

CASE STUDY MATERIALS

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Level 6
CRIMINAL LITIGATION
Subject Code L6-18

ilex

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INSTITUTE OF LEGAL EXECUTIVES

UNIT 18 – CRIMINAL LITIGATION*

CASE STUDY MATERIALS

Information for Candidates on Using the Case Study Materials

- This document contains the case study materials for your examination.
- In the examination, you will be presented with a set of questions which will relate to the case study materials. You will be required to answer all the questions on the examination paper.
- You should familiarise yourself with the case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss the materials with your tutor/s either face to face or electronically.
- It is recommended that you consider the way in which your knowledge and understanding relates to the case study materials.

Instructions to Candidates Before the Examination

- You will be provided with a clean copy of the case study materials in the examination.
- You are **NOT** permitted to take your own copy of the case study materials or any other materials including notes or text books into the examination.
- In the examination, candidates must comply with the ILEX Examination Regulations.

Turn over

* This unit is a component of the following ILEX qualifications: **LEVEL 6 CERTIFICATE IN LAW, LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE** and the **LEVEL 6 DIPLOMA IN LEGAL PRACTICE**

ADVANCE INSTRUCTIONS TO STUDENTS

You work for Kempstons, a leading local Criminal Law practice. You have a very busy work load at the moment.

Document 1: Statement from Mark Jones

Document 2: Summary of prosecution statements

CASE 1

A duty solicitor employed by Kempstons has been contacted in relation to Dariusz Leszek, aged 35. Leszek is apparently Polish. He has been arrested on suspicion of theft of a case of vodka from an off-licence. There have been a series of such thefts, and some local publicity has been given to CCTV images of a man seen at the scene of several of these thefts. There is a similar method of operation. A man approaches the assistant and says he is having a party and needs a case of vodka. When the assistant brings the vodka to the counter, the customer asks for a bottle of spirits from the top far corner of the display and runs off with the case of vodka when the assistant's back is turned. The man seen on CCTV has cropped fair hair, and wears a baseball cap with a distinctive very long peak. The officer in the case has indicated that the police consider that all the matters are linked and they will be interviewing Leszek about all these incidents.

CASE 2

Kempstons are acting for Mark Jones, aged 21. Over the past two days Jones has been interviewed and charged with malicious wounding, contrary to s20 Offences Against the Person Act 1861. The alleged victim is his uncle, Frank Todd. Prior to this incident Jones was living with Todd and his partner, Stacey Golding. Bail was withheld, apparently on the basis that Jones had no address to go to, but it has now been established that he could live with a friend who lives about three miles away from Todd. Jones is also known to the Probation Service and it is likely that a place in a bail hostel would be available for him. Kempstons were instructed after Jones was charged. The case is listed before Bedford Magistrates Court tomorrow morning. You have a statement from the client (**Document One**) and advance disclosure has been provided (**Summarised as Document Two**). [Note: you may assume that all documents are formally correct.]

CASE 3

Kempstons act for Wing Hee Lok who has been convicted in the magistrates court of being drunk whilst in charge of a vehicle. Mr Wing wishes to appeal. There are two potential grounds of appeal. The first is factual. Mr Wing was seen by a member of the public. The witness alleges Mr Wing was sitting in the driver's seat of the car. Mr Wing says that he had merely come to check that the car was safe, and did not get into it at all. The second is a point of law as to whether being in the vicinity of a car which actually belongs to Mr Wing's employer, but for the security of which he was responsible, can constitute being in charge of the car.

[NOTE: You are not required to investigate whether there is any case

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CASE 4

Kempstons act for Zane Smith, aged 15. Zane has been charged and bailed to court on two separate files.

(a) A charge of theft by shoplifting of DVDs to a total value of £260 jointly with Greg Thomas, aged 18. Zane will admit this offence, but you understand that Thomas, for whom Kempstons do not act, is proposing to plead not guilty.

(b) A charge of wounding with intent, contrary to s18 Offences Against the Person Act 1861. The alleged victim is a boy of 14 and the incident occurred at the school which both of them attend. Zane states that the other boy was abusive to him and they started to fight. The wound resulted when Zane punched the other boy in the face and a ring he was wearing caused a severe gash to his jaw area. Some witnesses state that Zane then continued to attack the other boy, who was crying for him to stop. However Zane denies this, and other witnesses support his version. Zane denies the charge.

