



Coonabarabran High School

ASSESSMENT NOTIFICATION

Subject: Legal Studies
Teacher: Dr. M Armstrong
Topic: Crime
Weighting: 30%
Date of Notification: 6/12/2022
Due Date: 16/3/2023

Outcomes

- H1** Identifies and applies legal concepts and terminology
 - H7** Evaluates the effectiveness of the law in achieving justice
 - H8** Locates, selects, organises, synthesises and analyses legal information from a variety of sources including legislation, cases, media, international instruments and documents
 - H9** Communicates legal information using well-structured and logical arguments
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Task: See attached

NOTE:

This is a compulsory assessment task. You are required to be in class on the above stated date to submit the task. You are to make a genuine attempt at the task. Failing to do so may result in the awarding of the grade of 0%. If you will be away on the day, you are required to arrange an extension with your class teacher. If are away from school on the date the task is to be submitted due to an unplanned event, you are required to provide your teacher with a note from a parent/caregiver when you return.

Task Outline

You have been engaged to write a report on a case file for one of two (2) defendants (you will be assigned which defendant). You are to analyse the case materials, determine what, if any, evidentiary issues that may have arisen during the police investigation and identify what, if any, legal defences may be available to your defendant.

Your report will need to be written in accordance with the attached scaffold, include your own LCMID research to justify your judgements on each relevant aspect, and your report needs to be written in academic, formal writing.

Your report should be no more than 1,000 words, include full academic referencing and bibliography which comply with relevant academic conventions.

My client is: _____

You will be assessed on how well you:

1. Demonstrate an understanding of relevant legal information and issues
2. Illustrate your answer with examples from one or more of the following: legislation, documents, treaties, cases, media reports
3. Communicate using legal terminology and concepts relevant to domestic law
4. Present a sustained, logical and well-structured assessment of the crime case file.

SCAFFOLD

In writing your report, it is important to identify all the legal issues which are evident in the fact scenario. As a hint, there are at least 6 legal issues which are relevant for each defendant, however, they are not necessarily the same for each defendant. To write your report you need to:

1. Identify all relevant legal issues and what evidence from the brief provides information about these issues.
2. Collate (gather) the information and find relevant LCMID to explain the legal issues you have identified.
3. Assuming you have identified more than 4 issues, you may need to cull this down to only 3 main issues. Find detailed LCMID which helps you identify the legal issue and which suggests how that matter could be dealt with by a court.
4. Structure your writing so that each paragraph deals with a single legal issue. These paragraphs will need to be written using the TEXAS structure; however, it is important to remember that the X and A can be repeated as many times as necessary. Make sure that you have included all the relevant LCMID to explain the legal issues you have selected so that your judgement can be fully justified.
5. In your introduction and conclusion, you should make sure that you identify all the legal issues you have identified and, if you have decided to only select a couple, then justify your choices as to which ones to focus upon.
6. Your writing needs to comply with formal academic writing conventions; you need to write in a formal tone.
7. You are more than welcome to discuss the matter with your classmates, however, copying each other's written work remains academic misconduct and consequences will apply.
8. I am happy to take as many drafts as you want until 3 days prior to the due date.

MARKING CRITERIA

Criteria	Marks
<ul style="list-style-type: none"> Clearly identifies all relevant legal issues and relevant law Makes a sound judgment based on criteria (explicit or implicit) about the effectiveness of the international community's response to this conflict Integrates relevant legislation and/or documents and/or treaties and/or cases and/or media reports into the response Presents a sustained, logical and well-structured answer using relevant legal terminology and concepts 	21–25
<ul style="list-style-type: none"> Clearly identifies most of the relevant legal issues and relevant law Makes a judgment based on criteria (explicit or implicit) about the effectiveness of the international community's response to this conflict Identifies relevant legislation and/or documents and/or treaties and/or cases and/or media reports in the response Presents a logical and well-structured answer using relevant legal terminology and concepts 	16–20
<ul style="list-style-type: none"> Identifies some of the relevant legal issues and relevant law Examines the international community's response to this conflict Makes some reference to relevant legislation and/or documents and/or treaties and/or cases and/or media reports in the response Presents a structured answer using relevant legal terminology and concepts 	11–15
<ul style="list-style-type: none"> Makes reference to relevant legal issues and relevant laws Makes limited reference to legislation and/or documents and/or treaties and/or cases and/or media reports in the response Uses some appropriate legal terminology and/or and concepts 	6–10
<ul style="list-style-type: none"> Makes general statements about the relevant legal issues and relevant law May make limited reference to legislation and/or documents and/or cases and/or treaties and/or media reports Makes limited reference to legal information/terms, which may not be correct/appropriate 	1–5

Brief of Evidence

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This is a criminal prosecution instituted by the Police against the co-accused James Doshee and Conrad Convicto, who are charged with Robbery with arms etc and wounding pursuant to section 98 of the Crimes Act 1900. The prosecution will need to prove their case beyond reasonable doubt.

