

CASE STUDY MATERIALS

September 2020
Level 6
CRIMINAL LITIGATION
Subject Code L6-18



THE CHARTERED 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 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 except a Statute Book, where permitted, into the examination.
- In the examination, candidates must comply with the CILEx Examination Regulations.

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

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ADVANCE INSTRUCTIONS TO CANDIDATES

You are a trainee lawyer employed in the criminal litigation department of Kempstons LLP solicitors. The firm has a standard criminal contract with the Legal Aid Agency and participates in several local duty solicitor schemes. Among the cases being dealt with in the department at the present time are:

CASE ONE – JACK HILL

This client, aged 15, has been arrested on suspicion of causing criminal damage to a motor cruiser moored at Barford Marina. Kempstons have acted for him on several previous occasions and he has a number of previous convictions. You understand that he is looked after by the local authority and is currently residing with foster parents. You have contacted the officer in the case, and he has given you an outline of the facts as they are known to the police. You have also spoken briefly to your client on the telephone, to confirm that you will be in attendance shortly and to check on his welfare. Despite your advice that he should not say anything about the circumstances of the case, he has volunteered some information to you. You have made a note of the information from the police and from your client (**Document 1**).

CASE TWO – DANNY WYKES

This client, aged 25, has recently been charged with theft of a BMW K1600 GTL motorcycle valued at £26,000. He has been bailed to appear before Bedford Magistrates' Court with a condition of residence at his home address and a condition which prevents him from having any contact with his co-accused, Aaron McManus (for whom Kempstons do not act). The circumstances of the offence and your client's instructions are contained in (**Document 2**). You have interviewed Donna Short, who is the girlfriend of Danny Wykes, and taken a statement, in which she confirms that she was at home with Danny Wykes on the night of 2–3 May 2020 and is not aware that he left the house at any time between 9.00 pm and 8.00 am. [**NOTE TO CANDIDATES: the interview notes for Donna Short do not form part of these Case Study Materials**].

CASE THREE – MARYAM ABBAS

This client, aged 28, has been arrested and released under investigation in relation to allegations of theft and false accounting at the convenience store where she was employed. An internal audit revealed discrepancies between the takings and the stock. The total amount involved was approximately £10,000, but it was not initially clear whether this represented a cash shortage, as a result of cash being removed from the tills and not banked, or whether it represented a deficiency in stock.

Ms Abbas was initially suspended on full pay and was then interviewed under her employer's disciplinary procedure. The employer concluded that she did not have a plausible explanation for the discrepancy and she was dismissed. The employer then notified the police. You understand that a similar procedure has been undertaken in relation to the manager of the store, who has also been dismissed and is under investigation by the police. The police have told you that they are not yet in a position to make any comment or to discuss the case against your client. You have, however, taken a statement from her (**Document 3**).

DOCUMENT 1

Case summary and attendance note re Jack Hill

James Fish, the owner of Barford Marina, near Bedford, reported on Thursday, 30 April 2020 that over the previous night, considerable damage had been done to a motor cruiser, which was moored at the marina and had recently been overhauled and refitted. The principal items of damage were that all of the glasswork in the cabin had been smashed and paint had been splashed all over the inside of the cabin. In addition, a fire had been started in a skip full of refuse, and this had severely scorched the external paintwork of the boat. A provisional estimate of the cost of reinstatement is in the order of £12,500, of which the fire damage represents about two thirds.

The marina is in a fairly remote location. The road access from the main road running from Great Barford to Blunham only serves the marina. The marina is fenced, and there is a gate, which is locked at night. The incident was caught on CCTV. One set of images shows three youths, in their mid to late teens, climbing over the gate. These images are not distinct enough to enable a positive identification to be made. There is a further set of images, timed 15 minutes later, showing two of the youths taking tins of paint from a paint store, and these images are sufficiently clear that a specialist police officer has indicated that he could make a positive identification from them.

Mr Fish told Tony Haynes, the farmer who occupies the fields between the marina and the main road, about the incident. Mr Haynes has subsequently informed the police that while he was working late on the evening of 29 April 2020, he saw three youths walking from the main road towards the marina. It was dusk, but there was still sufficient light for him to see the youths reasonably clearly.

A scenes of crime officer found fingerprints on the frame of the gate that provides access to the marina. These were compared with a set of fingerprints of Jack Hill, which had been retained on file following his previous court appearances and found to be a complete match. As a result, Jack Hill was arrested at his foster parents' home approximately three hours ago.

