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# The 2007- 2008 CNMI High School Mock Trial Competition

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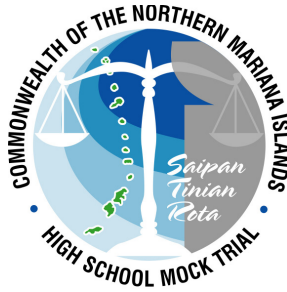
Case Materials Adapted  
By the CNMI Bar  
Association

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Thank you to the Illinois State Bar  
Association and the Tennessee Bar  
Association  
For the problem

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**To: CNMI Mock Trial Program Participants**  
**From: Karen M. Klaver, CNMI High School Mock Trial Chair**  
**Re: 2007-2008 Mock Trial Program**  
**Date: November 28, 2007**

On behalf of the CNMI Bar Association and the Mock Trial Committee welcome to the 10<sup>th</sup> season of the CNMI High School Mock Trial program. In ten years, the program has expanded to include the Junior High Mock Trial Program hosted by the Humanities Council. At the National High School Mock Trial Competition, the CNMI team is right in the competition. In the 2007 National High School Mock Trial Competition, Nikita Mendiola from Tinian Junior Senior High School placed as the Best Overall Witness in the nation!

This year's case is a criminal case brought by the state against Francis Camacho for murder. There is a question as to who actually shot the victim based on witness testimony. In the course of preparing for the competition, if questions arise or there is confusion regarding the problem or rules, please send an email to the CNMI Bar Association at [www.cnmibar.net](http://www.cnmibar.net). We will do our best to clarify. Any clarifications will be posted on the CNMI Bar website.

Our continued success of the mock trial program depends on the dedication of the students, teachers, attorney coaches and all the volunteers. I extend my gratitude to all the volunteers and dedicated students. We hope you enjoy the case.

## Case Materials

Case Overview  
Statement of Stipulated Facts  
Information Count 1  
Information Count 2  
Witness Statements

### Prosecution

Lee Allen  
Sam Riera  
Danielle Kim

### Defense

Francis Camacho  
Taylor Wheeler Wang  
Jamie Ada

Applicable Mock Trial Law  
Case Law

### Exhibits:

CNMI Courier 10/7/2006  
CNMI Courier 10/09/2006  
Ballistics Report  
Criminal Record- Sam Riera  
Criminal Record- Francis Camacho  
Criminal Record- Jamie Ada

*(the following are separate documents)*

Exhibit A to Ballistics Report  
Campus Map  
Police Report

## Case Overview

Sydney Simmons, a student at Oceania High School on the island of Saipan, CNMI, was murdered in front of the Public Affairs Center (PAC) at Saipan State University (SSU) at approximately 4:45 p.m. on October 6, 2006. The murder occurred on a clear day in broad daylight.

Simmons was entering the PAC front entrance with a friend when Simmons was shot once in the head. Simmons died immediately. The shot was fired by the passenger of a white pickup truck that was passing by on the road near where Simmons was walking. After the shot was fired, the truck sped away. Police and paramedics arrived on the scene approximately five minutes later. The police immediately began questioning potential witnesses.

The only witness with substantial information was Lee Allen, a friend of Simmons. Allen told the police investigators that the assailant was in a white Chevy pickup truck. Allen stated that there were two people in the truck and that the shooter was on the passenger side. Allen also gave a rough description of the occupants of the truck, including their hair length and color, and the color of their shirts.

None of the other people interviewed could offer any eyewitness information concerning the crime itself. Some arrived on the scene after the fact. Others were nearby when they heard a shot, looked up, and saw a white truck speeding away. None of these people saw who fired the shot, nor could they identify anybody in the truck.

On October 7, police were contacted by Taylor Wheeler Wang, who was playing soccer near the Public Affairs Center on the afternoon Simmons was killed. At around 4:45 p.m., Wang saw a white Chevy pickup truck speeding away from the direction of the PAC. Wang did not know at the time that Simmons had been shot, but read about it in the local paper the following morning.

Wang gave a description of the occupants of the truck that was consistent with the description Allen had given the police, except Wang had the driver and passenger switched from how Allen described them.

On November 8, 2006, local police stopped Sam Riera for disobeying a stop sign. While running a routine license check, police discovered that an arrest warrant had been issued for Riera for failing to appear in court on a charge of public intoxication. It was also discovered that Riera was on probation for possession of methamphetamine with the intent to distribute. After taking Riera into custody on the warrant, both Riera and Riera's truck – a 1996 white Chevy pickup truck – were searched. The search revealed approximately one half pound of marijuana and a small quantity of methamphetamines. After noticing that Riera and the truck matched the description of the truck and driver involved in the Simmons murder, police notified investigators involved in the Simmons case.

Riera initially denied any knowledge of the Simmons murder. On November 14, 2006, however, Riera admitted to police to driving the truck on October 6<sup>th</sup> when a friend, Fran Camacho, shot Simmons with a 9mm handgun. Riera claimed that the shooting was not planned in advance and was completely Camacho's idea.

Based on the information Riera provided, police obtained an arrest warrant for Camacho and a search warrant for Camacho's apartment. The search of Camacho's home uncovered a 9mm semi-automatic handgun similar to the one Riera had described. Ballistics tests revealed that the gun was the one used to kill Simmons.

At first, Camacho would not answer any questions concerning the shooting. Several days after his arrest, Camacho gave a statement to police that Riera was the shooter and Camacho was the driver. Camacho claimed the shooting was a complete surprise and that Riera had done nothing to suggest that anyone was about to be shot. Camacho has a prior conviction for theft and is currently on probation for robbery.

