

CASE STUDY MATERIALS

January 2017
Level 3
CRIMINAL LITIGATION
Subject Code L3-11



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 11 – 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 these case study materials. You will be required to answer **all** the questions on the examination paper.
- You should familiarise yourself with these case study materials prior to the examination, taking time to consider the themes raised in the materials.
- You should take the opportunity to discuss these 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 relate to these 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 textbooks into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

Turn over

* This unit is a component of the following CILEx qualifications: **LEVEL 3 CERTIFICATE IN LAW AND PRACTICE** and **LEVEL 3 PROFESSIONAL DIPLOMA IN LAW AND PRACTICE**

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer working for Izabella Adamowicz, the lawyer in charge of the Criminal Litigation Department of Kempstons Solicitors, Manor House, Kempston, Bedford, MK42 7AB.

You have been asked to review the attached documents from the file of Arley Brooks.

The documents are:

- Document 1** Attendance note – Mike Barry re Arley Brooks
- Document 2** Attendance note – Arley Brooks
- Document 3** Transcript of tape-recorded interview (extract) with Arley Brooks
- Document 4** Extract from the Magistrates' Court Sentencing Guidelines – Theft from a Shop

DOCUMENT 1

ATTENDANCE NOTE

Date: 26 November 2016
Client: Arley Brooks
Matter: Theft
Attended by: Izabella Adamowicz – duty lawyer

Attendance: 5 units

Izabella Adamowicz was called to attend Arley Brooks at Kempston East Police Station. Upon arrival, she spoke to the custody officer and asked to consult the custody record.

She then asked to speak with the investigating officer.

Attending the investigating officer, Mike Barry, who confirmed as follows:

At around 11.50am today we were called by Yolanda Coates, an 81-year-old lady, who owns a jewellery shop in town.

We attended her shop and she gave us a statement of what had happened, which was as follows.

At approximately 11.30am, a man entered her shop with a male child. She described the man to be in his 30s and as medium build, 5' 11" (180cm) tall, short black hair, wearing navy tracksuit bottoms and a red T-shirt. The child was about 8 years old and was wearing matching clothing. They were both wearing superhero masks.

The man walked towards the main glass counter in the shop, holding the child's hand. He then got a hammer out of his pocket and smashed the counter. He grabbed three expensive diamond rings, worth a total of £20,000, and gave them to the child, shouting: 'Put them in your pocket like we said and run to the car'. The child did as he was told and ran out of the shop.

The man then shouted at Yolanda, calling her names and offensive swear words and he threatened to come back to kill her if she called the police. He then ran out of the shop.

Yolanda has confirmed that she does not have any security cameras in the shop.

Once we finished taking a statement from Yolanda, we patrolled the area. We saw a man matching the above description, wearing navy tracksuit bottoms and a red T-shirt, so we stopped and searched him. He did not have a superhero mask, a hammer, nor the rings on him. He told us his name was Arley and, as he matched the description, we arrested him. We arrived at the police station at 1.00pm.

Turn over

DOCUMENT 2

ATTENDANCE NOTE

Date: 26 November 2016
Client: Arley Brooks
Matter: Theft
Attended by: Izabella Adamowicz – duty lawyer

Attendance: 10 units

Attending Arley Brooks (DOB: 16/05/1979) on the matter of theft, who confirmed as follows:

At about 12.40pm, I was walking down Kempston Avenue when a police car stopped and two police officers got out of the car.

I was asked where I had been so I told them that I had been in the park playing with my 8-year-old son. I had dropped him back off with his mother and was on my way home.

One of the officers then cautioned and arrested me, telling me that I was being arrested for theft. He asked me to take off my jacket and trainers and socks, which I did as I had nothing to hide. They then brought me to this police station.

I was left alone in the cell for a long time before I was interviewed and haven't seen anyone since the interview.

I do not have a criminal record.

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Pratik: (*bangs fists on table*)

Come on Brooks, just admit it. You did it, didn't you?

Brooks: (*silent*)

Pratik: Brooks, the sooner you admit it, the sooner you can get home.

Brooks: I told you I didn't do it. Please can I have a drink and rest now?

Pratik: Not until you tell us the truth and admit what you did. The shop has security cameras and it's clearly you.

Brooks: (*silent*)

8.35pm to 9.25pm

Pratik: (*repeatedly bangs fists on the table, shouts and points his finger at Brooks; repeatedly accuses Brooks of being in the jewellery shop scaring an old lady and repeatedly tells Brooks to admit it*)

Brooks: (*repeatedly says 'No comment'*)

9.30pm

Pratik: We can sit here all night until you admit it.

Brooks: Well, it looks like you're not going to let me go if I don't admit it, so yes, I did it. Now can I go?

Interview terminated and Brooks charged with theft.

Brooks refused police bail.

**EXTRACT FROM MAGISTRATES' COURT SENTENCING GUIDELINES –
THEFT FROM A SHOP**

Theft Act 1968, s.1	Theft - shop
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Triable either way:
Maximum when tried summarily: Level 5 fine and/or 6 months
Maximum when tried on indictment: 7 years

Offence seriousness (culpability and harm)
A. Identify the appropriate starting point
Starting points based on first time offender pleading not guilty

Examples of nature of activity	Starting point	Range
Little or no planning or sophistication and Goods stolen of low value	Band B fine	Conditional discharge to low level community order
Low level intimidation or threats or Some planning e.g. a session of stealing on the same day or going equipped or Some related damage	Low level community order	Band B fine to medium level community order
Significant intimidation or threats or Use of force resulting in slight injury or Very high level of planning or Significant related damage	6 weeks custody	High level community order to Crown Court
Organised gang/group and intimidation or the use of threat of force (short of robbery)	Crown Court	Crown Court

Offence seriousness (culpability and harm)
B. Consider the effect of aggravating and mitigating factors (other than those within examples above)
Common aggravating and mitigating factors are identified in the pullout card – the following may be particularly relevant but **these lists are not exhaustive**

<p>Factor indicating higher culpability</p> <ol style="list-style-type: none"> 1. Child accompanying offender is involved or aware of theft 2. Offender is subject to a banning order that includes the store targeted 3. Offender motivated by intention to cause harm or out of revenge 4. Professional offending <p>Factors indicating greater degree of harm</p> <ol style="list-style-type: none"> 1. Victim particularly vulnerable (e.g. small independent shop) 2. Offender targeted high value goods 	
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Form a preliminary view of the appropriate sentence, then consider offender mitigation
Common factors are identified in the pullout card – see note (g) opposite

Consider a reduction for a guilty plea

Consider ancillary orders, including compensation
Refer to pages 168-174 for guidance on available ancillary orders

Decide sentence
Give reasons