On speaking to Jack Hill, I gave the usual warning that he should not discuss the case, as he might be overheard. Nevertheless, he told me that he had been out on the evening of 29 April 2020 with two friends, who he is not prepared to name, and they decided to go to the marina. The original idea was simply to find somewhere comfortable to drink a bottle of vodka, which one of his friends had stolen from his home, but after they got into the marina, his friends started to say it would be fun to smash up one of the boats. At this point, Jack Hill said that he wanted nothing to do with this and left the scene. He does not know what, if anything, happened subsequently.

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DOCUMENT 2

Case summary and instructions re Danny Wykes

Summary of information from the police

At 9.00 am on 3 May 2020, Peter Smith reported the theft of his 2020 BMW K1600 GTL motorcycle, registration YS20 CVZ. It had been parked overnight in the parking area of the Black Swan Hotel, Bedford, where Mr Smith was staying. It had been secured by chains linking front and rear wheel and also attaching the motorcycle to a metal staple fixed to the wall. These chains appear to have been cut by a very substantial bolt cutter. The motorcycle was parked up at 11.00 pm on 2 May 2020 and discovered missing at 8.45 am on 3 May 2020. It is valued at approximately £26,000.

Subsequently, at approximately 12 noon on 5 May 2020, Stephen Watterson was supervising the loading of shipping containers onto a cargo vessel in the port of Felixstowe. One container had documentation indicating that it contained timber, but the container attracted Mr Watterson's attention, as it seemed extremely light. Mr Watterson obtained permission from the shipping agent who had consigned the container to break the seals. He discovered that it contained a BMW motorcycle, together with three boxes, which proved to contain motorcycle parts, so the police were called. The motorcycle did not have any registration number. The police checked the vehicle identification number with the DVLA and discovered that it was the motorcycle that had been stolen from Mr Smith.

The shipping agent confirmed that the consignor of the shipping container had provided a name and address, which transpired to be those of John Collister, who is the 93-year-old grandfather of Danny Wykes. Mr Collister has been interviewed and has denied any knowledge of the transaction.

CCTV footage from a variety of sources in the vicinity of the Black Swan Hotel for the night of 2–3 May 2020 has been obtained and reviewed. There is no relevant CCTV footage of the parking area itself, but footage from a neighbouring property has shown a motorcycle being wheeled out of the parking area at approximately 2.00 am and then loaded by two men into a Ford transit van. The number plate on the motorcycle identifies it as the motorcycle belonging to Mr Smith. One of the two men can be seen for a short period facing more or less towards the camera, but the other always has his back turned towards it. The man whose face is visible has been positively identified as Aaron McManus.

McManus was interviewed and made full admissions. He has told the police that he had a commission to steal a K1600 GTL and ship it to Germany, and he was to receive £10,000. The cost of shipment and other expenses came out of this. McManus has not identified his accomplice. He has also not provided any information as to where the boxes of motorcycle components came from. The police suspect that there are several perpetrators involved.

Wykes was initially arrested because he was a co-accused of McManus in relation to one of his previous convictions, and because of the apparent use of his grandfather's details when hiring the shipping container. Wykes also has other convictions for dishonesty, several of which involve theft of motorcycles and motorcycle parts. He gave a no comment interview and was then released by the police without charge.

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On 11 May 2020, Aaron McManus appeared before Bedford Magistrates' Court. He pleaded guilty to theft of the motorcycle and was committed for sentence to the Crown Court. Following publication of details of the case in the local newspapers, a witness came forward, who stated that he was on The Embankment near the Black Swan Hotel at 2.00 am on 3 May 2020 and saw two individuals with a motorcycle wheeling it towards a van, which was parked on The Embankment. This witness, Derek Slater, states that he could identify both individuals as, in addition to the street lighting, there was also light from the window of a food takeaway, outside which the van was parked.

Derek Slater then made a positive identification of Danny Wykes. Wykes was then charged with the offence of theft of the motorcycle and was bailed to court.

Instructions from Danny Wykes

I have not been involved in the theft of this motorcycle or any of the arrangements for it to be shipped. I was at home with my girlfriend, Donna Short, on the Pulrose Estate all night on the night of 2–3 May 2020. The address is 50 Springfield Avenue. She is a very light sleeper and would certainly have woken up if I had got out of bed for any reason, let alone left the house.