Camacho's version of events is supported by Jamie Ada, a close friend of Camacho who claims to have overheard Riera bragging at a party about shooting Simmons. Although Ada claims that several other people were present at the time of Riera's alleged bragging, Ada has been unable to recall any of their names. Riera says that Ada is lying to get revenge for a drug deal for which Ada claims Riera still owes money. Riera claims that Ada brought up the drug money several times and that Ada was quite upset about it.

The prosecutor's office has charged Camacho with first degree murder. Riera was charged separately and will have another trial some time after Camacho's trial.

## Stipulations

1. All exhibits included in this problem are authentic and accurate in all respects. No objections to the authenticity of exhibits may be made. No props may be used in lieu of evidence included with this packet. e.g. no toy guns are permitted in the courthouse. Exhibits may be copied and enlarged for demonstrative purposes if the proper foundation for admission is laid at trial. Enlargements shall not exceed 20" by 30" in size. Teams may use markers and pens to assist in the presentation of witness testimony with respect to an exhibit. No other demonstrative aids are permitted.
2. All witness statements have been sworn to by the declarant.
3. "Chain of custody" for evidentiary issues is not in dispute.
4. No *Miranda* issues exist. The Court held a hearing prior to trial and determined that the Defendant's statement was freely given.
5. Participants may not cite legal authority outside that presented in this problem, the Rules of the Competition, and the Mock Trial Rules of Evidence.
6. The defendant is only charged with first degree murder, and not any lesser included defenses.
7. The defendant's sanity is not at issue. A hearing has already been held at which the court determined that the defendant was competent to stand trial.
8. Stipulations can not be contradicted or challenged.

Kai A. Merrickson  
Office of the Attorney General  
3rd Flr, Retirement Fund Bldg.  
Capitol Hill  
P.O. Box 501370  
Saipan, MP 96950  
Telephone No. (670) 555- 3046  
Facsimile No. (670) 664- 3713

Attorney for the Prosecution

**IN THE SUPERIOR COURT  
FOR THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**THE COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,**

Prosecution.

v.

**FRANCIS CAMACHO**

Defendant.

Case No.: 06-1234

**THE CNMI'S COUNT 1**

Kai Merrickson, State's Attorney, now appears before the Superior Court for Saipan, Commonwealth of the Northern Mariana Islands, and states that **Francis Camacho** has, on October 6, 2006, in Saipan, CNMI, committed the offense of **FIRST DEGREE MURDER** in that Francis Camacho shot and killed Sydney Simmons with the intent to kill or do great bodily harm to Sydney Simmons or with the knowledge that there was a strong probability that the defendant's acts would cause death or great bodily harm to Sydney Simmons in violation of CNMI Mock Crim. Code § 1-1-40.

\_\_\_\_\_ *K.A. Merrickson* \_\_\_\_\_

Kai A. Merrickson

State's Attorney

Subscribed and sworn to before me November 22, 2006.

\_\_\_\_\_/s/\_\_\_\_\_

Alberto Gonzales, Judge

I have examined the above information and the person presenting the same and have heard evidence thereon, and am satisfied that there is probable cause for filing same. Leave is given to file said information. Warrant issued.

Kai A. Merrickson  
Office of the Attorney General  
3rd Flr, Retirement Fund Bldg.  
Capitol Hill  
P.O. Box 501370  
Saipan, MP 96950  
Telephone No. (670) 555- 3046  
Facsimile No. (670) 664- 3713

Attorney for the Prosecution

**IN THE SUPERIOR COURT  
FOR THE  
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

**THE COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS,**

Prosecution  
v.

**FRANCIS CAMACHO**

Defendant.

Case No.: 06-1234

**THE CNMI'S COUNT 2**

**COUNT II**

Kai Merrickson, State's Attorney, now appears before the Superior Court, and states that Francis Camacho has, on October 6, 2006, in Saipan, CNMI, committed the offense of **FIRST DEGREE MURDER** in that **Francis Camacho** aided and abetted in the shooting and killing of Sydney Simmons with the intent to kill or do great bodily harm to Sydney Simmons or with the knowledge that there was a strong probability that death or great bodily harm to Sydney Simmons would result in violation of CNMI Mock Crim. Code § 1-1-40.

\_\_\_\_\_ *K.A. Merrickson* \_\_\_\_\_

Kai A. Merrickson

State's Attorney

Subscribed and sworn to before me November 22, 2006.

\_\_\_\_\_ /s/ \_\_\_\_\_

**Alberto Gonzales, Judge**

I have examined the above information and the person presenting the same and have heard evidence thereon, and am satisfied that there is probable cause for filing same. Leave is given to file said information. Warrant issued.

**STATEMENT OF LEE ALLEN**  
**(Witness for the Prosecution)**

1. My name is Lee Allen. I am 17 years old and attend Oceania High School. I was with Sydney Simmons the day Sydney was killed. I had known Sydney for the last five years, we were really close friends. We went to the same junior high school then we got to know each other through participating in Teen Time, Beautify the Islands projects and other community groups.
2. Sydney and I had stopped at Saipan State University to buy tickets for the Linkin Park concert as a birthday present for Sydney's brother. We don't have many live bands perform around here, so we were really excited to be able to get the tickets. We had parked only about 50 feet from the main entrance of the Public Affairs Center. That's where the ticket office is located.
3. It was a nice day and we were taking our time getting from the parking space to the main doors. Just as we started walking from the truck, an old white pickup truck drove by slowly. There were two people in the truck. The driver had thin with long, light colored hair. The passenger was heavier with dark hair that was also quite long. Both were wearing red shirts and both appeared to be about the same age as me.
4. I wouldn't have paid much attention to them except they seemed to be staring at us as they drove by. This made me stare back. The drive makes a loop in front of the doors so I got a look at them both when they passed by and when they headed back up the loop. After they passed by, I quit watching them.

