

# Mock Trial Competition Case Materials

## Round 1 2022

State of Western Australia v Yamashita

February 2022

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The Law Society of Western Australia

Level 4, 160 St Georges Terrace, Perth WA 6000 | **Postal:** PO Box Z5345, Perth WA 6831  
**Phone:** (08) 9324 8600 | **Fax:** (08) 9324 8699 | **Email:** [info@lawsocietywa.asn.au](mailto:info@lawsocietywa.asn.au) | **Website:** [lawsocietywa.asn.au](http://lawsocietywa.asn.au)

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## Case Summary

Mr Tomoyami Yamashita is charged with Stealing under section 378 of the Criminal Code (WA).

Specifically, it is alleged that on 20 or 21 January 2022, he stole a pack of toilet paper, and \$740 worth of variously denominated currency, from 29 Henry Street, Booragoon, in the state of Western Australia.

## Summary of the Law

The prosecution must prove beyond a reasonable doubt that:

1. A person “stole” the items alleged, as per the legal definition of for stealing; and
2. That person was Mr Tomoyami Yamashita

Both of the above must be proved beyond a reasonable doubt for a guilty verdict. That is to say, that the crime actually occurred, and the person that committed the crime was the accused.

## Case materials

The Prosecution and Defence will receive the following:

- Legal Notes
- Statement of Carlson DONITZ, the complainant, dated 27 January 2022 (male)
- Statement of Jennifer DONITZ, witness for the Prosecution, dated 2 February 2022 (female)
- Statement of Tomoyami YAMASHITA, the accused, dated 31 January 2022 (male)
- Statement of Hope YAMASHITA, witness for the Defence, dated 3 February 2022 (female)

## Legal notes

Section 378 of the Criminal Code relevantly states:

*Any person who steals anything capable of being stolen is guilty of a crime, and is liable, if no other punishment is provided, to imprisonment for 7 years.*

Section 370 of the Criminal Code relevantly states:

*Every inanimate thing whatever which is the property of any person, and which is movable, is capable of being stolen.*

Section 371 of the Criminal Code relevantly states:

*(1) A person who fraudulently takes anything capable of being stolen... is said to steal that thing or that property.*

*(2) A person who takes anything capable of being stolen... is deemed to do so fraudulently if he does so with any of the following intents, that is to say —*

*(a) An intent to permanently deprive the owner of the thing or property of it or any part of*

**Statement of Carlson DONITZ, the complainant, dated 27 January 2022**

1. My name is Carlson Donitz and I am 62 years old and retired. I live at 29 Henry St, Booragoon.
2. I have lived at this address for the last 25 years or so. One of my next door neighbours is Mr Tomoyami Yamashita, at 31 Henry St, Booragoon. He moved in around 7 years ago, and I've never really liked him much. I don't think he liked me much either.
3. On 20 January this year I went to my local shopping centre and supermarket to do my usual weekly grocery shopping. I was surprised to find that many of the shelves were empty and staple groceries such as rice, pasta, and mince meat were not available for sale. I was only mildly annoyed, and I figured it was a good time to try some vegan meat substitutes and vegan ice creams for the first time.
4. The last thing I needed to pick up, and the main reason I went to the shops on that trip in the first place, was some toilet paper. I was completely out from earlier that day, including my 'back-up' stash that I started storing from March 2020 in a locked chest in my carport.
5. I was lucky because when I went to the toilet paper aisle, I was able to take the last two packs of 24. It was some brand that I had never heard of called "Dutton" or "Duxton" or something like that. They had a distinctive orange and black coloured packaging and they were something like 3 times more expensive than the usual generic brand I would buy.
6. I then looked up to see Tomoyami angrily approaching me, with his face bright red. He yelled something about me being "greedy" – before shoving my trolley and storming off. I just ignored him because the shop had a 2 pack per customer limit and I was well within my rights to buy what I had.
7. By the time I got home from the shops, I noticed that Tomoyami was just standing on his front lawn and staring at me. Again, I ignored him, but I'm pretty sure he was watching me the whole time when I was unpacking my groceries and taking them into the house.
8. One of the packs of toilet paper I put inside my outdoor storage chest. The chest is located at the back of my carport, but visible from the front of 31 Henry Street.
9. I put one pack in there because I use the chest to store emergency supplies, such as batteries, bottled water, cash, and canned food. The chest is secured with a padlock. Admittedly, the stuff I keep in there isn't worth much except for \$500 in United States Dollars – which is around \$700 Australian.
10. The next morning around 9am, when I left the house for my morning run, I saw that my chest was now open and there was a broken padlock on the ground next to it. I also saw that someone had broken the driver's side window of my car.
11. I immediately noticed that the toilet paper had been taken from the chest, so I called the police. I suspected that Tomoyami was behind this, which is what I told the police.
12. The police attended within 15 minutes and went inside Tomoyami's house and came out to return my orange and black packaged toilet paper only 10 minutes after that. I then saw them arrest and handcuff Tomoyami and take him away in the paddy wagon. Good riddance I say.