DOCUMENT 1

Mark Jones will say. I am 21 years old. I am currently of no fixed address, until last Friday I was living with my uncle, Frank Todd, and his partner, Stacey Golding. I am unemployed and in receipt of Jobseeker's Allowance. I have three previous convictions for common assault and assault occasioning actual bodily harm. These all involved fights in and outside pubs or clubs after I had been drinking. I am on bail for handling stolen building materials.

On Friday the three of us went out drinking. When the pub closed we went home and carried on drinking. Frank and I had each had about ten pints of lager in the pub, and Stacey had had about seven pints. At home we drank a bottle of vodka between us. We were certainly all drunk. Stacey was asleep on the sofa. Frank went to the toilet. I noticed that Stacey was lying right on the edge of the sofa, and might fall off and hurt herself. I went to move her further on to the sofa. At that point Frank returned. He obviously got the wrong idea; he thought I was molesting Stacey. Frank is very jealous, and if anyone paid any attention to Stacey he would get aggressive. That is what happened this time. I tried to explain, but he picked up the empty vodka bottle and tried to hit me with it. I dodged the blow and Frank slipped and fell, losing his grip on the bottle. I picked it up to defend myself. I was trying to back away and also to explain, but Frank again came after me, so I lashed out at him with the bottle. The first time it caught him a glancing blow on the side of the head, but then the bottle hit the edge of the door and broke. Frank was still attacking me so I held the broken bottle out and he sort of ran onto it and it gashed his cheek. Frank then tripped over and fell, banging his head on the edge of the coffee table. This seemed to knock him out. I then realised Stacey had woken up. I don't know how much she had seen, but she started to get hysterical. I called the ambulance service and I think they must have called the police. After the police spoke to Frank and Stacey I was arrested and taken to Bedford police station. Frank is my mother's youngest brother. He is 32 and used to work as a pub doorman. He works out regularly and is a large man in good physical shape. As I have said, he is very jealous, and I have seen him hit men, who he considered were paying too much attention to Stacey, in the past.

When I was interviewed by the police, I explained what had happened, but they didn't seem to believe that I was only protecting myself.

DOCUMENT 2

Summary of prosecution statements.

Sgt 432 COX:

Requested to attend 34 Venn Avenue as a result of information from ambulance service paramedics. Arrived 00.15 hours. Paramedics present at scene. Also present Frank Todd (1), Stacey Golding (2), Mark Jones (3).

1, a white male aged 32, was being treated by paramedics for what appeared to be a gash to the L side of the face. He was conscious but clearly in great pain. No interview undertaken.

Spoke to 2, a white female aged 28. She was distressed and tearful. Her breath smelled of alcohol, and her eyes were slightly glassy. She made a statement alleging that 3 had assaulted 1 with a vodka bottle.

Recovered a vodka bottle from the scene in the living room of the house.

Arrested 3, a white male aged 21, on suspicion of malicious wounding, cautioned and conveyed to Bedford Police Station. No comment made on arrest/caution.

Subsequently interviewed 3 under caution at Bedford Police Station.

[Note: the vodka bottle was subject to forensic examination. Fingerprints of 1, 2 and 3 were all found on the bottle.]

FRANK TODD

I was out drinking on Friday night in my local pub, the Lamb and Flag. I went with my partner Stacey, and then my nephew Mark, who has lived with us for the past six months, joined us at about 9.00pm. Mark said he had been drinking elsewhere in town earlier. I had had about five pints of ordinary lager by 9.00pm, and Stacey was drinking half a pint to each of my pints. I think we had another five rounds after Mark joined us. We were talking about various family matters and other general small talk. At around 11.00pm we went home. It is five minutes walk. We then decided to have some more to drink. There was a bottle of vodka which I think was full. We were drinking it sitting in the living room. After about half an hour, the bottle was empty and I needed to go to the toilet. Stacey had fallen asleep lying on the sofa. When I came back from the toilet I saw Mark bent over Stacey. He seemed to be rubbing her breasts over her T-shirt. I had been worried for a week or two that Mark was eyeing Stacey up in a funny sort of way, as though he fancied her sexually. However, I was very surprised that this was actually happening in my own house. I said 'Oi' and Mark turned round. He jumped up, grabbed the bottle and jumped towards me. I backed away, but he smashed the bottle on the table and jabbed it into my face. I felt a spurt of blood and then Mark pushed me hard in the chest and I fell over backwards. The next thing I remember is the paramedics putting me onto a stretcher. I did not attack Mark, and his attack on me was unprovoked. I was of course very annoyed that he appeared to be molesting Stacey, but I had every right to be.