5. Sydney and I were just outside the doors when I heard the worst sound, a loud noise from my left. I looked up and saw the passenger in the same white truck I had just seen pulling a gun back in the passenger window. At the same time, Sydney fell to the ground. The scene was so awful. There was a pool of blood that seemed to spread everywhere. The next thing I heard was an engine racing and I saw that truck speeding away. I started yelling and screaming and some people came. Someone went to call the police and others tried to help Sydney. I could not remember CPR or could not even think to move, I felt so numb. Sydney didn't move again.
6. I am devastated by the loss of my friend. Can you imagine having your life end at seventeen? Sydney and I had plans that after high school graduation we would both attend Saipan State University where we could continue our work with Beautify the Islands. But now all our plans are over. The crime on our islands is getting out of control- Sydney was shot in broad daylight at the university campus! All the beautifying in the world cannot make up for depraved minds committing senseless crimes.
7. The jerks in that truck were wearing red, the known color of street thugs. Why isn't anyone doing anything about crime? Virginia Tech, Saipan State, what's wrong with the world today?
8. I have reviewed the map attached to the investigating officer's police report and believe it to be true to the best of my knowledge. I hope Sydney's murderer gets what's coming.

**WITNESS ADDENDUM**

I have reviewed this statement, previously made by me, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed

\_\_\_\_\_/s/\_\_\_\_\_

Signed and Sworn to me before on this day in November 30, 2007

Alexa K. Rainer, Saipan, CNMI

My Commission Expires on 7/30/2008

**STATEMENT OF SAM RIERA**  
**(Witness for the Prosecution)**

1. My name is Sam Riera. I am 20 years old. I have known Fran Camacho for a little over two years.
2. On the afternoon of October 6, 2006, Fran and I were riding around in my truck. I drive a 1996 white Chevy pickup truck. We weren't doing anything in particular but listening to music and getting high.
3. I decided to drive out by Saipan State because there's not much traffic out there and usually not any cops either. Anyway, we're driving along and Fran tells me to go down this circle drive. It goes down in front of the Public Affairs Center. Fran says, "See that shirt?" I looked down the drive. There were only two people out there. One of them had on a green t-shirt that said "4-H! GET INTO IT!!" Fran says, "It's one of those Four Corners freaks. I've got some business to do here."
4. The Four Corners are a gang. It's really "Four Corners of Hell." They usually put four H's on their stuff or sometimes just 4-H. I remembered hearing that some Four Corners members had messed with Fran a few weeks before.
5. Anyway, Fran tells me to just drive by slow, so I did. When we went back up the circle, Fran told me to go around again. I asked Fran why and Fran just told me to do it. So, I went back down there. By the time we got to the bottom of the drive, the two people were getting close to the doors of the building. Fran pulls out a gun and pops off a round. Then I saw the one with the 4-H shirt go down.

6. When that happened I just put the pedal to the floor and got out of there as fast as I could. I wasn't saying anything. I was driving as fast as I could, trying to get out of there. Fran just kept saying "That'll teach 'em to mess with me." Once we got back toward town, I slowed down. We parked the truck behind the house, got the beer and pot out of the truck, and split up.
7. Fran kept the gun. I told Francis I was afraid the person who got shot was dead. Francis just said, "That was the idea, wasn't it?" After that, I still hung around with Francis some, but not as much. The whole thing just scared me and I didn't want to think about it.
8. As far as Jamie Ada is concerned, we've had a little feud going on for awhile. I think Jamie is just trying to get even. Back in August of 2006, Jamie sold me some pot. I paid for half of it at the time and said I would pay for the rest in a couple of days. Jamie and I have known each other for a long time so it was no big deal. We had done this type of thing for each other from time to time. The problem was that the stuff I took home with me wasn't the same stuff I had smoked before I paid my money. The stuff I smoked before was good, but the stuff I took home was ditch weed that probably wasn't worth what I had already paid. When Jamie asked for the rest of the money, I made it real clear that I wasn't paying another cent. I also made it real clear that I was insulted that someone I considered a friend had tried to rip me off. We haven't had anything to do with each other since then. And, I think that is why Jamie came up with this story about me being the shooter. If Jamie and I were at the same party, which I doubt, we sure never spoke to each other.

9. I know I've been in trouble before, I admit it, but I am not a murderer. In 2006, I was arrested for giving a false report to the police. I was put in front of a grand jury to get another gang member in trouble for sale of some speed. They put me on the stand and I freaked out. I did not want to snitch on a member or that would really cause a street war. However I learned my lesson about lying, when I said the dude didn't do it on the stand, the feds convicted me for lying. That oath you raise your right hand to 'tell the truth the whole truth and nothing but the truth' is serious. I didn't know before that you could go to jail for lying. that is why I am telling the truth now.