You are receiving:

Legal Notes

Cases

Court Attendance Notice

Statement of Steven Slachtoffer

Statement of S Constable Pulis

Statement of James Doshee

Statement of Conrad Convicto

Legal Notes

Crimes Act 1900 – Section 98

Whosoever, being armed with an offensive weapon, or instrument, or being in company with another person, robs, or assaults with intent to rob, any person, and immediately before, or at the time of, or immediately after, such robbery, or assault, wounds, or inflicts grievous bodily harm upon, such person, shall be liable to imprisonment for 25 years.

Time of wounding

As to the relationship between the wounding and the robbery see Elliot and Hitchens (1983) 9 A Crim R 238 where it was held that whether the wounding was immediately before, or after the robbery was a matter of fact answered by a consideration of circumstances surrounding the robbery, but there must be a relationship both in fact and in time between the wounding and the robbery. The precise meaning of the words “immediately after” is to be determined in the light of the facts and circumstances of the particular case, and even in borderline cases there is little to be gained by the trial judge instructing the jury in terms other than those used by the section and there may be a danger in doing so: R v Attard (NSWCCA, Gleeson CJ, Priestley JA and Campbell J, 20 April 1993, unreported, BC9301923).

Mens rea of the offence

No specific intent to wound must be proved; all that is necessary is that the act which caused the wounding was a voluntary act: Ryan v R (1967) 121 CLR 205; [1967] ALR 577; BC6700220

Intoxication

An offence under this section which is alleged to have been committed after 16 August 1996, to the extent that an element of the offence under this section requires a person to intend to cause the specific result necessary for the offence, is an offence of specific intent for the purpose of Pt 11A relating to intoxication: see s 428B Crimes Act ff at [8-s 428B].

Cases

Salameh v R (1986) 26 A Crim R 353

Street CJ: "There is ancient authority indicating what is encompassed within the crime of robbery. It has long been known to the common law as an entire offence comprising several component elements. In *Smith v Desmond* ([1965] AC 960) their Lordships examined the history of the crime of robbery and it will be appropriate to quote from those speeches some of the ancient writings. At p 982 Lord Morris referred to *Donnally's case* ((1779) 1 Leach 193) in which the opinion of the twelve judges was expressed by Willes J in the following terms: "The definition of robbery, as it is given by Sir William Staundforde, Sir Matthew Hale, and Mr. Serjeant Hawkins, is 'a felonious and violent taking of any money or goods from the person of another, putting him in fear'; from which it is evident, that to constitute the crime of robbery, three ingredients are necessary: First, a felonious intent, or *animus furandi*: Secondly, some degree of violence, or putting in fear: and Thirdly, a taking from the person of another.'"

R v Shepherd [2003] NSWCCA 351

Kirby J: "[31] ...it is instructive to examine what may amount to a "wounding" for the purposes of the offence of malicious wounding under s 35(1) of the Act. The term is not defined by the Act. A wounding is generally assumed to be "the infliction of an injury which breaks the continuity of the skin" (cf *R v Newman* (1948) ALR 109 at 110). In *R v Smith* (1837) 8 Carrington & Payne 173, the prisoner was charged with assault, cutting and wounding the victim on the left side of the face. It was the Crown case that he had struck the victim with a hammer, breaking his jaw in two places. The hospital reported that the skin was broken internally, but not externally. The issue arose whether that was "wounding" within the Statute. The Court held it was. The case is generally cited for the following proposition (see *Howie & Johnson*, "Annotated Criminal Legislation of NSW" (2002/2003 Ed)): (p 653)

'Wounds' is an injury involving the breaking or cutting of the interior layer of the skin (dermis) and the breaking of the outer layer (epidermis) is not sufficient.

[32] A wound may be inflicted by a fist. No instrument or weapon need be used (*R v Bullock* (1868) LR 1 CCR 115, per Coxburn CJ at 117). However, a split lip or, as here, upper and lower lips, inflicted by a punch, is a "wounding" only in the most technical sense. I repeat it was not the case presented by the Crown."