**Statement of Jennifer DONITZ, witness for the Prosecution, dated 2 February 2022**

1. My name is Jennifer Donitz and I am a self-funded retiree. I am the wife of Carlson Donitz and reside with him at 29 Henry St, Booragoon.
2. We've lived at this current address together for around 15 years or so. I keep bugging my husband to downsize and move to a nicer suburb. In my experience, Booragoon is a bit of a dodgy suburb and we've had quite a few issues with anti-social behaviour, criminal damage, and attempted break-ins over the years.
3. Another problem is that my husband also doesn't get along with one of our neighbours, Mr Yamashita from 31 Henry Street next door. I've seen the two have arguments and yelling matches over all sorts of things. He's nice to me though, and I get along quite well with his wife Hope.
4. However, in January this year, the feud went a bit too far when Mr Yamashita broke into Carl's outdoor storage chest and also broke our car window.
5. On that day, I had asked Carl to try and get some toilet paper from the shops, since we were running out at home, and I had previously not had any luck finding any. I must have gone to at least 8 shops that week to find them all out of stock of toilet paper. I heard on the news that there had been a lot of panic-buying of toilet paper and other staple supplies in Perth at that time.
6. When Carl came back home and through the front door, I remember he had a bunch of strange plant-based foods instead of our usual groceries. But he also did manage to bring back a single 24 pack of toilet paper – some brand I'd never seen or heard of before. But it was 4 ply toilet paper and felt quite nice and premium.
7. The next morning, I was woken up by the yelling of my husband out the front of the house. I quickly came outside into the carport to find him on the phone to the police and screaming something about "that jerk Tomo" having stolen his toilet paper.
8. I surveyed the scene and saw that someone had opened Carl's storage chest and broken the front driver side window of our car. I've seen how my husband normally orders the contents of the chest, and it looked like someone had instead rummaged through the chest and taken the 500 American dollars that I know he stores in there. They left everything else that was in there in a bit of a mess. I don't think anything else that was usually in there was taken though.
9. While Carl was still on the phone, I examined the car and the damage a bit closer. The glove box was open and all the coins that were in the centre console of the car were missing. Just the day before, I had placed exactly \$40 in one dollar coins there to use for parking purposes. They came in the form of two solid 'rolls' of \$1 coins, which is how the bank gave them to me.
10. I was surprised when I saw the police arrest Mr Yamashita and give Carl another pack of toilet paper. But then Carl explained that he had bought a second pack and it was missing from his storage chest. They also brought back the two missing rolls of coins to me.
11. Carl's story makes sense to me because it is true that you can see the chest from the front yard of Mr Yamashita's house at 31 Henry St.

