

## KYA MODEL SUPREME COURT PROGRAM: GUIDANCE AND GUIDELINES

### *An Introduction to Commonwealth v. Gaither*

This year's case is *Commonwealth v. Gaither*, a criminal case. The defendant, John Gaither, was arrested and charged with possession of a controlled substance (cocaine). He was arrested while he was visiting an auto body shop owned by his friend, Nick Miller. The arresting police officer suspected that Gaither might be involved in illegal drug trafficking, and did a pat-down search of Gaither. He felt the cocaine in Gaither's pocket and arrested him.



The Fourth Amendment to the U.S. Constitution protects every citizen from unreasonable searches. If a court determines that the search is reasonable, then the evidence found during the search can be used against the defendant. If a court determines that the search is unreasonable, then any evidence found during the search cannot be used against the defendant (in other words, the evidence must be “suppressed”).

Before the case goes to trial, Gaither's attorney files a “Motion to Suppress”. In Gaither's motion to suppress, his attorney argues that the police officer was not justified in conducting the pat-down search. He also argues that, even if the officer was justified in conducting the frisk, that he “exceeded the scope of the search”. More specifically, Gaither's lawyer argues that the officer was only allowed to frisk for weapons – he was not permitted to reach into Gaither's pocket because he thought drugs might be in there. He asks the court to suppress the cocaine that they found in Gaither's pocket.

A suppression hearing is held, and the police officer testifies. The court determines that the pat-down search was unreasonable and that evidence cannot be used against Gaither. The prosecution – in Kentucky, called the “Commonwealth” – appeals this decision.

You are representing one of the parties before the Kentucky Supreme Court. **There are two main issues that you will be addressing: (1) whether the police officer was permitted to conduct the pat-down search of Gaither and (2) whether the officer exceeded the scope of that search.** The Appellant – the Commonwealth – will argue that the search was reasonable and that the evidence can be used against Gaither. The Appellee, Gaither, will argue that the trial court reached the right conclusion and that the search was unreasonable.

### *Where to Start*

You have several documents before you, collectively referred to as “the record”. You have a copy of the Newtown Circuit Court judgment and a transcript of the police officer's testimony at the suppression hearing.

You also have seven cases, some from the U.S. Supreme Court and some from the Kentucky Supreme Court. You may refer to any of these materials in your oral argument.

**However, you must limit yourself to only those cases and laws contained in the packet. Do not refer to or use outside sources!**

Begin by reading through the lower court judgment and all the testimony. Then read the case law you have been provided. Because it defines a proper “pat-down search”, you should begin with the U.S. Supreme Court case of *Terry v. Ohio*, which has been provided in your packet. Then read the remaining cases, and determine whether they support your side of the case. If it does not, consider how you might distinguish that case from Gaither’s case.

### ***Preparing Your Argument Summary***

The argument summary should be a short outline of your side’s position. It should be no more than 500 words (about one page). In it, you should briefly set forth the arguments you will be making during the competition. It should focus on the conclusions you will be reaching, not the facts of the case. The summary should be a tool to help you organize your oral argument and find the best points that support your position. A sample argument summary (based on a prior year’s case) is attached for your help.

The scoring judges will review your argument summary before the competition. Be sure to carefully proofread your summary for typos and other errors. Do NOT read from your argument summary at the oral argument competition.

## *Sample Argument Summary*

### **Jones v. Commonwealth: Appellee's Argument Summary**

This traffic case arises from the Appellant, Jedidiah Jones', failure to display the slow-moving vehicle emblem on his horse-drawn buggy. The Commonwealth will argue that Mr. Jones violated Kentucky statutes requiring that a slow moving vehicle display an orange triangle. Mr. Jones asserts he is exempt from this requirement based on his sincerely held religious beliefs.

Mr. Jones admits that he did not have the required emblem displayed on his vehicle when he was driving his buggy on a public roadway. However, he argues that the requirement infringes upon his right to freely practice his religion. Mr. Jones is a member of the Amish faith, and his religion requires that he not display bright or garish colors or symbols. He believes that the slow-moving vehicle emblem – which is orange and in the shape of a triangle – violates his religious beliefs and would result in him being shunned from his religious community.

The Newtown District Court held a hearing on the matter, and concluded that KRS 189.820, which requires that all slow-moving vehicles display an orange emblem, infringes upon Mr. Jones' First Amendment right to freely practice his religion. The test for determining whether the statute infringes upon Mr. Jones' First Amendment rights is four-part: (1) are Mr. Jones' beliefs sincerely held?; (2) Are his beliefs substantially burdened by displaying the slow-moving vehicle emblem?; (3) Does the state have a compelling interest that overrides Mr. Jones' claims?; and (4) Can the state's interests be met by a less-restrictive alternative?

The Appellee, the Commonwealth of Kentucky, argues that the Newtown District Court applied the correct test to this situation, but reached the wrong result. The Commonwealth will not dispute that Mr. Jones' religious beliefs are sincerely held or that those beliefs will be burdened by the slow-moving vehicle emblem requirement. However, the Commonwealth asserts that the state has a compelling interest that overrides Mr. Jones' religious freedom, and that no less-restrictive alternatives exist.

The safety of all persons on the public roadways is entrusted to the Commonwealth. From speed limits, to road rules, to driver testing – the Commonwealth is responsible for the enactment, management and enforcement of the entire body of rules that ensures the safety of Kentucky's drivers, passengers and pedestrians. There is no interest more compelling than public safety. The slow-moving vehicle emblem ensures the safety of the person(s) driving the slow-moving vehicle, as well as the other motorists on the road. It is

a universally recognized symbol. To allow Mr. Jones' to use a different symbol would defeat the purpose of the statute.

Furthermore, the Commonwealth will argue that the use of the public roadways is a privilege, not a right. Any infringement on Mr. Jones' religious freedom can be entirely avoided by simply not using the public roadways.

