

Mock Trial Competition 2019 Round 2 Case Materials

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 **Murdoch**
UNIVERSITY

The Law Society of Western Australia

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PD ACTIVE

State of Western Australia v Dangerfield

Case Summary

The defendant, Josh Dangerfield, is charged with stealing a bicycle valued at \$7000, the property of Cody Brian Bickerton. On 22 November 2018, the arresting officer observed the defendant riding a bicycle in a dangerous manner through the shopping precinct at Thomson Bay, Rottnest Island. When questioned, the defendant tried to abscond but he was stopped by another officer. When asked who owned the bicycle, the defendant stated that the bicycle was his property. The bicycle was examined and was discovered to be a bicycle that had been reported to Police as having been stolen.

The Prosecution and Defence will receive the following:

1. Prosecution Notice
2. Summary of Facts
3. Legal Notes
4. Statement of Bike's Owner [Cody Bickerton]
5. Statement of Arresting Officer [Emma Williams]
6. Statement of Accused [Josh Dangerfield]
7. Statement of Witness [Ruby Nelson]

Criminal Procedure Regulations 2009 Prosecution Notice

Western Australia Criminal Procedure Act 2004 Magistrates Court at PERTH No: 0220 of 2010		Prosecution Notice	
Details of alleged offence ¹	Accused	Josh Dangerfield	
	Date or Period	22 November 2018	
	Place	Rottnest Island	
	Description	Stealing	
	Written Law	Sections 378 and 371 Criminal Code	
Notice to Accused	<p>You are charged with the offence described above, or the offences described in any attachment to this notice. The charge(s) will be dealt with by the above Court.</p>		
Accused's Details ²	Date of Birth	16/11/2000	Male/Female Male
Prosecutor ³	Address	Police Station Rottnest	
Person issuing this notice ⁴	Full name	Emma Frances Williams	
	Official title	Sergeant	
	Work address	Police Station Rottnest	
	Work telephone	(08) 97167521	
	Signature	<i>E.F. Williams</i>	
	Witness's Signature⁴	<i>Stacchina Kubicki</i> JP/Prescribed court officer	
Date	This prosecution notice is signed on 21 January 2019		

Legal Notes

Stealing

The Criminal Code provides:

378. Penalty for stealing

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.

371. Term used: *steal*

- (1) A person who fraudulently takes anything capable of being stolen, or fraudulently converts to his own use or to the use of any other person any property, is said to steal that thing or that property.
- (2) A person who takes anything capable of being stolen or converts any property 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 it;
 - (b)

Summary re the Elements of the Charge with respect to this matter are:

- (1) The defendant has taken something;
- (2) The thing taken is something capable of being stolen;
- (3) The thing taken is the property of Cody Brian Bickerton;
- (4) The defendant took the thing intending to permanently deprive the owner of the property.

Onus and Standard of Proof:

The Prosecution bears the onus of proving, beyond a reasonable doubt, the case against the Defendant. That is the prosecution must prove each of the elements above.

Comment on the Elements:

In this case there is no question that the bicycle is something capable of being stolen.

There is evidence that the bicycle is Mr Bickerton's property.

There is little doubt too that the prosecution should be able to prove that the bicycle was in the possession of the accused.

One issue in this case is whether the accused had the permission of the owner to have possession of the bicycle. If the defendant had Mr Bickerton's permission to have possession of the bicycle then he has not stolen the bicycle.

In *Ilich v R* (1987) 162 CLR 110, Gibbs CJ said:

"Stealing, as defined (*in the Criminal Code*), includes fraudulent taking A taking is deemed to be fraudulent when done with one of the intentions described in pars.(a)-(f) of s.371(2). No further state of mind is necessary. Of course there is no criminal responsibility for a taking effected in the exercise of an honest claim of right The Code does not require that the taking be without the consent of the owner, but,, the practical effect of its provisions is that a person who takes goods will not be criminally responsible if he acts with the consent of the owner"

But remember even if the accused did not have the permission of the owner to have the bicycle, the prosecution must still prove that the accused intended to permanently deprive Cody Bickerton of the bicycle.

IMPORTANT

Note to Teachers, Coaches and Judges:

(1) In this matter some may give consideration to raising the defence in section 24 of the Criminal Code (*A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.*) **however, at this stage (Round 2) of the Mock Trials that defence is too complex an issue and that argument is not to be taken.** Rather students should be encouraged to focus on whether the accused had permission to have possession of the bicycle.

(2) Students should also be encouraged to focus on making proper objections to inadmissible evidence and the factual matters that are ripe for cross examination. Have fun!!

