Criminal Code of the Commonwealth of Pennsylvania.

Defendant admits to being present in the Butterworth building approximately one hour before the fire was detected and reported to the Temple County Fire Department. Defendant denies any of his/her actions caused the fire.

The Commonwealth and the Defendant have agreed to stipulate to the authenticity of certain documents as more fully set forth on the Evidentiary Stipulations filed in the case. Certain facts have also been stipulated to below.

A defendant in a criminal action is presumed to be innocent until proven guilty. This presumption places upon the Commonwealth the burden of proving the Defendant guilty beyond a reasonable doubt. Although the Commonwealth has the burden of proving that the Defendant is guilty beyond a reasonable doubt, this does not mean that the Commonwealth must prove its case beyond all doubt to a mathematical certainty, nor must it prove the complete impossibility of innocence. A reasonable doubt is a doubt that would cause a reasonably careful and sensible

person to hesitate before acting upon a matter of importance in his or her own affairs. A reasonable doubt must fairly arise out of the evidence that was presented or out of the lack of evidence presented with respect to some element of the crime. A reasonable doubt must be real doubt; it may not be an imagined one, nor may it be a doubt manufactured to avoid carrying out an unpleasant duty.

The witnesses available for trial are listed below. The prosecution and defense may call only two of the three witnesses listed for their side. The selection of which witnesses to use is up to each side to determine. **The failure to call a particular witness may be noted at trial and inference may be made from that failure, except where the witness not called is the defendant because constitutional protections require that there be no mention of the defendant's failure to testify at trial.** Testimony from an uncalled witness may not be introduced at trial.

For the Commonwealth

- Sal Richardson, James State University student and Defendant's roommate
- Jesse Dewar, James State University student and Defendant's classmate
- Chris Martalioni, Chief of the Temple County Fire Department

For the Defendant

- Morgan McGrath, Defendant
- Tracy Wayans, James State University student and Defendant's classmate
- The Honorable Learned H. McGrath, Defendant's parent

/s/ Vernita Baines
Senior Judge

**IN THE COURT OF COMMON PLEAS
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EVIDENTIARY STIPULATIONS

1. The parties have stipulated to the authenticity of the following items:
 - A. The Criminal Complaint, Affidavit of Probable Cause, Arrest Warrant, Docket Transcript, Arraignment Sheet and Information.
 - B. Exhibits and their pre- markings as indicated on the exhibit list:
 - Exhibit A: E-mail from Morgan McGrath to Professor Hemingway Bode
 - Exhibit B: E-mail from Professor Hemingway Bode to Morgan McGrath
 - Exhibit C: Diagram of South Campus
 - Exhibit D: Diagram of second floor of Fraser Butterworth Natural Sciences Building
 - Exhibit E: Diagram of laboratory station #1, in room 2A of the Fraser Butterworth Natural Sciences Building
 - Exhibit F: James State University Transcript of Morgan McGrath
 - Exhibit G: Mariner High School Transcript of Morgan McGrath
 - Exhibit H: E-mail from the Honorable Learned H. McGrath to Morgan McGrath

Exhibit I: Fraser Butterworth Natural Sciences Building Security Activity Log for March 14, 2001

Exhibit J: Handwritten note by Morgan McGrath

Exhibit K: Diagram of hot plate model used in room 2A of the Fraser Butterworth Natural Sciences Building

The parties reserve the right to dispute any legal or factual conclusions based on these items and to make objections other than authenticity.

2. No team may make argument about the failure of the Prosecution to present the videotape at trial.
3. Any witness who demonstrates knowledge of the James State University Natural Sciences Building may testify to the diagrams of the building. Teams may object if a proper foundation is not made to demonstrate a witness' knowledge with the diagrams.

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STIPULATED FACTS

1. The Fraser Butterworth Natural Sciences Building, on the campus of James State University, was destroyed by a fire on the evening of March 14, 2001. The fire was reported by student safety officer, Scott Springer, at about 8:30 p.m. The estimated time of ignition was 7:45 p.m.
2. The Security Activity Log of the Butterworth Building was produced by a computer on the James State University campus. The computer is networked to a device that reads identification cards when they are swiped at the entrance doors of the Butterworth building.
3. Tracy Wayans, Morgan McGrath and Jesse Dewar each possessed their own identification cards and used them to enter and exit from the Butterworth Building on the evening of March 14, 2001.
4. Morgan McGrath, Professor Hemingway Bode and the Honorable Learned H. McGrath were the only individuals with access to their personal e-mail accounts at all times relevant to this case.
5. All e-mails in evidence were removed from the James State University mainframe computer, which keeps records of all incoming and outgoing e-mails on the University's server.
6. All hot plates found in Lab 2A were of the model depicted in Exhibit K. The dimensions of the hot plate are 6" (width) x 6" (length) x 4" (height). The heating element is 6" x 6" x 1.5" and is made of steel. The base of the hot plate is composed of hard plastic. The heating range of the hot plate is from 0 to 700 degrees Fahrenheit. The left knob controls

the heat of the unit. When the left knob is turned to the extreme left, the hot plate is off and the temperature is room temperature. When the left knob is turned to the extreme right, the hot plate is on the and temperature is approximately 700 degrees Fahrenheit.

7. Chief Martalioni will be accepted as an expert witness in fire investigation.

APPLICABLE LAW OF TEMPLE COUNTY

STANDARD OF PROOF / PRESUMPTION OF INNOCENCE

A defendant in a criminal action is presumed innocent until proven guilty. This presumption places upon the Commonwealth the burden of proving the defendant guilty beyond a reasonable doubt. This does not mean that no possible doubt must exist, because some doubt will always exist. Beyond a reasonable doubt means that a juror, after hearing all of the evidence, is convinced to a moral certainty that the defendant is guilty.

COMMONWEALTH CRIMINAL CODE

18 Pa.C.S.A. §3301(c) Arson Endangering Property

- c) A person is guilty of a felony if he intentionally causes the ignition of a fire on his property, or the property of another, or if he conspires, aids, pays, or agrees to pay another to cause the ignition of such a fire, and if:
 - 1) he commits the act with intent of destroying or damaging a building or unoccupied structure of another; or
 - 2) he thereby recklessly places an inhabited building or occupied structure of another in danger of damage or destruction; or
 - 3) he commits the act with intent of destroying or damaging any property, whether his own or of another, to collect insurance for such loss.

j) Definitions

As used in this section the following words and phrases shall have the meanings given to them in this subsection:

“Occupied structure.” – Any structure, vehicle or place adapted for overnight accommodation of persons or for carrying on business therein, whether or not a person is actually present. If a building or structure is divided into separately occupied units, any unit not occupied by the actor is an occupied structure of another.

“Property of another.” – A building or other property, whether real or personal, in which a person other than the actor has an interest which the actor has no authority to defeat or impair, even though the actor may also have an interest in the building or property.

LIST OF WITNESSES

*Please note that the 2002 Mock Trial packet provides witness statements from three witnesses on each side. The prosecution and defense may call only two of the three witnesses. The selection of which witnesses to use is up to each team, but must be communicated to the other side subject to the requirements in the Rules of Competition. **The failure to call a particular witness may be noted at trial and inference may be made from that failure, except where the witness not called is the defendant because constitutional protections require that there be no mention of the defendant's failure to testify at trial.** If a team improperly raises a negative inference about the defendant's failure to testify, the proper response is for the opposing team to raise an objection pointing out the violation. The objecting team may not move for a mistrial.*

For the Commonwealth

- Sal Richardson, James State University student and Defendant's roommate
- Jesse Dewar, James State University student and Defendant's classmate
- Chris Martalioni, Chief of the Temple County Fire Department

For the Defendant

- Morgan McGrath, Defendant
- Tracy Wayans, James State University student and Defendant's classmate
- The Honorable Learned H. McGrath, Defendant's parent

Witness statement: Sal Richardson

Witness for the prosecution

1 My name is Sal J. Richardson. I live at 2425 East Rusley Drive, Temple County. For the
2 past year and a half, before the fire, I lived with Morgan McGrath. We have been friends since
3 our freshman year at James State when we were roommates in the Kirby DeJarnatt dormitory on
4 the James State campus. After a year and a half of living in the dorm, we moved to the house on
5 Rusley Drive, which is about 20 minutes from campus. Life on Rusley Drive has been great,
6 except for my money troubles. My family doesn't have very much money and I'd always
7 planned on winning this scholarship from the county in which I grew up. They give out a four-
8 year, full-ride scholarship including housing costs to the most outstanding high school senior in
9 the county. I was regarded as the most promising art student to ever come out of the Hetfield
10 Academy of the Arts and everyone thought I was a shoe-in to get the scholarship. However, no
11 one at Hetfield Academy knew of Morgan McGrath, the best student at Mariner High School.
12 Morgan won the scholarship, which was actually a waste of the scholarship because Morgan's
13 family has tons of money. I won second prize, which is a flat \$5,000 scholarship, which I used
14 up my first year of college. I've never told Morgan this, but my life would have turned out a lot
15 easier if Morgan hadn't been around. I'm making it through, though. I'm still in school and
16 hold down a part-time job at a local art museum. I think I've done a good job not holding it
17 against Morgan; Morgan won the scholarship fair and square. In the past three years, I would
18 say that we've grown to be best friends. I am an Art Major at James State, and I think that we
19 bonded so much because each of us has what the other lacks mentally. Morgan doesn't have an
20 artistic bone in his/her body. I, on the other hand, am oriented towards the creative and away
21 from the technical. I have always been fascinated by Morgan's grasp on mathematics, the
22 sciences and technical matters in general. Likewise, I think Morgan lives vicariously through
23 my creative abilities, having none of his/herself.