**WITNESS ADDENDUM**

I have reviewed this statement, previously made by me, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Signed and Sworn to me before on this day in November 30, 2007

Alexa K. Rainer, Saipan, CNMI

My Commission Expires on 7/30/2008

**STATEMENT OF DANIELLE KIM**  
**(Witness for the Prosecution)**

1. My name is Danielle Kim. I am 17 years old and I have known Francis Camacho for about two years. We live in the same neighborhood and belong to the same gang, the Street Dawgs.
2. In August of 2006, Francis and I were walking to Francis' house from the video store. The store is only about four or five blocks from Francis' house. We were only about a block from the store when we noticed a van coming toward us. The van passed by but it looked like the people in the van had on Four Corners colors. They wear denim jackets with an "H" on each shoulder front and back or sometimes just "4-H." We couldn't tell for sure what the people in the van were wearing because it was dark, but it made us nervous.
3. We always have trouble with the Four Corners people and we give trouble back to them whenever we can. Seeing a van full of them in our neighborhood could only mean trouble. It would be easy for them to figure out who we were with, since we had our colors on. Street Dawgs colors are a Guam Bulldogs shirt or hat. Both of us had on Bulldogs shirts. The Guam Bulldogs' school colors are red and black.
4. We watched until the van went around the corner and then we started walking toward Francis' house again. We had walked about another block when we noticed the same van coming up behind us. By this time, the van was just about even with us. At about the same time that we noticed the van, we heard a shot. The shot missed us. I think it hit a light pole that was right next to us. Anyway, as soon as we heard the shot, we took off running. There was a store

right by us so we went in the front door, ran through the store, out the back door, and into the alley behind the store. Once we got into the alley we ran the rest of the way to Francis' house without any more problems.

5. When we got to Francis', I was just glad we hadn't been shot. But, Francis was mad more than anything else. Francis was punching the furniture and throwing stuff around and cussing the Four Corners about every way you can think of.
6. After we both calmed down we watched the movie we rented and then I went home. I didn't see Francis for three or four days after that. When I did see Francis next, Francis said, "Remember that problem with the Four Corners the other night? Never again my friend." Then Francis showed me a handgun that was tucked in the waist of the pants Francis was wearing. I would see Francis one or two times a week on average and I think every time we were together after that Francis made a point of showing me the gun.
7. I don't know anything about the Simmons shooting. Francis never said anything about it. I don't read newspapers or have cable for TV. I used to see Sam Riera until about the time Francis was arrested. I haven't seen Riera since then. Riera never said anything about Simmons shooting either.

#### **WITNESS ADDENDUM**

I have reviewed this statement, previously made by me, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed

\_\_\_\_\_/s/\_\_\_\_\_  
\_\_\_\_\_

Signed and Sworn to me before on this day in November 30, 2007

Alexa K. Rainer, Saipan, CNMI

My Commission Expires on 7/30/2008

**STATEMENT OF FRANCIS CAMACHO**  
**(Witness for the Defense)**

1. My name is Francis Camacho. I am 19 years old. I have lived on either Saipan, Rota or Tinian my whole life with different relatives. But now Saipan is my home with the Street Dawgs. I finished high school but have never had a good paying job. Now with this arrest, I will never get a job to support my son, but I'll find a way to survive, I always do.
2. On October 6, 2006, I spent the afternoon driving around with Sam Riera. We were just out getting loaded in Sam's truck, a '96 white Chevy pickup. At first Sam drove. Then, after we stopped for some gas, Sam asked if I would drive. I agreed to drive for awhile. We were just drifting around with no particular place to go and just ended up out at Saipan State. I was just going to take a slow ride around the campus. I went down one road that just made a circle in front of a building.
3. When we were going down the drive, Sam told me, "Slow down, Four Corners." I looked over in the direction that Sam was staring and there were two people on the sidewalk. One had on a white shirt with a green four leaf clover and "4-H! GET INTO IT!!" on the back of it. We drove by real slow and then headed back up the drive.
4. When we got near the top of the drive, Sam said, "Let's check this out again." So, I drove down the drive again. By the time we got to the bottom of the drive, the people were only a few feet from the doors to the building. Just before we were even with them, Sam pulled out a gun from under my seat and

fired a shot toward the two people. The one with the 4-H shirt dropped like a rock.

5. As soon as I saw that, I got us out of there as fast as I could. We went out into the jungle for awhile and then headed back into town. Sam kept going on about “getting” that Four Corners.
6. Sam and I are both with the Street Dawgs and we’re always after the Four Corners and the Four Corners are always after us. Both the Street Dawgs and the Four Corners have male and female members. Sam and I both thought for sure that the person who got shot had on a Four Corners shirt. It wasn’t until we saw the TV news that we heard about the 4-H Club. Neither one of us had ever heard of that before.
7. Anyway, we left the truck at Sam’s and got the rest of our stuff out of the truck. We wanted to get anything incriminating out of the truck because the police will go around and use any reason to harass us because of the whole gang thing. Who knows what little thing they would have found in the truck to bust us on as they would be set to track down the anyone to frame for the Saipan State shooting.
8. Sam asked me if I would keep the gun for awhile. Sam said if we or the truck got identified, Sam didn’t want to get caught with the gun. I took the gun and kept it at my house. So now Sam got in some trouble and is nailing me as a way to get out of it. We were street family, this is so unfair.

9. I used to say never again regarding the 4 Corners, I meant, you know like, never again let someone take a shot at me, I would only shoot to defend myself.