Court Attendance Notice

You are required to attend the Downing Centre Local Court on a date to be fixed.

Defendant's Details

Name: DOSHEE, James
Date of Birth: 14/3/2005
Address: Unit 5, 87 Sadden Road, BLAXLAND, NSW, 2774

Prosecutor:

OIC (prosecutor): S Constable Pulis
CAN created by: S Constable Pulis
Apprehended by: S Constable Pulis 13:00 on 5/2/2022

Details of Offence

Crimes Act 1900 – Section 98
Robbery with arms etc and wounding

That James Doshee, in the company of Conrad Convicto, on 28 January 2022, in the state of New South Wales did rob Steven Slachtoffer and during the robbery did wound Steven Slachtoffer with a cricket bat.

Court Attendance Notice

You are required to attend the Downing Centre Local Court on a date to be fixed.

Defendant's Details

Name: CONVICTO, Conrad
Date of Birth: 21/7/2006
Address: 4 Mathew Parade, BLAXLAND, NSW, 2774

Prosecutor:

OIC (prosecutor): S Constable Pulis
CAN created by: S Constable Pulis
Apprehended by: S Constable Pulis 13:00 on 5/2/2022

Details of Offence

Crimes Act 1900 – Section 98
Robbery with arms etc and wounding

That Conrad Convicto, in the company of James Doshee, on 28 January 2022, in the state of New South Wales did rob Steven Slachtoffer and during the robbery did wound Steven Slachtoffer with a cricket stump.

Statement of Steven Slachtoffer

1. My name is Steven Slachtoffer and I live at 47 Richard Street, Blaxland. I am 78 years old and am a retired rose farmer.
2. On 28 January 2022 I was walking home after volunteering my time at the Windsor RSPCA where I assist in cleaning the lizard enclosure. I have a special affinity with lizards and am passionate about their care.
3. After finishing my shift at about 7.30pm, I took a train from Windsor to the Blaxland train station. I arrived at about 8.45pm and walked home. On the way I stopped at the Blaxland McDonalds to purchase my dinner, a fillet of fish meal.
4. As I was leaving with my takeaway meal I was stopped by two men in the dark car park. I could not clearly identify who they were because it was so dark at that time of night and there was little street lighting in the area.
5. One of the men yelled at me to stop. I could tell that the two men seemed to be holding long objects in their hands, but I am unsure as to what they were.
6. The other man then snatched my takeaway McDonald's bag from my hands. I demanded that they give it back. The first man then hit me with the object in their hand about the legs.
7. I fell to the ground and while I was on the ground both men were hitting me with what I thought were long sticks. I then blacked out and I do not recall what then happened.
8. The next thing I knew I was in the back of an ambulance. The paramedics cleaned up the blood from my legs, arms, and left cheek and applied bandages to my arm wounds. The very kind paramedics then drove me home.
9. I have given this witness statement to police the following morning as I could not face dealing with them the night before.

Statement of Senior Constable Pulis

1. My name is Senior Constable Pulis and I am attached to the Blue Mountains police station. I have been a police officer for the past 25 years and I specialise in violent armed offences.
2. On the night of 29 January 2022 I was on duty at the police station when a man came to the counter wanting to report a crime. He said that the previous night two men had assaulted him with long sticks or weapons and had stolen his dinner. He told me that the robbery had occurred in the car park of the Blaxland McDonalds.
3. There has been lots of similar crimes reported in the same car park so I decided to patrol the car park that night.
4. Upon arriving at the McDonalds carpark at about 9.45pm I saw two youths behaving suspiciously near a car. I recognised them as James Doshee and Conrad Convicto, two students at the local high school who are always in trouble. They regularly get into fights but we have never had enough to charge them.
5. I approached the two youths and could see that James Doshee had a cricket bat in his hand and Conrad Convicto was holding what appeared to be a cricket stump. I could clearly identify the two youths as it was quite well lit in the McDonalds car park.
6. I had the following conversation with them:

I said to them both "Where were you both last night?"

James Doshee replied "we don't have to tell you nothin". Conrad Convicto said "well what is it to you anyway?"

I replied "I am investigating an armed robbery of an elderly man that happened here about this time last night and what happened has your names all over it."