24 Morgan is an amazing person. I think that it comes from his/her upbringing. His/her
25 parents are both prominent members of society. Morgan's father/mother is Learned McGrath,
26 the federal appeals judge from the New Temple Circuit Court of Appeals; his/her mother/father,
27 Jamie McGrath, won the Nobel Prize for creating a cure for some previously incurable disease. I
28 can't remember what it is called. Needless to say, they both have high expectations. That was
29 one aspect of life that I was never jealous of Morgan for; his/her parents were very demanding –
30 nothing less than perfection would satisfy them. I often had the feeling that Morgan did half of
31 the things s/he did just to please them. Sure, Morgan is brilliant, but I've always had the feeling
32 that had Morgan not always tried to please his/her parents, Morgan would be taking a very
33 different course in life.

34 I think this because Morgan is always asking me about my painting and my music. I play
35 the guitar and for a couple of months during our sophomore year Morgan hinted that s/he was
36 interested in giving it a try. So, eventually, I offered to teach Morgan the basics. Boy, was that a
37 mistake! The theoretical aspects Morgan picked up almost immediately. Within a day or two, I

1 could name a note and Morgan could show me everywhere on the guitar it was located and all
2 about its major and minor scales. But when it came to actually trying to play it, that was another
3 story. Morgan couldn't get his/her fingers to go to the right strings. Morgan was a mess. S/he
4 couldn't take it and blew up. I'd never seen Morgan like that before, but not being able to play
5 that guitar from day one made him/her irate. Morgan thought s/he was a failure. Morgan tried
6 for three weeks and then gave it up. Those were easily the worst three weeks of my life.

7 As a roommate, Morgan is immaculate. S/He doesn't make me do a thing. Morgan
8 cleans constantly and never complains about my messes. S/He's always quiet when I need to
9 study. With the exception of his/her stint as a guitarist, Morgan was the best. Things were going
10 great for us, together as roommates and individually as students. In our junior year, we decided
11 to have some fun with school by trying out one of each other's classes. So, in the Fall of 2000, I
12 signed up for a calculus class and Morgan signed up for creative writing. I know it's not actually
13 an "art" class, but it was close enough. Plus, Morgan had been forced to take creative writing
14 in high school and got an A in it then, so s/he gave it another shot. Morgan had heard from some
15 people in the Chemistry department that Professor Hemingway Bode was pretty good. It's
16 common knowledge at James State that Professor Bode in English and Professor Lillith Vedder
17 in Chemistry are married. You know, it could have been our best semester in college. While I
18 didn't enjoy calculus, it actually was fascinating to learn about. And Morgan was having so
19 much fun with creative writing that s/he began thinking that s/he had found his/her new calling.
20 Professor Bode is supposed to be excellent. While he doesn't discuss grades during the semester
21 because he feels it stifles the creative mind if the person is caught up with grades, Professor
22 Bode does give a lot of creative feedback. Morgan though s/he was doing really well in Bode's
23 class even though Bode does not talk about grades.

24 For the Spring 2001 semester, we both went back to our regular fields of study, but the
25 good feeling carried over from the fall. Unfortunately, it came to a grinding halt on March 11th.
26 That was the day Morgan's creative writing grade was posted. All of our other grades had come
27 in several months ago, but Professor Bode was really sick over the winter break and hadn't been
28 able to do his grades. I was with Morgan on campus when s/he got the grade. It was a Sunday,
29 but all of the buildings were open. We went by College Hall, which is where the writing classes
30 are held. The grades for Morgan's class were posted on Professor Bode's door. I couldn't
31 believe it; Morgan got a B-. Even worse than that was the fact that seven people had higher
32 grades. I thought Morgan was going to cry. Morgan looked like his/her world was going to end.
33 This was Morgan's first grade ever that wasn't an A. I asked if Morgan was all right and s/he
34 just ran off down the hall and out of the building. I had to let Morgan go.

35 When I returned home around 3:30 p.m., I arrived to a Morgan that I had only met once
36 before – the "failed guitarist" Morgan. Actually, Morgan was much worse now than when s/he
37 failed at guitar. For one thing, Morgan was drunk which I don't think s/he had ever been before.
38 Morgan always said that alcohol was the entertainment of the weak-minded. Not only was
39 Morgan drunk that night, s/he was violent. Morgan kept yelling and cursing. At one point,
40 Morgan put a hole in his/her bedroom wall with an old baseball bat. Morgan did a lot of damage
41 to his/her bedroom. I was very concerned for Morgan. I wished that there was something that I

1 could have done. Morgan kept yelling Professor Bode's name and asking how Bode could do
2 this to him/her. Morgan yelled that s/he wanted Professor Bode to feel his/her pain and that s/he
3 could do to Bode what Bode had done to him/her. I thought that it was just the alcohol talking,
4 but Morgan said that s/he wished Professor Bode would die and burn in Hades and experience
5 "the worst of times". Finally, when nothing I said could get Morgan to calm down, I decided to
6 leave and stay at a friend's house so s/he could cool off.

7 When I came home on the next day (March 12th), there were a bunch of pens and some
8 paper on the kitchen table along with some books – one of which dealt with the use of hot plates.
9 The top piece of paper had a short story written on it that was signed by Morgan. It seemed kind
10 of like a threat to Professor Bode. I didn't really know what to make of it.

11 Morgan stayed in his/her room all day and skipped all of his/her classes on March 12th
12 and 13th which made him/her get behind in his/her work. When Morgan finally returned to
13 school again on March 14th, s/he had to spend more than 12 hours on campus. I know this
14 because I saw Morgan leave for school at 6:00 a.m. and return just after 8:00 p.m. Morgan still
15 seemed a little upset. That night was the first time I'd spoken to Morgan since I left our house
16 the night of the 11th. As the night went on though, Morgan seemed to be getting back to his/her
17 old self again. We both read for classes at the kitchen table for a few hours which I was happy
18 about since that was our normal routine. I thought things were going back to normal.

19 At 11:00 p.m., we watched the nightly news, which was also part of our routine. Morgan
20 was quite talkative. S/He even seemed somewhat happy, although I could tell s/he still didn't
21 feel right. On the local news, they reported that there was a fire burning at James State
22 University in the Fraser Butterworth Natural Sciences Building. Morgan jumped to attention.
23 S/He was on the edge of his/her seat listening to the report. The reporter said that since the fire
24 was still burning the cause was unknown, but they didn't think that anyone was in the building
25 anymore and that nobody was hurt. Morgan kept telling me that s/he couldn't believe this.
26 Morgan said s/he was just in that building right before coming home. After the story about the
27 fire, Morgan didn't leave the TV room for about 12 hours. Morgan said that s/he just wanted to
28 keep watching to see if the TV station would do a special report sometime overnight about the
29 cause of the fire. When it still wasn't reported on the 6 a.m. news program, Morgan just kept
30 sitting there; s/he missed his/her classes for the day. I didn't have any classes so I stayed to see
31 what the news had to say. The station finally reported the fire department's theory on the noon
32 news. They didn't give much in the way of specifics, but they said that the fire was first reported
33 at about 8:30 p.m. by a student campus safety officer named Scott Springer. The fire department
34 placed the estimated time of ignition at about 7:45 p.m. The cause was supposedly a hot plate
35 that was left on in a lab on the southeast corner of the second floor. The fire department was
36 going to investigate the possibility of it being arson. They said that they wanted to question
37 some students about it, but they wouldn't release the names of the students.

38 Morgan started acting really scared and defensive when we heard the report. Morgan
39 said that s/he knew that s/he, Jesse Dewar and Tracy Wayans must be the students that they
40 wanted to talk to since they were the last ones in that lab. Morgan kept asking, "What do I do?"

1 What do I do?" and saying that the head of the Chemistry Department, Professor Vedder, was
2 married to Professor Bode and that the fire department would suspect him/her because s/he sent
3 some e-mail or something to Professor Bode after s/he got his/her grade. I told Morgan not to
4 worry, that s/he didn't do anything, so s/he'd be all right. At the same time, I have to admit, I
5 kind of thought Morgan did do it. After the way s/he acted the night of the 11th, it definitely
6 seemed like a possibility. Once the investigation began and the Temple County Fire Department
7 started contacting Morgan, s/he became more and more paranoid. S/he kept saying that s/he was
8 an easy target. S/he said that if it was anyone's fault it was Dewar's, but that if they investigated
9 they'd find Morgan to be the one with the motive because s/he had e-mailed Professor Bode.
10 S/he asked me to keep quiet about his/her behavior of late. I just agreed, because s/he was
11 starting to scare me and I didn't know what to think.