**WITNESS ADDENDUM**

I have reviewed this statement, previously made by me, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed

\_\_\_\_\_/s/\_\_\_\_\_

Signed and Sworn to me before on this day in November 30, 2007

Alexa K. Rainer, Saipan, CNMI

My Commission Expires on 7/30/2008

**STATEMENT OF TAYLOR WHEELER WANG  
(Witness for the Defense)**

1. My name is Taylor Wheeler Wang. I am 20 years old and a student at Saipan State University.
2. On the afternoon of October 6, 2006, I was playing soccer with friends at a field on the SSU campus. We started at about 3:00 p.m. and quit a little before 5:00 p.m.
3. The practice ended a bit early since we were a bit tired from our early morning practice. I am on the CNMI National Soccer team; we are training for a big match in the East Asian Football League. We had a 5:00 a.m. practice and we were back on the field for the afternoon scrimmage. Coach Mc Donald really works us, but that is what you need to be number 1. The field is about a half a mile from the Public Affairs Center.
4. About fifteen minutes before we quit playing, I was retrieving a ball that had been kicked across the road. As I was starting to cross the road, an old white Chevy pickup truck came speeding by. I took a step back from the road and looked to see who the idiots were who were driving so fast. The driver had kind of a stocky build with dark hair. The passenger was thinner with light hair. Both of them were wearing red shirts. I would judge their ages to be about the same as mine, or maybe a little younger.
5. After they passed, I got the ball and asked my buddies if they had seen the morons who went by. My friends had all gone behind one of the goals to get some drinks out of a cooler we had there and none of them had noticed the truck. They were

really into the game. If Coach saw anyone daydreaming during the scrimmage or at practice, we would have to drop and give him 50 push-ups. Total concentration is what it takes. We sat around for a little bit after that and cooled off. Then we all went home, because we are scholar athletes. We talked about strategy and possible plays, but after a good workout, we were all pretty hot and tired from the morning.

6. I later heard sirens and saw police cars going toward the area of the PAC but I didn't think much about it or connect it to the truck that had sped by. It wasn't until the next morning when I saw the newspaper account of the shooting on campus that I made the connection. I immediately called the police and told them what I had seen.
7. I have marked the map in the investigating officer's report, showing where I was at the time I saw the truck. I hope the police get the riff raff off the streets, we really do not need those types of people on the campus and sullyng our good reputation that we are trying to build through sports. We don't want to have that type of memory tied to the name of the school.
8. In addition, I heard that the kid that was shot was a 4-H member, not part of the street thugs, but part of the service group 4-H. I was once part of the group in high school. 4-H stands for Head, Heart, Hands and Health. The organization I was with emphasized healthy living and leadership, which really introduced me to my love of soccer. The goal of 4-H is to develop citizenship, leadership and life skills of youth through mostly experimental learning programs usually like animal raising. Most of the members are good kids who are interested in community

service and agriculture. I was into healthy sustainable farming. The official 4-H emblem is a green four-leaf clover with a white H in each leaf standing for the four H's. The white symbolizes purity, far from the thought of street gangs, while the green represents nature's most common color and the emblem of youth, life and growth. Being shot in a 4-H shirt is a sad irony, the good kid goes down while this thug could get away with murder.

**WITNESS ADDENDUM**

I have reviewed this statement, previously made by me, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed

\_\_\_\_\_/s/\_\_\_\_\_

Signed and Sworn to me before on this day in November 30, 2007

Alexa K. Rainer, Saipan, CNMI

My Commission Expires on 7/30/2008

## **STATEMENT OF JAMIE ADA**

### **(Witness for the Defense)**

1. My name is Jamie Ada. I am 19 years old and still in high school for the most part. I have known both Sam Riera and Francis Camacho for about four years. We all live within a few blocks of each other. We have mutual friends and often see each other at parties or just around the neighborhood.
2. This last October, we were all at the same party at a friend's house. I don't remember exactly when the party was, except that it was in October somewhere. I remember that because I remember that the World Series was on the television. Sam and Francis and I didn't go there together. We just all ended up there. There were a lot of people there. Probably forty or fifty most of the time. We were really packed into the place.
3. At one point, I was standing with Sam Riera and about six or seven other people. By this time, it was well after midnight and Sam appeared to be pretty wasted. Sam started talking about this shooting that took place out at Saipan State University earlier in the month. Sam said that Francis drove the truck and Sam shot at someone who looked like a Four Corners member. Sam was laughing about how scared Francis was, and that Sam had never heard of anything called a 4-H Club. We all talked a little bit about how none of us had heard of 4-H, and then people kind of moved around like they do at parties.
4. That was the last I saw of Sam that night. I didn't say anything to anyone about what Sam had said, because I considered Sam a friend. But when I

heard a few weeks later that Sam was blaming Francis for shooting, I got hold of the police. I consider Francis a friend too.

5. I can't let Francis get convicted of something someone else did. I know that Sam says I am trying to get even for some drug debt Sam owes. That's all just a big story, just like it's a big story that Francis shot that kid Sydney Simmons. It's just pot, you know. I am thinking one day when they legalize pot here, I'll be the hero. I heard the 4-h kids are into agriculture, maybe I could become a 4-H member and grow medicinal marijuana for all the tourists and make a killing. Have you seen that magazine cover, "Northern Marijuana Islands?" I could be on the cover some day too!
6. I never sold any drugs to Sam and Sam doesn't owe me any money. We usually all look out for each other- if Sam needed some pot, then I share, because I know some day Sam would repay the favor. It's all good between us. I don't have anything against Sam, except that Sam is trying to get the wrong person convicted. Being in a gang is not about snitching and getting your fellow family member in trouble.

