

## **2014 Advanced Juvenile Defender Training** ***In re R.C. Fact Problem***

### **The Petition**

The petition alleges that on February 7, 2014 at approximately 10:00 p.m. the juvenile unlawfully, willfully and feloniously did steal, take, and carry away currency in the amount \$80, the personal property of Quickie Mart, Inc., from the person of Alice Tubbs, clerk, by taking it from a cash register in her possession, protection, and control, a violation of 14-72(b)(1), a Class H felony. It also alleges that on February 7 at approximately 10:00 p.m. the juvenile unlawfully and willfully did steal, take, and carry away a six pack of beer, the personal property of Quickie Mart, Inc., by concealing it in a backpack and leaving the store without paying for it, a violation of 14-72(a), a Class 1 misdemeanor.

### **Interview of Client and Family Members**

Your client is Ronny Clements. He is 13 years old, white, 5'0" tall and 100 lbs. He wears his hair in a "mohawk" and often wears a necklace with a big silver cross on it. He lives in an apartment in downtown Raleigh with his mother and brother. He says that he got in trouble for taking something from school last year.

Ronny says that he was not at the Quickie Mart on the night of February 7. He was home with his 20 year-old brother, Jordan Clements, from 8:00 p.m. on. (His mother was working an extra shift and was gone all day, arriving home after midnight.) When asked what he and Jordan were doing at home that night, Ronny initially says "Nothing, hanging out," but when pressed, admits he was helping his brother put marijuana into bags, which his brother sold to people who came to the house. He only knows the people by their first names and does not know how to contact them. He did walk over to the Quickie Mart early before it got dark but he did not see Harland White. He bought two honey buns and a grape soda.

Mrs. Clements says that Ronny is in the seventh grade, but academics are a struggle for him because he has a learning disability. He is failing three out of five classes and may not be promoted to the eighth grade. Ronny has a 70 IQ and was diagnosed with attention-deficit hyperactivity disorder when he was 7 years old. Mrs. Clements had to take time off from work for school meetings about his Individual Education Plan. She wishes that he would get involved with sports but so far he does not show any interest. She is worried that he is spending too much time with his older brother Jordan, who has had drug trouble and may not be a good influence. Ronny's father died of cancer when Ronny was six years old, which was very hard on him. He has always been a small boy, and she thinks his size combined with not having a father around made him a target for bullies. He is an obedient son who takes pride in cleaning her car.

Although Ronny has no prior juvenile adjudications, he had one petition for misdemeanor larceny in August 2013, which was dismissed by the State because the complaining witness did not show.

Jordan Clements has a record for drug offenses, including two felony convictions of sale of

cocaine for which he recently served 12 months in prison. He also pled guilty to forging checks belonging to an elderly neighbor in 2012. Jordan confirms that Ronny was at home with him on the night of February 7, and remembers that they were watching basketball on TV. Other than that, he claims he does not remember what they were doing or whether anyone visited the apartment.

**Information about Alice Tubbs, Quickie Mart Clerk** (From talking with Officer Davis and from his report)

Tubbs is a 60 year-old African American woman who has been working at the Quickie Mart on South Blount Street in downtown Raleigh for two years. On February 7, she was working as the cashier at the Quickie Mart at 10:00 p.m., when five teenage males came in. Two of them were black and three were white. Some of them had on baggy pants and necklaces and they were “cutting up”. She had the feeling they were up to no good and started watching them on the mirrors in the corners of the store. They spread out in different aisles, cracking jokes and laughing loudly while they handled merchandise.

Two of the white males went to the beer cooler and Tubbs focused on them because they did not seem of age to buy alcohol. One was wearing a black T-shirt with an eagle on it and no hat. His hair was dark but he had long hair in the back dyed blonde, which stood out to Tubbs as unusual. The other was wearing an oversized white T-shirt, a backpack, and a Durham Bulls cap. The one in the cap looked shorter (between 5’2” and 5’5”) and thinner than the male in the black T-shirt, who was at least 6 feet tall and more muscular. The one in the cap started to walk in the direction of the store exit, but the taller male yanked him by the backpack, pulled off the backpack, and stuffed it in the smaller male’s hands. Ms. Tubbs could not hear what they were saying, except that the taller male addressed the other, “Boy!” in a stern voice. The one in the cap then unzipped his backpack and held it open while the taller male took a case of Pabst beer from the cooler, put it in the backpack, and zipped it. The smaller male in the cap put the backpack on and they both started walking toward the checkout counter. The other three males rushed to the counter first to pay for a box of candy and soda. Ms. Tubbs totaled the items, took the money, and opened the cash register to give the change. At that moment she saw the two white males, who had put the beer in the backpack, walk by the checkout counter and toward the door. They were about five feet from the exit when Ms. Tubbs said in a loud voice, “You need to pay for what’s in that backpack.” One of the boys at the counter reached across and took money, about \$80, from the cash register. They all started to run except the young male in the Bulls cap, who froze. Someone yelled, “Boy, you better run!” and pulled him by his backpack strap out of the store. All five then took off running down the block.