12 When Chief Martalioni met with me to talk about the situation, I told him/her all that I
13 knew and gave him/her the note that I saw on the table. I'd pretty much made my mind up by
14 that point that Morgan had done it. I felt so sorry for him/her, but I wasn't going to stand in the
15 way of justice and protect him/her just because we were friends.

Signed and sworn to under oath on the 21st day of March, 2001.

/s/ Sal Richardson

Signed before me this 21st day of March, 2001.

/s/ J.P. McGraw, Notary Public

Witness statement: Jesse Dewar

Witness for the Prosecution

1 My name is Jesse Dewar. I live at 9802 Machaw Road, in Temple County. I am 20
2 years old. I was a junior working on my chemistry degree at James State University at the time
3 of the fire. I was in the Chemistry class that Morgan McGrath was in during the Spring 2001
4 semester. I took a few courses with Morgan over the three years that we were in school together
5 and know him/her that way. We never hung out together outside of school, though. I had a lot
6 of respect for Morgan. Although s/he had never talked to me about his/her grades, I knew
7 Morgan's reputation. Actually, my faculty advisor told me that I was ranked second in our
8 graduating class behind Morgan. It's hard to pass someone in the rankings who never gets
9 below an A. Even with Morgan getting his/her first grade less than an A, I'm still a good margin
10 behind Morgan with a 3.83 G.P.A. So, even though I've never really known Morgan personally,
11 s/he had been pushing me to do better in hopes of passing him/her and graduating first in our
12 class. I didn't see it happening ,though.

13 I spoke to Morgan for one of the first times ever on the evening of March 14, 2001. That
14 evening I was working on a laboratory project for our chemistry class. We had assignments to
15 complete in the lab each week. Lab assignments were to be completed during a Tuesday
16 morning lab session from 10:00 am until noon. If you could not attend the session for some
17 reason, you were allowed to complete the assignment on your own and get credit for the
18 assignment at any point before 5:00 p.m. of that Friday. However, if you did the lab assignment
19 on your own time, the Teaching Assistant would not be present to answer your questions. On
20 the evening of the 14th, Morgan McGrath, Tracy Wayans and I were all working on that week's
21 lab assignment. We were in lab 2A. I arrived at about 5:15 pm and worked at lab station one.
22 When I arrived, Tracy Wayans was already there, working at station six. Morgan McGrath
23 arrived shortly after I did and worked at station seven.

24 We were all working on the same assignment. We each used our own hot plate and
25 microscope, several flasks, a petri dish and various acidic solutions and chemical compounds.
26 Our task was to see how each substance would react at different temperatures. Our professor had
27 several listed temperatures that we were supposed to heat each solution to in a flask. Then we
28 were to pour the substance into a petri dish and examine it under a microscope to see what sorts
29 of organisms were still alive in the substance. The top temperature that our assignment called
30 for was 350 degrees Fahrenheit. There were 20 substances that we were each supposed to
31 examine.

32 While we were working, we were all talking to each other. I am good friends with Tracy
33 and s/he has the same type of relationship with Morgan as I do. We were having a good time
34 that night. Students are allowed to work in the labs 24 hours a day if they need to, but the
35 buildings on campus all officially close at 6:00pm. There are no nighttime science classes.
36 There is a scanner on both the inside and outside of each door to the building. Students entering
37 the building after 6:00 p.m. at night must scan their student identification card to gain entrance to

1 the building. The doors to individual classrooms are always unlocked. Students who are already
2 inside the building are required to go to the outside doors at 6:00 p.m. and scan in. Upon leaving
3 the building after 6:00 p.m., each student must scan his or her ID card again. The doors only
4 open after 6:00 p.m. when a valid card is scanned. Although multiple people can enter once the
5 door is opened, each person is supposed to scan his or her own card when entering and leaving.
6 Generally, everyone follows these rules. So at 6:00 p.m., the three of us all went to scan our
7 cards. Tracy and Morgan went straight back into the building to keep working, but I stayed
8 outside for approximately 5 minutes while I smoked a cigarette. After that I returned to the lab.

9 As I was saying, we were all talking to each other while we worked that night. While we
10 were working, Morgan seemed to be in a pretty good mood. But as the evening went on, his/her
11 demeanor seemed to change. I made a comment or two about not believing a story that Morgan
12 was telling Tracy about this guy that lives in Morgan's neighborhood. Morgan fired insults back
13 at me without hesitation. S/He told me that I was an idiot and didn't know much at all, let alone
14 about people in his/her neighborhood. Other than that though, everything seemed okay as we
15 were working.

16 The chemistry department has rules regulating how students use its equipment. There are
17 sinks at each lab station in which we must wash our flasks and dishes out after using them. The
18 microscopes are stored in the cabinets on the wall hanging over the lab station counter – they are
19 kind of like kitchen cabinets. With the hot plates, we must turn them off, unplug them and wait
20 15 minutes while they cool down. After fifteen minutes, we're allowed to put them back in the
21 storage compartments under the lab station counter. Each lab station has all of its own
22 equipment. At about 7:00 p.m. that night, we all finished. Actually, I finished slightly ahead of
23 the others. I washed my dishes, stored my microscope and started the cooling process with my
24 hot plate. Then I went over to Tracy's station and talked with him/her and Morgan while they
25 washed their dishes. We all sat and talked until around 7:25 p.m., then Tracy started to get up to
26 leave. Morgan and Tracy put their hot plates away, but I was caught up in the conversation and I
27 just watched them. Then we all left together. I didn't even realize what was going on.

28 My hot plate was left in the middle of my workstation. It was unplugged and turned off
29 though. As we left the room, I switched off both the light switch and the master power switch.
30 The last person to leave the room is always supposed to turn off the master power switch,
31 because there are gas pumps at each lab station. The school once had to shut the building's
32 power off because a gas pump malfunctioned and leaked natural gas until they cut the power.
33 That's why they installed a master power shutoff for each laboratory.

34 Tracy was heading towards the West Parking lot, so s/he used the door at the other end of
35 the building. Morgan and I were both parked in the South Parking Lot. Upon exiting the room,
36 we stood in the hallway for a few minutes while we finished our conversation. When we split
37 up, Morgan and I walked out of the door that was right there, we both scanned out. Right as we
38 got outside, Morgan said s/he had to go back in to use the bathroom real quickly, so I said I'd
39 wait at the top of the steps while I had a smoke. Morgan told me it was a filthy habit and that I
40 ought to quit, then s/he headed back in. Morgan was in there for a while. S/He came running

1 out and apologized for making me wait. I said it was no problem, because I was still smoking
2 my cigarette. The thing that I thought was strange was that, as I watched the door s/he appeared
3 from the left side of it, as I looked into it – it’s a glass door. The bathroom was to the right as
4 you enter that door. So I was expecting Morgan to appear from the right side of the door. S/He
5 appeared from the left side of the door, as if s/he had come from lab 2A, not the bathroom.

6 We headed down the steps into the East Parking Lot and turned the corner towards the
7 South. At that point, I also noticed that s/he seemed to be sweating a little bit. S/He was also a
8 little short of breath. I guessed at first that it was because s/he was running back to the exit from
9 inside. I’d noticed that when s/he arrived at the door, s/he kind of slid to a stop as if s/he had
10 been coming down the hall quickly, which was even stranger when you consider Morgan slid
11 into my sight from the left side of the door instead of the right. Anyway, we then cut across the
12 softball field on our way to the parking lot. Morgan was totally different on our walk. S/he was
13 very nervous and fidgety. I joked as if I was angry s/he took so long inside and s/he almost lost
14 it. S/He went on about how s/he can’t please everyone. S/He mockingly apologized for
15 burdening me in my “busy, important life” and abruptly ran ahead, saying that s/he needed to get
16 home so s/he could hit the books. S/he said that s/he understood that school wasn’t important to
17 people like me, but that s/he was dedicated to his/her studies and that s/he couldn’t waste time in
18 parking lots with the likes of me, s/he was too busy.

19 From the moment that Morgan returned from the “bathroom” I knew something was up.
20 I didn’t know what, but s/he was just so strange – totally different than while we were working
21 on our lab assignment. When I found out about the fire, I was positive that that was why Morgan
22 was acting so strange. I immediately called the TCFD to report my suspicion. I have not talked
23 to Morgan McGrath since that night.

Signed and sworn to under oath on the 23rd day of March, 2001.

/s/ Jesse Dewar

Signed before me this 23rd day of March, 2001.