**WITNESS ADDENDUM**

I have reviewed this statement, previously made by me, and I have nothing of significance to add at this time. The material facts are true and correct.

Signed

\_\_\_\_\_/s/\_\_\_\_\_

Signed and Sworn to me before on this day in November 30, 2007

Alexa K. Rainer, Saipan, CNMI

My Commission Expires on 7/30/2008

## **APPLICABLE LAW MOCK TRIAL LAW**

*(this is mock trial law created for the problem and not the true law of the CNMI)*

### **CNMI. MockCrim. Code § 1-1-10 - Presumption of Innocence - Reasonable Doubt - Burden of Proof Generally**

A defendant is presumed to be innocent of the charge(s) against him or her. This presumption remains throughout every stage of the trial and is not overcome unless from all the evidence in the case the jury is convinced beyond a reasonable doubt that the defendant is guilty of the offense charged. The State has the burden of proving the guilt of the defendant beyond a reasonable doubt, and this burden remains on the State throughout the case. The defendant is not required to prove his or her innocence.

### **CNMI. Mock Crim. Code § 1-1-20 - Criminal responsibility for conduct of another.**

A person is criminally responsible for an offense committed by the conduct of another if:

- (1) Acting with the culpability required for the offense, the person causes or aids an innocent or irresponsible person to engage in conduct prohibited by the definition of the offense;
  - (2) Acting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense;
- or
- (3) Having a duty imposed by law or voluntarily undertaken to prevent commission of the offense and acting with intent to benefit in the proceeds or results of the offense, or to promote or assist its commission, the person fails to make a reasonable effort to prevent commission of the offense.

### **CNMI. Mock Crim. Code § 1-1-30 - Criminal homicide.**

Criminal homicide is the unlawful killing of another person which may be first degree murder, second degree murder, voluntary manslaughter, criminally negligent homicide or vehicular homicide.

### **CNMI. Mock Crim. Code § 1-1-40 – First Degree Murder**

(a) First degree murder is:

- (1) A premeditated and intentional killing of another; or
- (2) A killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, act of terrorism, arson, rape, robbery, burglary, theft, kidnapping, aggravated child abuse, aggravated child neglect or aircraft piracy; or
- (3) A killing of another committed as the result of the unlawful throwing, placing or discharging of a destructive device or bomb.

(b) No culpable mental state is required for conviction under subdivision (a)(2) or (a)(3) except the intent to commit the enumerated offenses or acts in such subdivisions.

(c) As used in subdivision (a)(1) "premeditation" is an act done after the exercise of reflection and judgment. "Premeditation" means that the intent to kill must have been formed prior to the act itself. It is not necessary that the

purpose to kill pre-exist in the mind of the accused for any definite period of time. The mental state of the accused at the time the accused allegedly decided to kill must be carefully considered in order to determine whether the accused was sufficiently free from excitement and passion as to be capable of premeditation.

## CASE LAW

(this is case law based on real cases, not necessarily in the CNMI, but adapted for the mock trial problem)

### ***State v. Tate*, 405 CNMI Reporter 238 (CNMI 2001):**

“The State may prove a criminal offense by direct evidence, circumstantial evidence, or a combination of the two. *State v. Akers*, 402 CNMI Rep. 822, 833-35 (CNMI 1994) (“the cases have long recognized that the necessary elements of first degree murder may be shown by circumstantial evidence”). Before a jury may convict a defendant of a criminal offense based upon circumstantial evidence alone, the facts and circumstances “must be so strong and cogent as to exclude every other reasonable hypothesis save the guilt of the defendant, and that beyond a reasonable doubt.” *State v. Jenkins*, 355 CNMI Rep. 487 (CNMI 1985). As in the case of direct evidence, the weight to be given circumstantial evidence and “the inferences to be drawn from such evidence, and the extent to which the circumstances are consistent with guilt and inconsistent with innocence, are questions primarily for the jury.” *State v. Jones*, 322 CNMI Rep. 111 (CNMI 1982).”

### ***State v. Williams*, 335 CNMI Crim. App. 888 (CNMI App. 1982):**

“As additional evidence of premeditation, the state suggests that the defendant's calmness immediately following the shooting proves that the murder was premeditated. Calmness immediately after a killing may be evidence of a cool, dispassionate, premeditated murder. In this case, however, no evidence exists of the defendant's demeanor immediately after the killing, except his own testimony

that he was upset. Although the defendant waited an hour and a half to report the shooting and put his tractor and trailer in the barn before calling the police, there is no evidence concerning his emotional state during this time. Furthermore, the fact that he briefly went to the store and to see a friend without describing the incident does not prove premeditation. One who has recently killed another person recklessly, passionately, or even negligently may be extremely hesitant to reveal the details of the crime, and yet not be guilty of first degree murder.

Thus, while the defendant's behavior manifests such indifference to the victim and fear of detection that the jury might discredit his story, Williams' failure to report the shooting to the police fails to establish premeditation and deliberation in advance of the murder. Finally, the state claims that Williams' concealment of the gun is proof of premeditation. Again, we disagree. The court in *Rosen v. State*, 145 CNMI Reporter 21, 23 (CNMI Crim. App. 1971), held that the concealment of evidence may itself be evidence of guilt. The concealment of evidence, however, may be associated with the commission of *any* crime and the accompanying fear of punishment. One who kills another in a passionate rage may dispose of the weapon when reason returns just as readily as the cool, dispassionate killer. The fact that evidence is subsequently hidden from the police reveals nothing about a criminal's state of mind before the crime. Thus, while the concealment of evidence discredits defendant's self-defense excuse, it does not provide evidence of premeditation. *Rosen* simply permits the concealment of evidence to be used as evidence of the commission of a crime

generally; it does not prove the specific element of premeditation.”