Turn over

STACEY GOLDING

On Friday night I was at work until 6.30pm. I then went to the Lamb and Flag to meet my partner, Frank Todd. We were in there until just after 11.00pm, and about 9.00pm Frank's nephew, Mark Jones, joined us. I was drinking halves of lager and by 11.00pm I would say I had had about five pints in total. We then walked home and Frank got a bottle of vodka. We were all drinking this, but I fell asleep after about 20 minutes. I was lying on the sofa. The next thing I recall was Frank shouting something. I opened my eyes and saw Frank and Mark face to face in front of the sofa. Frank was facing me and Mark had his back to me. Mark picked up the vodka bottle from the table and hit Frank with it. As far as I could see the bottle was not broken then. Mark then hit Frank again, and I saw blood spurt from his face. Frank then seemed to stumble and fall and hit his head on the coffee table. He lay still and I started to scream. I told Mark to call the ambulance. I noticed then that the bottle was broken.

AFTAB ALI (Registrar Bedford A & E unit)

Frank Todd admitted 01.00 on Saturday. On examination he had sustained (i) a 7 cm long laceration to the L cheek, consistent with a slash wound and treated by cleaning, administration of tetanus anti-toxin and suturing; (ii) a contusion and minor cut to the rear of the head consistent with impact with a hard surface, resulting in minor concussion and treated by cleaning and a butterfly suture; (iii) a contusion to the R temple – no treatment required.

Jones's **CUSTODY RECORD** shows that:

01.15 presented to Custody Officer, arrested for malicious wounding. Detention authorised to obtain evidence by questioning. DP was under the influence of alcohol. No interview was to take place until 10.00 at the earliest. DP was offered but declined legal advice and was offered but declined the opportunity to make a telephone call.

08.00 Detention reviewed. Authorisation extended.

13.00 To interview.

13.20 returned to cell.

14.00 Detention reviewed. Authorisation extended.

17.00 DP charged with wounding contrary to s20 of the Offences Against the Person Act 1861. No comment. Bail refused on basis that no address offered (DP had been living with the complainant, and the address was not available). To court Monday am.

17.15 Returned to cell.

INTERVIEW RECORD

13.00 Present Sgt 432 COX and DP Mark JONES.

432 Reminded of Caution

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432 This interview is about an incident last night involving you and Frank.
Do you recall this incident?

DP Of course.

432 What happened?

DP We had been to the pub, me, Frank and his missus. We went home and had some more to drink. Stacey fell asleep. Frank went to the toilet. I could see Stacey was going to fall off the sofa and I went to put her properly on it. Frank came back and went mad when he saw me near Stacey. He lunged at me and tried to grab me by the neck. I backed off and tried to talk to him, but he was not listening. He goes crazy if he has had a few pints. There was a vodka bottle on the table so I picked it up and hit him. I was just trying to protect myself.

432 Was the bottle broken at this point?

DP No. The first time I hit him was a sort of glancing blow. Then I swung and missed and hit the door. That is when the bottle broke. Frank was still wild at me. I didn't hit him with the broken bottle. He sort of ran into it. Then he just like collapsed and hit his head on the table. That seemed to knock him out. Then Stacey started screaming. I called the ambulance.

432 Frank says you were molesting Stacey by touching her breasts.

DP That's a lie. I was going to roll her onto the sofa by getting her by the shoulder and knee. She's only about six stone so it would be easy to roll her properly onto the sofa. Frank is just mental about anyone even looking at her. I wish I'd let her fall off now.

432 Frank says you broke the bottle deliberately before using it as a weapon.

DP Not true.

[Further questions and answers where DP continues to maintain his account of events are omitted]

Interview terminated 13.15

End of Case Study Materials

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