/s/ J.P. McGraw, Notary Public

Witness statement: Chief Chris Martalioni

Expert Witness for the Prosecution

1 My name is Chris Martalioni. I am the Chief of the Temple County Fire Department
2 (TCFD), a position which I have held for the past 17 years. I graduated from Yarvard University
3 with a Bachelor's degree in Forensics and Toxicology in 1975. After graduating Yarvard,
4 summa cum laude, I joined the Federal Bureau of Investigation (FBI) and was stationed in
5 Temple County, Pennsylvania. While working for the FBI, I also worked as a volunteer fire
6 fighter for the TCFD. After a couple years, I quit the FBI and joined the TCFD full-time as a
7 fire investigator. My forensic and toxicological education made me especially good at the job.
8 Because of my education, the department promoted me frequently. Between 1977 and 1981, I
9 took a number of classes from certified state and federal fire fighting schools. These classes
10 focused on detecting the cause of fires and following its burn path – a skill we call “reading the
11 fire.” I earned my MBA degree from the James State University Business School in 1982. I
12 took over the entire TCFD as Chief of the department in 1984. As the Chief of the department, I
13 run the administration of the department, but I also still actively serve as Chief Fire Investigator.
14 I generally handle the investigation for one fire every two months. Last April, I headed the
15 investigation of the fire at the Fraser Butterworth Natural Sciences Building at James State
16 University.

17 All the information that I will give pertaining to the Butterworth fire is the product of my
18 investigation. The Butterworth fire lasted five hours. Our department responded to a call from
19 student safety officer, Scott Springer, at approximately 8:30 p.m. on Wednesday, March 14,
20 2001. From the rate of burn that we observed upon arriving at the scene through the time the fire
21 was extinguished, we place the time of ignition at about 7:45 p.m. The fire went undetected until
22 8:30 p.m. because it originated in a laboratory room on the backside of the building facing away
23 from main campus and towards an empty softball field and parking lot. The Butterworth
24 building was constructed in the 1970s, when main campus expanded towards the South. It is the
25 Southern most building on campus. It is composed of a concrete shell with a wood, plaster and
26 drywall interior. It is eight stories tall. On the north side of the building the ground floor is the
27 second floor. On the south side, the ground floor is the first floor. The fire was contained within
28 the building until around 8:30 because the smoke filled the upper floors and fresh oxygen fueled
29 the fire from the first floor. When the smoke had filled the upper floors and the air became
30 hotter, the windows on the south side of the building exploded and large amounts of smoke
31 billowed into the air.

32 When the TCFD arrived, approximately 1/3 of the building had burned. It was hard to
33 extinguish because the outside of the building remained intact. It was the combustible interior
34 that burned. From the outside we could only spray water through the windows. When the fire
35 was put out, all that was left was the concrete shell and two lecture halls and several offices on
36 the West end of the building.

1 From an analysis of the degree of charring in each room and on each floor we were able
2 to establish that the fire began in the lower eastern part of the second floor of the building. Upon
3 examination of the second floor of the area that was lab 2A, we found the remains of a hot plate
4 that we have established to be the source of the fire. Those type of hot plates were only used in
5 lab 2A. The burner was placed on what used to be lab station #1, against the southeast corner of
6 the wall and 2 feet below wall-mounted cabinets. No fire additives were found in the area or in
7 the building in general, so after the burner was intentionally set up to start the fire, the fire's burn
8 path was natural. Although the plastic knob that had the temperature gauge on it was totally
9 melted away in the fire, we were able to establish that the burner was set at its maximum
10 temperature of 700 degrees Fahrenheit. I was able to conclude this because the metal cylinder
11 that the left knob was attached to was turned all the way to the right. All of the other charred hot
12 plates had their cylinders turned all the way to the left. The damage to Lab 2A was so severe
13 that the light and master power switches were completely destroyed. Therefore, it was
14 impossible for us to tell whether the switches were on or off when the fire started.

15 In conjunction with the campus safety department and the Temple County Police
16 Department (TCPD), we retrieved door access records from the school's security mainframe
17 computer. The records indicate that the last three people to leave the building were Tracy
18 Wayans, Morgan McGrath and Jesse Dewar. Dewar left the building from the Northeast exit at
19 7:24 p.m. Tracy Wayans exited from the main entrance at the Northwest corner of the building
20 at 7:33 p.m. Morgan McGrath exited from the Northeast exit with Dewar at 7:24 p.m., but then
21 re-entered also at 7:24. McGrath then re-exited from the same exit at 7:35 p.m.

22 Following campus safety's regulations for incidences that occur after 6:00 p.m. and draw
23 either the TCPD or TCFD, we inquired at the dean's office about the last people to scan in and
24 out of the building in question – Dewar, McGrath and Wayans. What we found was a record
25 that an English professor by the name of Hemingway Bode notified the dean's office earlier in
26 the week about an intimidating e-mail he received from Morgan McGrath. We retrieved both the
27 e-mail from Professor Bode and the one from McGrath to add to our investigation file.

28 Because the subject of McGrath's e-mail was his/her dissatisfaction with a grade that
29 Professor Bode gave him/her, we retrieved, from the registrar's office, an official copy of
30 McGrath's college transcript, and from the admissions office, a copy of his/her high school
31 transcript. It seemed like enough motive to go on. So we focused the investigation on McGrath.
32 We still weren't sure if it was an intentional fire or not, but it sure seemed suspicious at that
33 point. In our interrogations of Wayans and Dewar, both were certain that Dewar had unplugged
34 his/her hot plate and placed it in the middle of the lab station away from the wall. We were also
35 able to reconstruct a surveillance video of the hallway that Lab 2A is at the end of. At
36 approximately 7:29 p.m., a human figure can be seen entering and quickly exiting Lab 2A. Due
37 to technical difficulties, it is impossible to verify who the figure in the video is. After we talked
38 to McGrath's roommate, Sal Richardson, we were pretty sure that McGrath was our culprit. We

1 then went ahead and instructed the TCPD that we were going to rule that the Butterworth fire
2 was arson and that our primary suspect was Morgan McGrath.

Signed and sworn to under oath on the 4th day of April, 2001.

/s/ Chris Martalioni

Signed before me this 4th day of April, 2001.

/s/ J.P. McGraw, Notary Public

Witness Statement: Morgan McGrath

Witness for the Defense

1 My name is Morgan McGrath. I live at 2425 East Rusley Drive in Temple County.
2 Well, I used to. For the past few months, I've lived with my parents, Learned and Jamie
3 McGrath, at 5050 Old Post Road, Edmonds, Pennsylvania, in the County of Temple. I had
4 nothing to do with the fire that burned down the Fraser Butterworth Natural Sciences Building
5 on March 14, 2001. It is true that I was there on the evening of March 14, 2001, but I did not
6 start that fire.

7 I arrived at Butterworth Hall that evening at about 5:20 p.m. I had never missed a
8 scheduled lab session before, but I knew that I could finish my lab assignment without penalty
9 on my own time before Friday. Chemistry comes very naturally for me, so it was no problem
10 that the teaching assistant was not there to help me. When I arrived, I decided to do my work at
11 lab station #7, which is the second lab station to the left as you enter Lab 2A. Lab station #6 is
12 right between station #7 and the door. When I arrived, Tracy Wayans and his/her friend Jesse
13 Dewar were already there and working on the assignment. I was familiar with both of them, but
14 we are not really in the same crowd. Jesse was over in the southeast corner at lab station #1 and
15 Tracy was next to me at station #6. The assignment was simple. We just had to heat a number
16 of substances in petri dishes with a hot plate to certain temperatures and observe the reactions
17 that took place. It was quite simple actually. To tell you the truth, I had done most of the
18 assignment on my own over the years with my own lab equipment. Chemistry is a hobby of
19 mine.

20 I spent most of the time in the lab talking to Tracy. Tracy had forgotten his/her textbook
21 on the use of hot plates so I let him/her use mine. S/He is not a bad person at all. Tracy is not
22 all that gifted in Chemistry, but tries hard. I admired Tracy for that. I think it's important to try
23 hard. Jesse tried to keep in our conversation most of the evening, but it was hard because Jesse
24 was across the room in the far corner. But my impressions were that Jesse was a pretty good
25 person too. I think Jesse is very knowledgeable about Chemistry.

26 Most of the conversation that evening seemed to center around the people in my
27 neighborhood. It is quite an interesting neighborhood. There is a guy there that wants to join
28 one of those professional wrestling shows. He is always outside jumping on his trampoline or
29 off his car trying to mimic the moves that those people do. I have never watched professional
30 wrestling,
31 but if this guy is anything like it, it must be quite funny. Tracy apparently loves professional
32 wrestling, s/he kept asking me more and more about this guy. I see the guy all the time though,
33 so I had plenty to tell about.

34 At around 7:00 p.m., Jesse finished the assignment and came over to Tracy's lab station
35 to join our conversation. Tracy and I both finished up shortly and all three of us talked for a few

1 minutes as our hot plates cooled off. When we were ready to leave, Tracy led the way and Jesse
2 exited last. Jesse left his/her hot plate on the lab station. S/he turned off the lights when we left.

3 We said good-bye to Tracy there and Jesse and I went out the Northeast exit. Right when
4 we got out though, I decided I should run back in to go to the bathroom. Jesse said s/he'd have a
5 smoke and wait for me. I scanned back in and headed to the restroom. Tracy was in there and
6 we talked to each other for a few minutes. Tracy asked me about the guy from my neighborhood
7 again and I ended up telling him/her about when the guy was jumping off his car onto his
8 roommates for practice. Then I realized that Jesse was waiting so I headed back out. Tracy was
9 still in the bathroom when I left. When I left the bathroom I went straight back to where Jesse
10 was. I did not go back to 2A or anywhere else. I scanned my card in the scanner at the northeast
11 door, which is mounted on the wall about a foot to the right of the door as you exit. Then Jesse
12 and I started to walk towards our cars. It was probably no longer than 3 minutes from when I
13 left Jesse, went to the bathroom and returned to Jesse outside. I didn't have time to go do
14 anything to cause that fire.