**Statement of Tomoyami YAMASHITA, the accused, dated 31 January 2022**

1. My name is Tomoyami Yamashita and I am 67 years old. I live at 31 Henry St in Booragoon with my wife Hope. We have lived here for exactly 9 years and 10 months to the day. Both of us are retired and receive the aged pension.
2. I wouldn't say that I hate or dislike my neighbour Carl, who lives at 29 Henry St. It's more that I "nothing" him and try not to have anything to do with him.
3. Unfortunately I had a run in with him at the shops on 20 January this year. It was one of those crazy weeks in Perth when everyone was panic buying and you couldn't find things like rice or toilet paper anywhere. I was completely out of toilet paper and so had driven around the southern suburbs of Perth looking for anywhere that had any.
4. After not having any luck for around an hour and 5 different supermarkets, a store attendant told me that she had heard that a local store near my house had a stash of Duxton brand toilet paper available. I'm familiar with that brand and it's quite expensive. But I've occasionally bought it before as a bit of a luxury item.
5. So I was pretty disappointed when I went to that store only to find that the shelf where the Duxton toilet paper was empty. And I was particularly annoyed when I saw Carl walking off with what looked like the last pack in the entire store.
6. I knew it would be a long shot, but I went up to him and asked if I could split the 24 pack with him, or even just buy just a couple off him. I explained that I was completely out at home.
7. He just laughed in my face and I admit I lost my temper and called him a "greedy pig" or something like that. So after that I just had to go home empty handed. It was just my luck to arrive home at the same time as Carl and got to watch him gleefully take his one pack of toilet paper from his car and then inside.
8. I didn't see him put anything into his storage chest, which I could clearly see from where I was. I noticed that the padlock that was usually locking the chest was on the ground instead, but I didn't think anything of it at the time.
9. I felt really bad when I eventually had to go inside and explain to Hope that I hadn't been able to get any toilet paper for us that day. She was really understanding, but that just made me feel worse about it – like I was a bit of a failure of a husband to not be able to provide for my wife.
10. I dealt with my feelings in the usual way I do when I'm upset – by cleaning the house. I did that for most of the evening, which was really fortunate because later that night when I was clearing out the garage, I found a 24 pack of Duxton toilet paper hidden behind some cardboard boxes. It must have been a pack I bought ages ago and forgotten was there.
11. I also found \$40 in one dollar coins in a different box in the garage, and also took them inside the house before I went to bed. It's always nice to find money you didn't remember you had.
12. The next morning, I was shocked when the police came knocking on my door accusing me of stealing money and toilet paper from Carl. I denied it but the police didn't believe me and confiscated the pack of Duxtons, as well as the rolls of \$1 coins.

**Statement of Hope YAMASHITA, witness for the Defence, dated 3 February 2022**

1. My name is Hope Yamashita and I am the wife of Tomoyami Yamashita. We reside together at 31 Henry St in Booragoon.
2. While I would say that Booragoon is a generally nice suburb, our street is probably in the less nice part of the suburb, and we've been broken into around 5 times in the last 6 years. Our immediate neighbours have told us they have experienced the same sort of thing too. Our neighbours are all really nice though.
3. I'm friends with Jennifer Dontiz who lives next door at 29 Henry St, and we regularly go for walks together in the mornings before our husbands wake up.
4. We time our walks partially because our husbands really can't seem to get along for some reason, which is silly because they are so similar in many ways. They're both just grumpy old men with too much time on their hands – I've learnt that first-hand over the last 10 years of living with one and next-door to the other.
5. I remember 20 January 2022 for a number of reasons. Tomo and I had finally run out of toilet paper in the house and it was that week where pretty much nowhere in Perth had any left on the shelves. My husband made it a bit of his own personal crusade to find some toilet paper for us that day and I think he called a number places up and drove around for a while that afternoon.
6. When he came back and said he was unsuccessful, I told him it wasn't a big deal and I'd call in with Jennifer or one of the other neighbours in the morning - as I was sure one of them would be able to help us out.
7. The next day, I woke up to the police searching my house and my husband being arrested. They asked me whether I had any toilet paper in the house, or if I had seen any American dollars or a quantity of gold coins. I said no to all those questions, and was very surprised when an officer came out of our bathroom with a pack of toilet paper and two rolls of \$1 coins.
8. In response to some other questions, I told them that I had gone to bed before my husband the night before, and at that time, he was up and cleaning the garage. Despite me watching the police search the entire house, they didn't find any American dollars.
9. What the police did find during their search was a number of other rolls of coins in various boxes in the garage. A couple of \$2 rolls, 50 cent rolls and about ten rolls of 20 cent coins.
10. In my former career, I worked for a number of different banks, and know that a standard roll of \$1 coins would be equal to \$20. I'm also not surprised that all those rolls were found in the garage because lots of my old work stuff is boxed up in there.
11. I know that my husband has bought Duxton toilet paper before – I remember it has black and orange coloured wrapping. But I don't think we've had any in the house for a very long time.