Ms. Tubbs called 911 and reported the theft. Officer Davis arrived and learned that the store’s video camera was not functional. Ms. Tubbs said the owner of the Quickie Mart was so cheap and mean that he would sooner see his employees get killed than pay a dime for proper security. She had called him to report the theft right after she called the police and he had berated her for causing the store to lose money. She had had it with that man and was going to quit. Now that she thought about it, those kids had done her a favor and she wished they had gotten away with more merchandise.

## **Report of Officer Davis**

I knew from Ms. Tubbs' description that the male in the black T-shirt with the eagle on it was Harland White. White has short, dark hair with a long "rat tail" peroxided white, and a muscular build from playing high school football. I have dealt with White many times before. In fact, I asked him some questions about break-ins in the neighborhood earlier this week when I ran into him on Fayetteville Street. I thought he might want to provide a little cooperation since he has a court date coming up for misdemeanor B & E and he already has one on his record.

On Monday, February 10, I went to White's home and told him he had been caught on videotape stealing beer from the Quickie Mart. He said, "Man, that was all Ronny Clements. You can't pin that shit on me. I was just in the store and had no idea that boy was going to pull that stunt. You know he's joined the family business, dealing smack with his brother Jordie. They are messed up." We discussed the possibility of a PJC for White's pending charge in exchange for his honest testimony against Ronny Clements and information about Jordie's drug dealing.

That afternoon, I went to Shaw Middle School to interview Ronny Clements. When I arrived at the school, Ronny Clements was in the office with Officer Short, the SRO (school resource officer) and the principal, Mrs. Boyd. I called earlier and spoke to Officer Short and told him I was investigating an incident that occurred at the Quickie Mart last night. He verified that Ronny Clements was at school. Mrs. Boyd advised me that Officer Short brought Ronny to her office about an hour before I arrived. Officer Short and Mrs. Boyd met with Ronny in her office. Officer Short told Ronny he might be in trouble and he should tell them what he was doing last night. Ronny said he was scared and wanted his mother to come to the school. Mrs. Boyd called Mrs. Clements and she said she would try to get there in 30 minutes. Officer Short continued to ask Ronny what he was doing last night, assuring him he could leave with his mother if he told the truth. Ronny told Officer Short he went to the Quickie Mart and then was home watching TV.

I interviewed Ronny alone in Mrs. Boyd's office from approximately 12 noon to 12:30. Ronny Clements is a young, white male, 5'0" and slight of build, consistent with Ms. Tubbs' description. He was wearing a silver chain with a cross on it. I told Ronny I was here to talk about what happened on Friday at the Quickie Mart. I asked Ronny if he went to Quickie Mart on Friday. He did not respond. I asked him what he was doing on Friday night. He did not respond. I then told him that he was caught on videotape stealing beer from the Quickie Mart and that Harland White was prepared to testify against him. Ronny still did not respond and continued to hold his head down. I then asked Ronny if he knew Harland White and he said "yes, my brother got in a fight with him." I again asked Ronny to tell me what happened on Friday. Ronny asked "Is my mother here yet?" I told him I did not know. A few moments later, Mrs. Clements arrived and said that she was taking Ronny home and no one else was going to talk to him.

I obtained a yearbook from Shaw Middle School for the previous school year. I went to the Quickie Mart and met with Mrs. Tubbs. When I showed Mrs. Tubbs the yearbook, it was on pages 6 and 7, which included pictures of several girls, 3 white males and two black males. I asked her if she recognized any of them as the teenagers that stole the beer and money from the

store. She pointed to Ronny Clements' picture and said "That looks like one of the boys with the backpack."

I thereafter filed a complaint with the court counselor's office alleging Felony and Misdemeanor Larceny for Ronny Clements.