15 On our walk toward the lot we just had friendly conversation. Then I realized how much
16 homework I had to do at home, so when we reached Jesse's car I politely excused myself from
17 our conversation, said goodnight and headed home. Jesse told me that s/he was glad to finally
18 have had an opportunity to get to know me a little and that we should talk more often.

19 When I got home, Sal and I studied at the table like we usually do. When the news came
20 on we stopped to watch it. That's when I found out about the fire. I could not believe that the
21 building that I had just been in had caught on fire. After the news, I went back to studying. It
22 was the next day before I found out that anyone suspected Jesse, Tracy or me as the cause of the
23 fire. I was a little concerned, but seeing how I had not done anything wrong, I just went about
24 my life.

25 I was astonished when I was formally charged with the arson. It's preposterous. There is
26 no way that I had anything to do with that fire. Why would I do something like that? Throw my
27 whole life away? No way! For one thing, I'm a chemistry minor, why would I want to burn
28 down a building that I need to take classes in to graduate from college? Yeah, I had just had a
29 rough time over finding out about my grade, and I'm still angry with Professor Bode, but I'm not
30 stupid. Plus, if that were the reason, why would I burn down the Chemistry building? I did not
31 even know until the police told me that Professor Bode was married to the head of the Chemistry
32 department, Professor Vedder. I had no clue. I guess that its not the kind of thing that the two of
33 them publicize.

34 Regardless of what I knew, that is not the kind of person I am. Sure, I got a bad grade,
35 but it was not the end of the world. I thought at first that my parents would be upset, but, when I
36 told them, my father/mother sent me an e-mail telling me that it was alright and that they were
37 still proud of me. I'm going to be very successful. I have no reason to burn down a building!

- 1 Come on, my father/mother is a Circuit Court Judge and my mother/father is a Nobel Prize
- 2 winning virologist, I am not the kind of person that does crazy stuff like that.

Signed and sworn to under oath on the 10th day of September, 2001.

/s/ Morgan McGrath

Signed before me this 10th day of September, 2001.

/s/ L.B. Johnson, Notary Public

Witness Statement: Tracy Wayans

Witness for the Defense

1 Hi. My name is Tracy Wayans. I live at 1515 Railroad Street, in Temple County.
2 During the spring 2001 semester, I was a a junior chemistry major at James State and in a
3 chemistry class with Morgan McGrath and Jesse Dewar at the time of the fire. Jesse Dewar and
4 I are good friends. As for Morgan McGrath, I'm don't really know him/her that well. I know
5 that Morgan is some sort of genius or something, but that's about it. We've had a number of
6 classes together in our days at James State. In fact, I'd say that we've had a plethora of classes
7 together. Morgan has been in a number of math classes with me. S/he always seems to sit with
8 the math nerds in class though, so I've never really spoken with Morgan in any of our math
9 classes. In our Chemistry classes, I guess I'd say we're acquaintances, but as you can tell, we're
10 not too tight – seeing how I avoid Morgan like the plague in our math classes.

11 I was at Butterworth Hall on the night of the fire last March. That was a crazy day! I'd
12 been sick as a dog earlier in the week and had missed my scheduled lab class, so I was there on
13 the evening of the 14th making up the work that I had missed. I was sort of bummed that I had to
14 do it that day, though, because our Teaching Assistant wasn't there. I arrived in Lab 2A at about
15 3:00 in the afternoon. I arrived plenty early because I'm pretty slow in doing my lab
16 assignments. I think that I was working at Lab Station #6, one of the stations close to the exit.
17 Jesse arrived at 5:15 p.m. and started working at station #1, which is, or was, in the back corner
18 furthest from the door – I guess that it would be the southeast corner. Morgan arrived at about
19 5:23 p.m. and worked right next to me at station #7. I was glad about that because I'd forgot my
20 text on the use of hot plates. I'm not very good at using them so I was able to ask Morgan for
21 tips and look at his/her book.

22 We all had hot plates, petri dishes, a whole bunch of chemical solutions and microscopes
23 at our stations. We had to heat these solutions to temperatures up to about 400 degrees
24 Fahrenheit or something like that. It was cool because a lot of the solutions would turn different
25 colors or react in other ways to the heat.

26 Jesse always works at station #1 because s/he thinks that if s/he works next to me s/he
27 won't get his/her work finished. It's probably true. I always work at one of the stations near the
28 door, because I like to be able to leave as soon as possible – I specialize in recreation, not school.
29 I've never really done a lab assignment with Morgan. By "with" I mean next to each other so we
30 could talk while we worked. We had some good conversations that night. Morgan seemed to be
31 a little agitated at times, but mostly s/he just chatted non-stop the whole time.

32 At 6:00 p.m. all of the buildings on campus officially "close." We all had to go out to the
33 outside door and swipe our cards. They do it so they can keep track of who is in the buildings
34 after hours. I guess that its so they'll know who broke or stole stuff when something like this
35 happens. So we swiped our cards in and Morgan and I went back to the lab room to continue

1 working on our assignment. Jesse stayed outside for a couple minutes, because s/he's an idiot, I
2 mean a smoker. At about 6:05 p.m., Jesse came back in.

3 Morgan was actually cracking me up all night. S/He kept talking about this crazy clown
4 guy and his three-legged dog that lives on Morgan's block. Seems the clown-guy wanted to
5 become a pro-wrestler on TV and he thought that he could somehow work his dog into his act.
6 He took lessons on the Internet and was a certified lunatic clown – I guess there is some official
7 group of such people. If I remember correctly, Morgan said that the guy wanted to have his
8 wrestling name be Loopy the Lunatic Clown. He wanted to keep his dog in a burlap sack and
9 pull it out to attack his enemies on the wrestling show. I tell you, Morgan was a riot that night. I
10 don't remember him/her mentioning anything about Professor Bode or being upset about a grade
11 or anything. I was laughing about that clown-guy all night.

12 We finished our work at about 7:00 p.m., maybe. We started the clean-up procedures
13 that the professors in the Chemistry Department laid out for us to follow. We all talked for a bit
14 while our hot plates cooled off. Jesse had finished a bit before us and was over at my lab station
15 the entire time I was cleaning up my lab materials. We left the lab room at about 7:20 p.m. I
16 think that Jesse forgot to put his/her hot plate back into the storage cabinet. S/He left it
17 unplugged and in the middle of his/her lab table. Morgan and I put away all of our stuff. As we
18 left the room, Jesse flipped off the master power switch. We left the door open though, it's part
19 of the professors' policies for after-hours use of the lab rooms.

20 We said our "fare thee wells" at the door to the lab room, because I was going to exit
21 from the main entrance at the northwest corner of the building. I watched as Morgan and Jesse
22 exited out of the northeast doorway. They both scanned out as they left.

23 Instead of leaving immediately, I headed down the hall towards the southwest part of the
24 building to the restroom. When I was in there, Morgan came in. S/He said that s/he decided
25 s/he'd better go to the bathroom now because s/he didn't know if s/he was going straight home
26 or not. I asked if that was because s/he was scared that the Lunatic Clown was going to torture
27 him/her if s/he went home. S/He laughed and we talked for a few minutes. S/He told me about
28 this time that the clown guy was practicing his elbow drops from the top rope by jumping off of
29 his parked car onto his roommates. It was hilarious because Morgan was demonstrating and s/he
30 ended up slipping on the floor and almost breaking his/her arm on the bathroom floor.
31 Afterwards, s/he got up and said that s/he'd better get going because Jesse was waiting for
32 him/her outside. I said I had to get going too and left the bathroom. Morgan was still inside
33 when I left. I think that we were in the bathroom for around 5 minutes – maybe about 6
34 minutes.

35 As part of the investigation into the fire, the TCFD has talked to me and shown me the
36 sign-in/sign-out list for the building compiled by people scanning their cards after 6:00 p.m. It
37 turned out that Morgan and I were the last two in the building that night. Well, before the
38 firefighters. Morgan and Tracy scanned out at 7:24 p.m., I scanned out at 7:33 p.m., and then
39 Morgan scanned out for the second time at 7:35 p.m. I don't think Morgan could have set up the
40 hot plate to burn the building down in that amount of time. Morgan just seemed too happy to be

1 about to commit a crime like arson. S/He would have to be inhuman to seem that normal and do
2 such a thing. It could have been some sort of freak accident. There were a lot of loose papers
3 laying around. The building's ventilation system could have blown some paper on Jesse's hot
4 plate while it was still warm or it could have been an electrical fire.

Signed and sworn to under oath on the 28th day of March, 2001.

/s/ Tracy Wayans

Signed before me this 28th day of March, 2001.