I accept that I do know Aaron McManus, and that we were jointly concerned in the theft of a motorcycle three years ago. I have had nothing to do with Aaron since. What I can say is that three years ago, he had broken up with his girlfriend and needed somewhere to stay, so I asked my grandfather if he could stay with him. I believe that what has happened is that Aaron, or one of his associates, has used that information which he retained from three years ago.

The witness who claims to have identified me is mistaken.

I accept that in addition to the conviction where I was jointly concerned with Aaron, I have other convictions for theft including theft of motorcycles and parts of motorcycles. The most recent conviction was in April 2018 and I was sentenced to four months' imprisonment.

I have always lived in Bedford. I have been granted bail in previous proceedings and have always complied with the terms of bail. Until three weeks ago, I was working as a kitchen porter at the Barbary Coast Grill, but I lost that job when the business closed down. I am currently in receipt of income-based Jobseeker's Allowance. I do not have any savings.

DOCUMENT 3

Statement from Maryam Abbas

Maryam Abbas will state:

I am 28 years of age and of good character. I am a widow, following the death of my husband in a road accident last year. I have a daughter, aged seven. I am solely responsible for her.

For the last three years, I have worked as a sales assistant for Valurite Ltd at its branch in Harpenden. My duties involved acting as cashier, shelf-filling and checking stock levels. I was under the immediate supervision of the branch manager, Joanna Kramer. Joanna had been appointed to this post about a year ago and had previously been the assistant manager at a larger branch.

I was the only full-time sales assistant, but there were a number of part-time assistants. The policy was that there should be two members of staff on duty at all times, and as a result my working hours did not substantially overlap with Joanna's hours. There were also occasions when the two staff on duty were both part-timers, although this was usually scheduled for those times when the store was relatively quiet.

I was not responsible for ordering replacement stock. As I understand it, the tills were linked to the company's computers and, under normal circumstances, new stock was supplied on the basis of reported sales, although the most popular lines of stock were effectively on a standing re-order, which might have to be topped up if sales were particularly strong.

Cash was regularly transferred from the till to a safe in the stockroom. This would occur two or three times a day, and always at the end of the day after cashing up. All members of staff could put money in the safe, as there was a slot to enable money to be placed in the safe. Joanna had the key to the safe and was responsible for banking cash as required. The only time I had the key to the safe was if I was covering for Joanna, if she was ill or on holiday.

I carried out all my duties to the best of my ability. I certainly never falsified any of the stock levels that I reported. I always transferred the correct amount of money to the safe when it was my responsibility to do so. I was completely unaware that anything untoward was going on within the branch in any financial sense.

Approximately one month ago, the regional manager came to the store while I was on duty and informed me that a discrepancy of approximately £10,000 had been discovered in relation to the branch. She told me that I was being suspended on full pay while this discrepancy was fully investigated. I also discovered that Joanna Kramer was also being suspended. A week later, I received a letter setting out details of the discrepancy which, apparently, involved approximately £5,000 in discrepancies between actual and reported stock levels, and approximately a £5,000 shortfall in banking compared with the till records.

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The letter also called me to a disciplinary hearing, which took place a further week later. It was conducted by the operations director of the company. I was told that Joanna Kramer had already been interviewed and had admitted responsibility for the discrepancies. I was told that she had informed management that I was jointly involved with her, and had assisted by producing incorrect stock reports, which had then been used by her when ordering fresh stock, and also by taking home cash which should have been put in the safe and then handing it to herself. She said that I had received approximately £5,000 as my share, as 'we were both in it together'. I completely denied this at the hearing. I explained that I had not had any discussions whatsoever with Joanna Kramer and had not participated in any dishonest activities. I was shown copies of some of the stock records, which management said showed that there were significant errors. I accepted that some of the records had been initialled by me. I said that there might have been genuine errors on my part, but I had done nothing to deliberately misrepresent the position or to assist in any dishonest activity.

However, the operations director told me that he was not satisfied with my explanations and, particularly in view of what Joanna Kramer had already said, he considered me guilty of gross misconduct by participating in dishonestly causing a £10,000 financial loss to the company. I was dismissed with immediate effect, and the operations director informed me that he was proposing to report the matter to the police.

End of Case Study Materials