I then read them their rights and advised them that failure to answer questions would be used as evidence of their failure to assist police and could be interpreted as evidence of their guilt.
7. I took them both to the police station and interviewed them right away. At long last we would get these two troubled teens locked up and our community would be safer.
8. I have subsequently viewed the CCTV footage from the nearby McDonalds. While it does not show the start of the incident, it clearly shows the victim on the ground and two people standing over him with long objects in their hands,
9. Both James Doshee and Conrad Convicto refused to give a recorded interview and so both of them have refused to assist police in their investigations.

Statement of James Doshee

1. I am James Doshee and I live at Unit 5, 87 Sadden Road, Blaxland. I am 17 years old and I am a student at Blaxland High School. I am completing year 12 and am hoping to get the marks to get into mechatronic engineering next year.
2. I am a member of the Blaxland High Hunting Dogs cricket team and we train every night until about 7.30pm because it starts getting dark at around that time.
3. On 28 January 2022 we trained after school. The boys all trained hard and we were all starved after we finished. As we train at the school oval, we decided that the nearby McDonalds would be the best place to get something to eat.
4. We walked up to the McDonalds, which took about 15 minutes. While the rest of the team went into the McDonalds my friend Conrad Convicto and I saw an elderly man appearing to have trouble keeping his feet.
5. There was a lot of traffic around and we were both worried that he would fall into traffic on the adjacent highway. I called out to him to see if he needed any help. When he didn't respond Conrad and I went over to him to see if we could help him. When we reached him I put my hand on his shoulder and asked him if he was ok. He just started screaming at me and trying to punch and kick me.
6. He was an old man and obviously was off his rocker. As we had just finished cricket, I used the bat I was carrying to try and block the blows he was directing my way. When he went to kick me he connected with the bat and seemed to fall over and go unconscious.
7. When he was on the ground I was really scared that the old guy was going to have a heart attack or something. While I rang '000' on my phone for an ambulance Conrad got the old guy into the recovery position like we are taught at school.
8. We both waited with the guy until the ambulance arrived. When the paramedics arrived they took down our details and thanked us for looking after him.
9. The next day I was picked up by the police on my way home. The cop seemed really angry and just kept telling us we were going to get locked up for what we did. He told us that we had to help the police if we were going to have any chance to not get a criminal record. I asked if I could get some legal advice and the cop simply gave me a copy of the phone book and said "there you go – ring someone."
10. I was really scared by the police but didn't want to talk to them until after I had a chance to talk to my parents and to get some advice about my rights.

Statement of Conrad Convicto

1. I am Conrad Convicto and I live at 4 Mathew Parade, Blaxland. I am 16 years old and I am a student at Blaxland High School. I am currently in year 10.
2. I have just started playing cricket with the High School cricket team, the Blaxland High Hunting Dogs. We train hard and we play pretty hard too. Most nights you can find us at the High School oval or nets training. As I am new to the team I am trying really hard to make a good impression.
3. On 28 January 2022 we trained from when school ended at about 4pm until it started getting dark, about 7.30pm. We had trained really hard so we were all pretty keen for a feed. I like my McDonalds Chicken Nuggets and really wanted to get a big box of them into me.
4. As we were walking through the McDonalds car park my friend James Doshee noticed an old guy who seemed to be a bit unstable on his feet. James said something like, "do you think we should give him a hand?" but most of the other guys just laughed and said he was probably drunk or something.
5. James wouldn't let it go so I said I would go with him to see if the old guy needed any help.
6. When we reached the old man, he just went berserk, kicking, punching, and biting James. James was trying to hold him off with his bat but I was really worried that James was going to get pushed into the nearby traffic.
7. I was carrying the stumps we had been using for training and so I started hitting the old guy with one. I just wanted him to stop hitting James because he hadn't done nothing to deserve it.
8. I must have hit him too hard because the next I knew he was on the ground unconscious. James rang an ambulance and I rolled the old guy onto his side. I just kept saying, "Please don't die, please don't die" as I cradled his head, blood dripping down from a cut on his forehead.
9. When the ambulance arrived, the paramedics took over looking after him. They said that he would be fine.
10. The next day that bugger Senior Constable Pulis picked me up at the McDonalds after training. I knew all about him because he keeps on picking on my older brother Pat.
11. He through us into the Paddy wagon and didn't tell us our rights or why he was arresting us or nothing. He just kept threatening James and I, saying that if we didn't admit what we had done he would make sure we got locked up in the slammer.
12. I was really scared and just wanted to be able to talk to my parents and get some legal advice but Pulis said since we were such big tough guys to beat up an old man, that we didn't deserve any help.