/s/ L.B. Johnson, Notary Public

Witness Statement: Honorable Learned H. McGrath

Witness for the Defense

1 My name is Judge Learned H. McGrath. I live, with Jamie McGrath, at 5050 Old Post
2 Road, Edmonds, Pennsylvania, in the County of Temple. I am Morgan McGrath's
3 father/mother. I have served for 23 years as a federal judge on the New Temple Circuit Court of
4 Appeals. My spouse is a Nobel Prize winning virologist with the Dinkins Bartleby Institute of
5 Virology. My spouse and I have provided Morgan with a fine upbringing. We have provided
6 him/her with unending love and support and every material possession that s/he could have
7 desired. We have supported Morgan in everything that s/he has undertaken. Morgan would
8 never burn down a building for any reason, let alone because s/he thought s/he received a bad
9 grade.

10 I have known since Morgan's childhood that s/he was extremely gifted in mathematics
11 and other technical fields. Morgan was in advanced math and science classes almost from the
12 first day that s/he entered school. On the other hand, I have also known for a long time that
13 Morgan lacked in the creativity department. S/he has never been talented in any of the creative
14 fields. S/he has never been physically gifted either. We figured this out early in life when
15 Morgan tried out for his/her school T-ball team in first grade. S/he couldn't even hit the ball off
16 of the tee. It was actually kind of pathetic, but very funny – except for the other kids on the
17 team. Morgan didn't like not being athletically gifted, but s/he dealt with it. S/he certainly
18 didn't burn down the coach's house for not letting him/her into the games much. You can't
19 excel at everything

20 .
21 As parents, Jamie and I always encouraged Morgan to do whatever it was that would
22 make him/her happy. Of course, with an obvious proficiency in math and science we
23 encouraged Morgan to pursue a career that would allow him/her to maximize his/her potential,
24 but we never forced anything on Morgan. When Morgan decided to take a creative writing class
25 in high school, I was very supportive of the decision. And I was very proud of his/her success in
26 creative writing at the high school level. But at the same time, I was open with Morgan about
27 my expectations concerning any creative endeavors that s/he'd undertake. I simply wanted
28 him/her to do the best that s/he could. Jamie and I constantly reminded Morgan that it was
29 impossible to be the best at everything and that we would be proud of him/her no matter how
30 s/he did, as long as Morgan gave it his/her best try.

31 Morgan is not the type of person to set unrealistic expectations and punish him/herself for
32 not meeting them. It is true that both Jamie and I graduated high school, college, and post-
33 graduate school with perfect 4.0 grade point averages. But we never made Morgan feel as if s/he
34 had to perform at that same level. We have never awarded Morgan for getting good grades,
35 other than displaying the normal pride that a parent feels when their child does well. Certainly
36 we never expressed expectations that Morgan get straight A's so as to maintain some sort of
37 family legacy.

1 On the night of March 11, 2001, Morgan called and left a message on the answering
2 machine at our home. S/he told us about the grade in Professor Bode's creative writing class. I
3 was surprised at how low the grade was, but I was not surprised that Morgan did not get an A in
4 the class. James State is a tough university, no one can just walk through it without hitting a
5 little adversity along the way. I didn't get the phone message until the next day – March 12,
6 2001. I wanted to get back to Morgan right away, but I had to be at work all day for the oral
7 arguments of a big case that was before the court at that time – *Bushing v. Gorey*. So, on March
8 13, 2001, I got back to Morgan by e-mail. I told him/her that it was alright and not to take it too
9 hard. I explained that this could be a liberating experience and that maybe s/he could attack the
10 remainder of his/her college career with a new outlook on life. I got an e-mail back from
11 Morgan saying thanks.

12 The night of the fire Morgan called me at home. I guess that Morgan had just seen the
13 fire on the news. Morgan was a little concerned that they might think that s/he had something to
14 do with the fire because s/he was in the building shortly before the fire began. I asked Morgan
15 then and there if s/he had anything to do with the fire and Morgan said, "No, Dad/Mom, I swear
16 I had nothing to do with that fire." I asked if s/he knew that Professor Vedder was married to
17 Professor Bode. Morgan acted surprised when I asked and said "No". I told Morgan that I
18 believed him/her and that, seeing how s/he had done nothing wrong, s/he should just go about
19 his/her life.

20 I think that my daughter/son is of the highest character. Jamie and I have raised Morgan
21 to have the utmost respect for the law. Being a judge, I have lived my life with the goal of
22 upholding truth and justice. It is a goal that I feel I have imparted on Morgan. I have never
23 known Morgan to lie. Morgan swears that s/he had nothing to do with that fire and that is reason
24 enough for me. If Morgan says so, it is so. S/he did not start that fire.

Signed and sworn to under oath on the 10th day of September, 2001.

/s/ Learned H. McGrath

Signed before me this 10th day of September, 2001.

/s/ L.B. Johnson, Notary Public

EXHIBIT LIST

- Exhibit A:** Email from Morgan McGrath to Professor Hemingway Bode
- Exhibit B:** Email from Professor Hemingway Bode to Morgan McGrath
- Exhibit C:** Diagram of South Campus
- Exhibit D:** Diagram of second floor of Fraser Butterworth Natural Sciences Building.
- Exhibit E:** Diagram of laboratory station #1, in room 2A of the Fraser Butterworth Natural Sciences Building.
- Exhibit F:** James State University Transcript of Morgan McGrath.
- Exhibit G:** Mariner High School Transcript of Morgan McGrath.
- Exhibit H:** Email from the Honorable Learned H. McGrath to Morgan McGrath.
- Exhibit I:** Fraser Butterworth Natural Sciences Building Security Activity Log for March 14, 2001.
- Exhibit J:** Handwritten note by Morgan McGrath.
- Exhibit K:** Diagram of hot plate model used in room 2A of the Fraser Butterworth Natural Sciences Building.

Exhibit A: E-mail from Morgan McGrath to Professor Hemingway Bode

To: "Hemingway Bode" <bode@jsu.edu>
From: mmcgrath@jsu.edu
Time: 01:37 a.m., Monday, March 12, 2001
Subject: Mistake!?

Prof. Bode,

I just got my grade for your creative writing class. Was it a mistake? You gave me a B-. I'm sure that it was just a clerical error on your part. We all know that I was the best creative writer in that class. Are you just trying to destroy my life? I DO NOT get B minuses!!! I get As! Are you just jealous of my success? Excuse me, I'm getting ahead of myself. I'm sure that it was just a clerical error and that you'll be able to fix it. But if you did mean to give me a B-, you will pay for it.

Morgan McGrath

Exhibit B: E-mail from Professor Bode to Morgan McGrath

To: mmcgrath@jsu.edu
Bcc: dean@jsu.edu
From: bode@jsu.edu
Time: 10:30 a.m., Monday, March 12, 2001
Subject: RE: Mistake!?

Mr./Ms. McGrath,

There has been no mistake. If you are unhappy with your grade there are grade appeal forms in the registrar's office in Klein Hall, room 503.

I can offer you this though. Your work vastly improved over the course of the semester. If writing is something that you love, you should pursue it. Grades are just a formality. They should not dictate your future course of action.

Professor Bode
James State University, College Hall, office 112, (215) 555-5001

Exhibit C: Diagram of South Campus

8North

- a. Lab 2A*
- b. Fraser Butterworth
Natural Sciences Building*
- c. South Parking Lot*
- d. Softball Field*
- e. Access Road with
Pedestrian Underpass*
- f. East Parking Lot*