***State v. Alfred*, 399 CNMI Reporter 124 (CNMI 1999):**

“ CNMI Crim. Code Section 1-1-20(2) (1997) provides: A person is criminally responsible for an offense committed by the conduct of another if[,] . . . [a]cting with intent to promote or assist the commission of the offense, or to benefit in the proceeds or results of the offense, the person solicits, directs, aids, or attempts to aid another person to commit the offense. Furthermore, “[a] person can act knowingly irrespective of his or her desire that the conduct or result will occur.” *State v. Ray*, 388 CNMI Rep. 588 (CNMI 1996). The proof adduced at trial revealed that the appellant deliberately shot into a moving vehicle with a high powered assault weapon, clearly aware that his actions could result in the death of an individual. Based upon the evidence presented, the jury could have found the essential elements of first degree murder beyond a reasonable doubt.”

***State v. Kramer*, 402 CNMI Crim. App. 528 (CNMI App. 2000):**

“The appellant contends that, as an accomplice, the evidence failed to show that he had the requisite intent to commit murder. Further, he claims that there was no evidence to prove the necessary elements of deliberation and premeditation. However, the appellant's attack is misguided. Felony murder is defined as “[a] killing of another committed in the perpetration of or attempt to perpetrate any first degree murder, act of terrorism, arson, rape, robbery, burglary, theft, kidnapping,

aggravated child abuse, aggravated child neglect or aircraft piracy.” CNMI Mock Crim. Code § 1-1- 40(a)(2). In effect, the appellant is arguing that the jury was required to conclude that he intended to cause the victim's death. Again, the appellant's argument is misdirected. “When one enters into a scheme with another to commit one of the felonies enumerated in [the felony murder statute] and death ensues, [all] defendants are responsible for the death, regardless of who actually committed the murder and whether the killing was specifically contemplated by the other. *State v. Ralph*, 334 CNMI Reporter 791, 795 (CNMI 1981).”

**Section 204-32, *Criminal Jurisprudence*, “Responsibility for the Crimes of Another:”**

The principal of legal responsibility allows a person to be held responsible for a crime even if he/she did not personally perform the illegal act. See CNMI Mock Crim. Code § 1-1-20, *supra*. For example, A hires C to shoot B. Assuming C kills B, A can be held accountable for B’s death even though A did not in fact kill B. The “hit man” example is a fairly obvious and easy one to understand. However, as with most legal principles, there are situations where responsibility may be less clear. It is well established that mere presence at the scene of a crime does not, in and of itself, lead to accountability. However, disputes often arise over whether the involvement of a defendant is sufficient to be considered aiding or abetting. Let’s go back to A, B, and C. Assume there has been no prior contact between A and C. A, B and C are in a room together and C suddenly pulls a gun and shoots B. Again, everyone would probably agree that A is not legally responsible for the shooting. What if prior to the shooting A tells C what a terrible person B is? What if A tells C the world would be better off if B were dead? What if A tells C “I wish you would kill B”? Just these mere words may change some minds about whether A is now responsible for B’s death. Other factors besides just what is said and done can also come into play. Things such as the relationship between A and C could be significant. Is A in a position of authority over C such that C will do whatever A desires? Also, words or actions that may seem innocent to most observers may have hidden meaning for A and C. The point of all of this is that in order to prove aiding or abetting, you must consider the words and actions of the parties in the total context. There are no magic words that automatically equal accountability.

**Section 205-48, *Criminal Jurisprudence*, “Proof of Gang Membership:”**

Generally, the prosecution is not allowed to offer evidence that the defendant is a generally bad person. The prosecution is required to prove that the defendant committed the crime for which he/she is charged. It can not simply argue that the defendant is an evil person, and because the defendant is evil, he/she must have committed the crime. For example, assume the defendant is charged with speeding. The fact that the defendant is having an extra-marital affair would probably not be relevant to the decision of whether the defendant was driving in excess of the speed limit. Therefore, an attempt by the prosecution to offer proof of the affair would be denied by the judge.

Sometimes evidence that portrays the defendant as a bad person can be kept out of the trial by the defendant even if it is relevant. The defendant can argue that while the evidence may have some value to the jury in making a decision about the guilt or innocence of the defendant, it will make the defendant seem like such a bad person in the eyes of the jury that they will not be able to make an impartial decision. In other words, the jury will become so disgusted with the defendant that it will base its decision more on this disgust than on the actual proof. This is especially true if the disputed evidence regards the defendant’s membership in, or association with, an unpopular group. In these instances the judge will have to balance between the importance of the evidence to the proof of the case and the degree to which the evidence is likely

to improperly excite the emotions of the jury against the defendant. The more critical the evidence is, the more likely it will be admitted.

Because gangs are generally negatively perceived by juries and judges, proof of gang membership will only be allowed if it is relevant to the case being tried. It is also possible that even if relevant, gang membership may be excluded if it is not central to proof of the prosecution's case and the court is convinced that the evidence will unduly prejudice the jury against the defendant.

CNMI COURIER

October 7, 2006

**MURDER AT SAIPAN  
STATE UNIVERSITY**

Yesterday at approximately 4:45 p.m. a teenage student visiting the campus was gunned down at the door of the Public Affairs Center at Saipan State University. Sydney Simmons, a student at Oceania High School was pronounced dead at the scene. Lee Allen, a witness to the shooting, stated that two young people in an old white pickup truck drove by and shot Simmons.

Allen said that Simmons was well liked at school and that neither

students were involved in gang activities. Police have found no motive for the shooting as yet.

Other "drive by" shootings have occurred in the past several months in Saipan which have been connected with warring gangs. Two prominent gangs taking credit for some of the recent violence are the Street Dawgs and the Four Corners of Hell.

Police are seeking other witnesses to the crime and ask that anyone with information on the shooting contact the CrimeStoppers Hotline at (800) 555-5555 or

[crimestoppers@courier.net](mailto:crimestoppers@courier.net).

CNMI COURIER  
October 9, 2006  
CRIMESTOPPERS SEEK  
INFORMATION ON MURDER

CrimeStoppers of the CNMI is seeking information on an October 6<sup>th</sup> shooting at the Saipan State University Public Affairs Center.

According to police reports, a gunman, a passenger in a white Chevy pickup truck drove by the entrance to the Public Affairs Center at about 4:45 p.m. and shot Oceania High School student, Sydney

Simmons. The driver of the vehicle is also being sought for questioning.

The gunman and driver were both in their late teens or early twenties, were wearing red shirts and had long hair cuts.

Anyone with information regarding this shooting or any other serious crime is asked to call (800) 555-5555 or email [crimestoppers@courier.net](mailto:crimestoppers@courier.net). You don't have to give your name and if your tip leads to an arrest, you will receive a cash reward of up to \$5000.

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**BALLISTICS REPORT**

TO: FILE  
FROM: INSPECTOR CHRIS DLG DIOR  
RE: TAG #3826

On 11/16/06, I conducted a test firing of a 9mm Browning, semi- automatic handgun containing evidence tag #3826. The weapon was obtained from the police evidence vault at 10:30 a.m. on 11/16/02. The weapon was transported to the firing range by me and test fired at approximately 11:15 a.m. After retrieving the slug and shell casing, I returned the weapon to the evidence vault at 12:10 p.m.

On 11/17/06, I compared the slug and shell casing retrieved after the test firing with a slug removed from the body of Sydney Simmons and a shell casing found at the scene of the Simmons shooting. The rifling of the slugs as well as the marks on the shell casings matched, indicating to me that the same weapon produced both sets of slugs and shell casings.

An accurate picture of the handgun I tested is attached hereto as Exhibit 'A.'  
Chris Deleon Guerrero Dior  
Inspector Chris DLG Dior

**IN THE COURTS OF  
THE COMMONWEALTH OF THE  
NORTHERN MARIANA ISLANDS  
CLERK OF COURT'S OFFICE  
SAIPAN**

CR- 122804

\_\_\_\_\_ Nov. 2007 \_\_\_\_\_  
Date

**CRIMINAL RECORD**

Search of available records of Court, Saipan, indicated that:

**Sam Riera**

- Has never been convicted of any criminal offense
- X Has been convicted of a criminal offense(s).

Case Number	Offense	Date of Conviction	Sentence
04 123	Perjury	Oct 2005	6 months in jail for perjury giving a false report to police
05-123	Possession Marijuana	May 2005	Defendant is fined \$100.
05-334	Public Intoxication	Nov 2005	2 days incarceration with \$100 fine
05-224	Possession of Methamphetamines with intent to distribute	July 2006	Defendant is fined \$500. Suspended sentence. Shall be placed on probation for 6 months.

**IN THE COURTS OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA  
ISLANDS**

**CLERK OF COURT'S OFFICE  
CNMI**

**CR- 73096**

**11-2007**

**Date**

**CRIMINAL RECORD**

Search of available records of Court, Saipan, indicated that:

**Francis Camacho**

- Has never been convicted of any criminal offense
- X Has been convicted of a criminal offense(s).

<b>Case Number</b>	<b>Offense</b>	<b>Date of Conviction</b>	<b>Sentence</b>
	<b>Robbery</b>	<b>May 2006</b>	<b>Sentenced to 6 months in jail, suspended except for 30 days. 2 years probation, pay restitution to the victim.</b>
	<b>Theft</b>	<b>October 2005</b>	<b>Sentenced to 6 months in jail, suspended except for 10 days. Pay restitution to victim</b>
	<b>Disorderly conduct</b>	<b>August 2005</b>	<b>\$50 fine.</b>
	<b>Possession Marijuana</b>	<b>January 2006</b>	<b>\$100 Fine</b>

**IN THE COURTS  
OF THE  
COMMONWEALTH OF THE NORTHERN MARIANA  
ISLANDS**

**CLERK OF COURT'S OFFICE**

**CR- 040403**

**11-2007**

\_\_\_\_\_  
**Date**

**CRIMINAL RECORD**

Search of available records of Court, indicated that:

**Jamie Ada**

- Has never been convicted of any criminal offense
- X Has been convicted of a criminal offense(s).

<b>Case Number</b>	<b>Offense</b>	<b>Date of Conviction</b>	<b>Sentence</b>
	<b>Possession of methamphetamine with intent to distribute</b>	<b>March 2006</b>	<b>Felony conviction: 18 months incarceration all suspended except for 90 days</b>