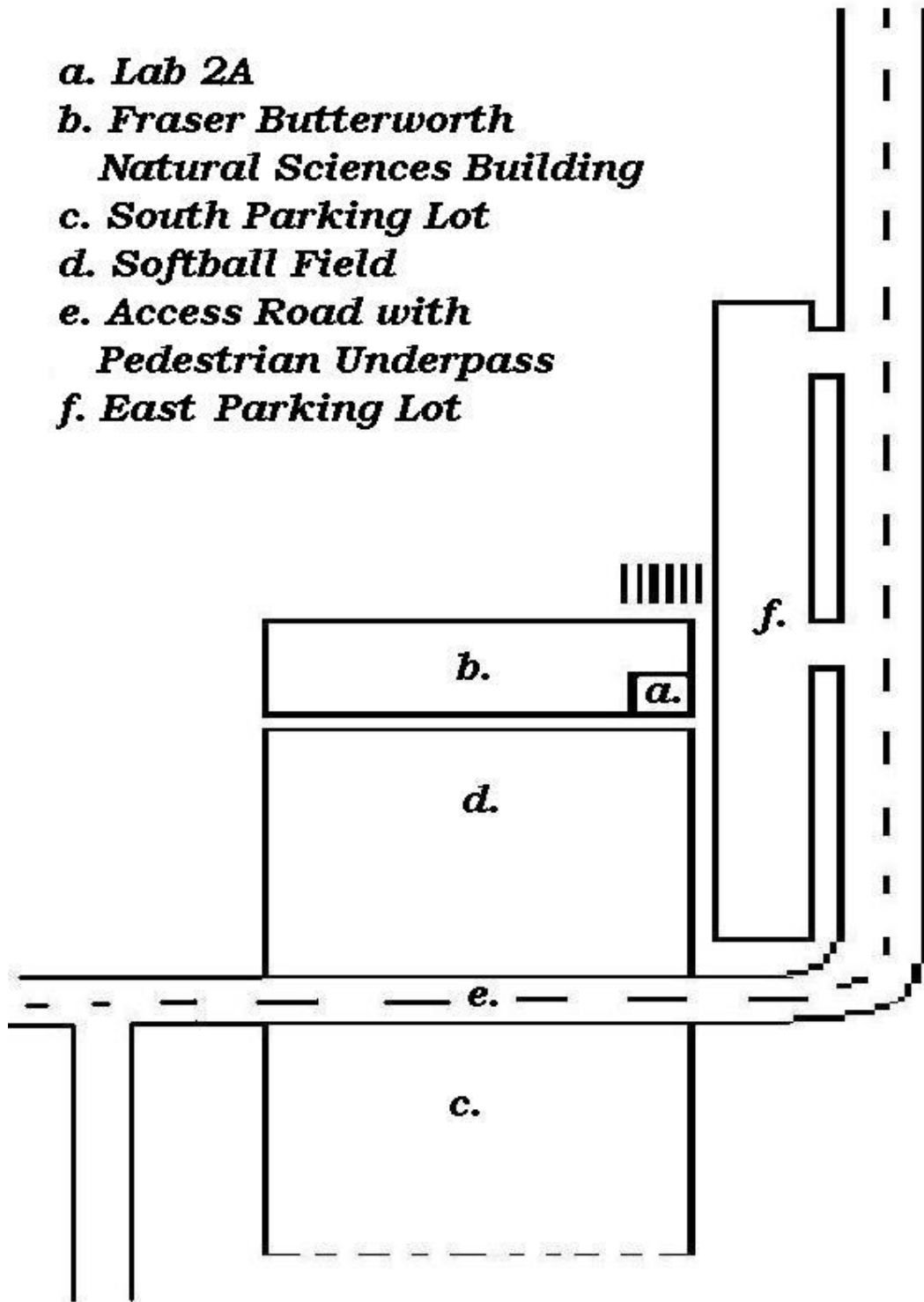


Exhibit D: Diagram of second floor of Fraser Butterworth Natural Sciences Building.

7 North

- a. Lab Station #1
(Jesse Dewar)
- b. Lab Station #6
(Tracy Wayans)
- c. Lab Station #7
(Morgan McGrath)
- d. Restroom
- e. Security Camera
- f. Northeast Exit
- g. Northwest Exit

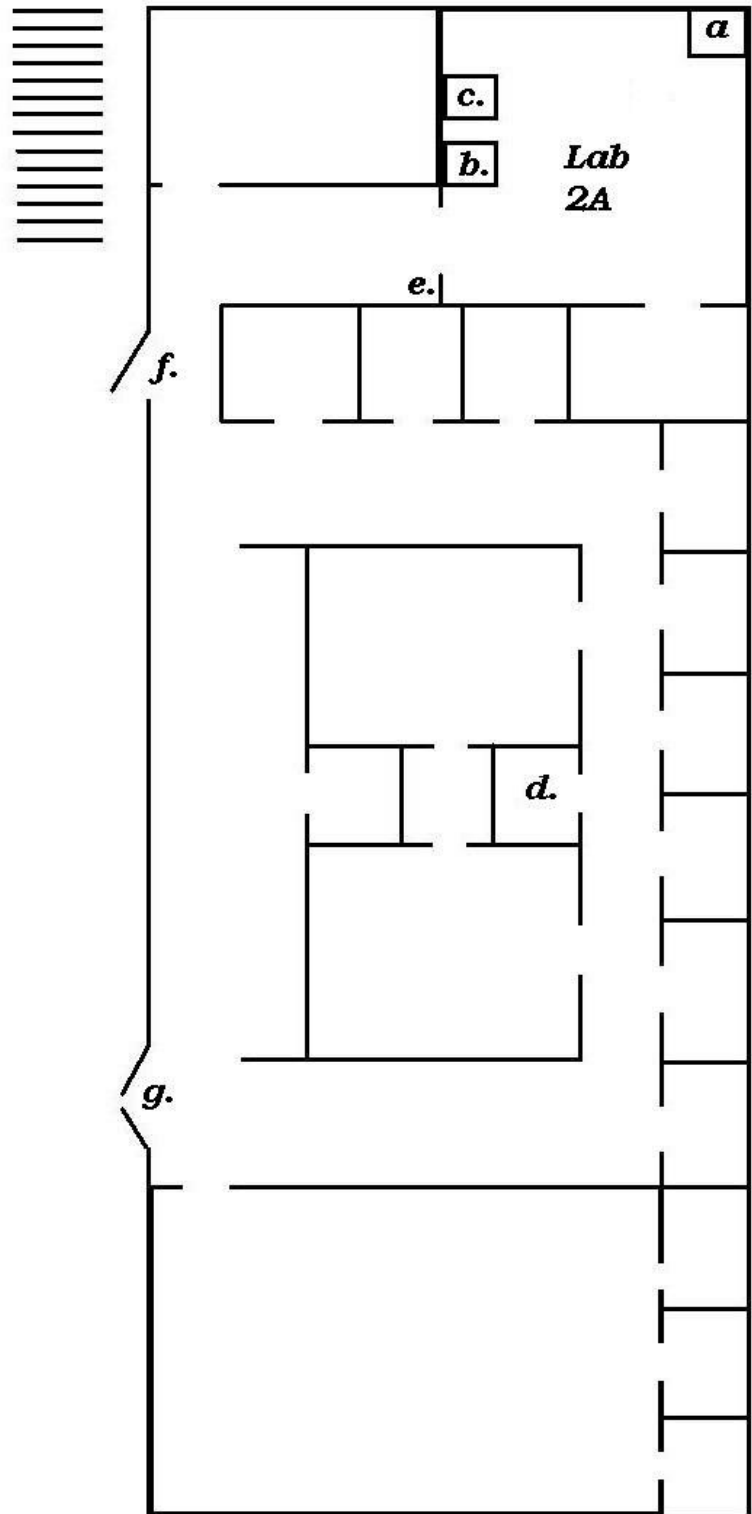
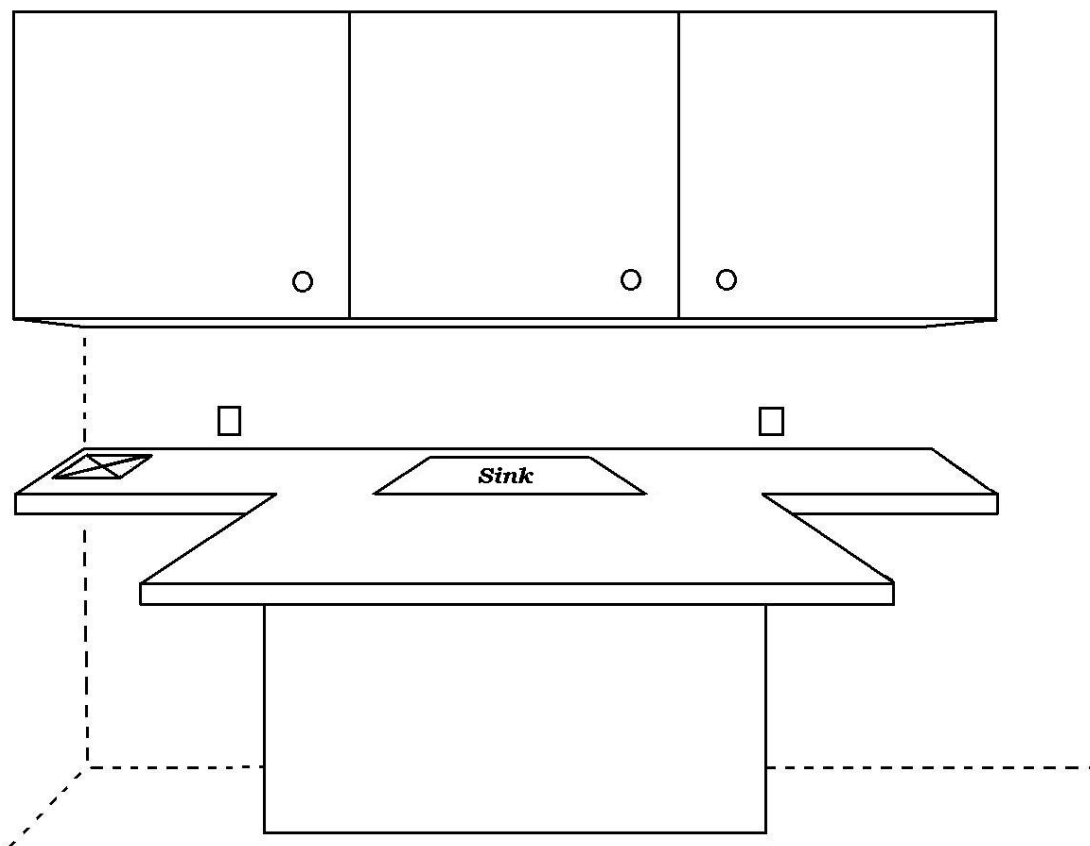


Exhibit E: Diagram of laboratory station #1, in room 2A of the Fraser Butterworth Natural Sciences Building.



X indicates where the hot plate that started the fire was

Exhibit F: James State University Transcript of Morgan McGrath.

James State University, Temple County, Pennsylvania
Academic Record

Name: **McGrath, Morgan**
 Requested by: **Court Order**
 Student Number: **9610545**
 Social Security Number: **404-44-4004** High School: **Mariner High School**
 Date of Birth: **06/07/82** Location: **Edmonds, PA 19999**
 Date of Printing: **03/30/01** Date of Graduation: **1998**

Dept. - Course	Course Title	Credits	GRD	PTS	Memoranda
FALL 1998					Dean's Honor List - Fall 1998
ENG - 101	Advanced Freshman English	3.00	A	12.00	
HST - 101	Amer. Hist. To 1865	3.00	A	12.00	
PSY - 201	Intro to Psychology	3.00	A	12.00	
MTH - 366	Advanced Calculus	3.00	A	12.00	Best Exam
CHM - 211	Advanced Beginning Chemistry	3.00	A	12.00	
SPRING 1999					Dean's Honor List - Spring 1999
CHM - 212	Chemistry II	3.00	A	12.00	
MTH - 380	Matrixes	3.00	A	12.00	Best Exam
ENG - 101	Adv. English II	3.00	A	12.00	
PHL - 107	Symbolic Logic	3.00	A	12.00	
MTH - 460	Non-linear Graphs	3.00	A	12.00	Best Exam
FALL 1999					Dean's Honor List - Fall 1999
PLS - 201	American Political Process	3.00	A	12.00	
MTH - 400	Complex Algebra	3.00	A	12.00	Best Exam
MTH - 800	Guided Research	3.00	A	12.00	
ANT - 201	Anthropology	3.00	A	12.00	
SPN - 101	Elementary Spanish I	3.00	A	12.00	
SPRING 2000					Dean's Honor List - Spring 2000
BIO - 211	Intro to Biology	3.00	A	12.00	
CHM - 360	Applied Organic Chemistry	3.00	A	12.00	
MTH - 320	Business Mathematics	3.00	A	12.00	Best Exam
SPN - 102	Elementary Spanish II	3.00	A	12.00	
MTH - 500	Physical Mathematics	3.00	A	12.00	Best Exam

FALL 2000

ACT – 201	Accounting	3.00	A	12.00
GEO – 260	Beginning Plate Tectonics	3.00	A	12.00
ENG – 212	Creative Writing	3.00	B-	8.10
MTH – 800	Guided Research	3.00	A	12.00
MTH – 342	Applied Geometry	3.00	A	12.00

Dean's Honor List - Fall 2000

Best Exam

SPRING 2001

MTH – 600	Fourier Systems	3.00		
SPN – 159	Conversational Spanish	3.00		
CHM – 380	Non-Organic Chemistry	3.00		
PHL – 360	Political Philosophy	3.00		
SPH – 101	Speech	3.00		

Academic Leave at Mid-Semester

 Cum. Hrs.: 75

GRD PTS: 296.1

Cum G.P.A.: 3.91

This official university transcript is printed on security paper.

Gilbert Lowe, Registrar

Exhibit G: Mariner High School Transcript of Morgan McGrath.

MARINER HIGH SCHOOL

555 Owlhead Loop Road
Edmonds, PA 19999

Home of the Mariners

ACADEMIC TRANSCRIPT

STUDENT:	Morgan McGrath	Social Security Number:	404-44-4004
Address (as of 1998):	5050 Old Post Road	Student Number:	152
	Edmonds, PA 19999	Graduation:	1998

CLASS:	GRADE:	CLASS:	GRADE:
A.P. Freshman English I	A	A.P. Sophomore English I	A
Geometry I	A	Algebra III	A
Spanish I	A	Typing	A
Physical Education	A	Honors Biology I	A
Pennsylvanian History	A	Economics	A
G.P.A.:	4.0	G.P.A.:	4.0
A.P. Freshman English II	A	A.P. Sophomore English II	A
Geometry II	A	Algebra IV	A
Spanish II	A	Honors Biology II	A
Health	A	History: International Conflicts	A
World Geography	A	Driver's Education	A
G.P.A.:	4.0	G.P.A.:	4.0
A.P. Junior English I	A	A.P. Senior English I	A
Honors Calculus I	A	Student Body Office	A
Weight Conditioning	A	Honors Physics I	A
Honors Chemistry I	A	French I	A
Aerodynamics	A	Teen Court	A
G.P.A.:	4.0	G.P.A.:	4.0
A.P. Junior English II	A	A.P. Senior English II	A
Honor Calculus II	A	Honors Physics II	A
Honors Chemistry II	A	French II	A
Teen Court	A	Teen Court	A
Creative Writing	A	Student Body Office	A
G.P.A.:	4.0	G.P.A.:	4.0

Cumulative Grade Point Average: 4.0

Status: Graduated (1998)

Notes: Honor Roll 1994-1995, 1995-1996, 1996-1997, 1997-1998, Valedictorian.

William M. Crosby, Registrar, Mariner High School, Edmonds, PA 19999

Exhibit H: Email transcript between the Honorable Learned H. McGrath and Morgan McGrath.

To: "Father/Mother" <McGrath@temple.circuit.gov>
From: mmcgrath@jsu.edu
Time: 12:24 p.m., Wednesday, March 14, 2001
Subject: RE: how you doing, kiddo?

Thanks, Dad/Mom.

On 03-13-01, 2:00 p.m. McGrath@temple.circuit.gov wrote:

>Morgan,
>
> I know that you're unhappy right now. Please, cheer up. You're a wonderful child and a
>terrific scholar. It's as we always told you, do as best as you can. That's all that we can ask of
>you. Now that the monkey is off your back, relax and have fun with your classes. You're
>going to be incredibly successful over the span of your life. Don't worry about it, no one, and
>especially us, will hold one grade against you.
>
>With Love,
>Dad/Mom
>
>
>

Exhibit I: Fraser Butterworth Natural Sciences Building Security Activity Log for March 14, 2001.

ACTIVITY LOG – BUTTERWORTH HALL – MARCH 14, 2001

Time	Entrance	Exit	Location	Subject(s)
12:00-1:00 am				No Activity
1:00-2:00 am				No Activity
2:00-3:00 am				No Activity
3:00-4:00 am				No Activity
4:00-5:00 am				No Activity
5:29 am	Entrance		Central Rear	Prof. L. Piniela
5:33 am	Entrance		Central Rear	Prof. I. Suzuki Ed Martinez
5:48 am	Entrance		NW Main	Prof. A. Iverson Prof. D. Staley
5:50 am	Entrance		NE Main	Prof. K. Puckett Prof. J. Escalante Prof. H. Simpson Prof. O. Jackson Prof. S. Graf
6:00-7:00 am				Open Access
7:00-8:00 am				Open Access
8:00-9:00 am				Open Access
9:00-10:00 am				Open Access
10:00-11:00 am				Open Access
11:00-12:00 pm				Open Access
12:00-1:00 pm				Open Access
1:00-2:00 pm				Open Access
2:00-3:00 pm				Open Access
3:00-4:00 pm				Open Access
4:00-5:00 pm				Open Access
5:00-6:00 pm				Open Access
6:01 pm	Entrance Entrance		NE Main NE Main	Tracy Wayans Morgan McGrath
6:06 pm	Entrance		NE Main	Jesse Dewar
6:30 pm	Entrance	Exit	Central Rear	Prof. T. Fey
7:24 pm	Entrance	Exit Exit	NE Main NE Main NE Main	Jesse Dewar Morgan McGrath Morgan McGrath
7:33 pm		Exit	NW Main	Tracy Wayans
7:35 pm		Exit	NE Main	Morgan McGrath
7:58			NE Main	Offline
8:24			NW Main	Offline
9:07			Central Rear	Offline

Exhibit J: Handwritten note by Morgan McGrath.

A Short Story: How's this for Creativity, Bode?

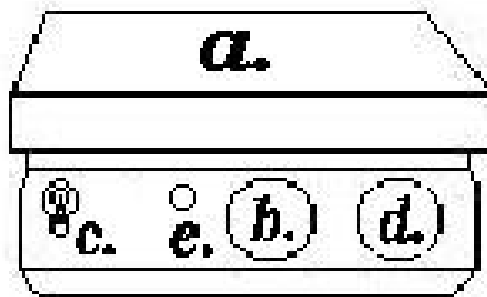
"It was the worst of times, it was the worst of times."

Once there was a professor - of sorts - who gave a very bright student a very, very, Very, VERY, VERY, VERY bad and extremely undeserved grade.

That professor eventually regretted her/his poor decision. So did everyone around that professor.

-MORGAN McGRATH

Exhibit K: Diagram of hot plate model used in Lab 2A.



KEY:

- a. Heating element (plate)
- b. Temperature knob
- c. Power switch
- d. Magnetic stirring knob
- e. Power indicator light