STATEMENT OF CODY BRIAN BICKERTON

Cody Brian Bickerton, University Student of 5 Blossom Place Lemon Grove states:

1. I finished my WACE in November 2018. I went to South Central Senior High School. I did well in my WACE obtaining an ATAR of 92.1.
2. After finishing my WACE I was looking forward to leavers. I had arranged to go to Rottnest Island with a group of my mates from school. Also my then girlfriend, Ruby Nelson, was going to be over at Rotto at that time.
3. I took my new bike to Rotto. I intended to do some serious riding around Rotto to prepare for a triathlon in Mandurah that was starting two days after we got back from Rotto. I purchased the bike in October 2018 for \$7000.
4. My bike has my initials CBB engraved on the seat stand below the seat.
5. At Rotto, we stayed at Geordie Bay.
6. My mate, Archie Cusack, invited his friend, Josh Dangerfield to join us. I don't like the guy. He is weird and I don't trust him. He doesn't surf – he doesn't do much, except wear dark clothes and look unhappy. Dangerfield is a shifty guy if you know what I mean.
7. My mate Olly Viner told me that Dangerfield had been to court at least 3 times for shop lifting.
8. I think the guy has a few issues – the thing I disliked the most was that he kept taking other people's things – I found him with my GoPro for example.
9. When I asked him why he had my GoPro he said he was just borrowing it because he was bored. I reckon he would have kept it if I had not found him with it.
10. Basically everyone but Dangerfield would spend each day time surfing. We would catch the bus up to Stricklands and spend a fair bit of the day

there if the surf was ok.

11. I would always leave my bike locked with a bicycle chain. Some of the time I would chain the bike to the verandah posts at the front of the house but if we were going to spend the day surfing and catch the bus, I'd leave the bike locked in the house.
12. On the day we were due to go home we got back from surfing and I noticed that my bike was missing. I asked if anyone had seen it but everyone just said they hadn't.
13. I was upset, I looked everywhere around the houses and surrounding area but couldn't see it. I walked everywhere but couldn't find it. I am not sure where Dangerfield hid it.
14. I was really upset. The bike cost me a lot to buy.
15. I went down to the Police Station and reported my bike stolen.
16. I said that I had seen Josh Dangerfield riding it and that he refused to return it to me. I said to the Police constable I spoke to, "the bike is a really expensive. It has the initials 'CBB' on the seat stand under the seat."
17. A few days later I received a call from the Rottneest Police saying that the bike had been located and they would arrange for it to be sent to Fremantle where I could collect it.
18. I went to the Fremantle Police station and collected my bike from them. The bike had the initials CBB on the stand under the seat.

STATEMENT OF EMMA FRANCES WILLIAMS

Emma Frances Williams, Police Sergeant of care of Police Station Rottnest Island states:

1. I am a Police Sergeant attached to the Rottnest Island Police Station.
2. On the night of 22 November 2018 I was walking with my colleague Constable Morris through Thomson Bay when I saw a male on a bicycle riding at speed, weaving in and out of people, including kids.
3. I was concerned the rider of the bike would cause an accident. So, as he rode towards me I stopped him.
4. I said, “My name is Sergeant Williams.” I said “you are riding too fast through this area – you should walk your bike through here.”
5. I said to the rider, “what is your name?” He said, “Dangerfield, Josh Dangerfield.”
6. The rider said, “I didn’t hit anyone I wasn’t doing anything wrong.”
7. He then brushed past me and tried to get on the bike. My colleague Constable Morris held the bike and prevented the defendant from getting away.
8. I then recalled a report concerning a bicycle that I had received earlier in the day and on a whim decided to look at the seat stand.
9. I shone my torch under the seat on the seat stand and saw the initials: ‘CBB’
10. I said to Josh Dangerfield, “Josh, whose bicycle is this?”
11. He said, “It is my bike. This is stupid. If you are finished I’d like to go.”
12. I said “Josh, I have reason to believe that this bicycle is stolen?” Josh Dangerfield said “that is not true. I told you this is my bicycle.”
13. I said “I would like you to come with me to the Rottnest Police Station.”

14. The accused said “Are you joking? I am going.” He began to walk off but was stopped by Constable Morris.
15. I again said “Josh, I would like you to come with me to the station please.” The accused then ran off. Constable Morris took off after him. A very short distance later Constable Morris caught up with the accused.
16. Constable Morris and I took the accused back to the Station.
17. At the Police Station I said to the accused “I believe that you have stolen the bike that I found you with this evening. You are not obliged to say anything but if you do say something it may be used in evidence against you. Do you understand?” The accused said “Yes.”
18. I said “I would like to conduct an interview with you. Do you wish to participate?” He said “No.” I then charged the accused.

STATEMENT OF JOSH DANGERFIELD

Josh Dangerfield, University Student of 26 Citrus Boulevard Lemon Grove, states:

1. I was invited to go to leavers by my friend Archie Cusack. Archie and I have been friends since primary school and he went on to South Central Senior High, but I went to Dudley Winton High which has a special art program. I am currently doing a musical course at Uni.
2. I met Archie Cusack in Fremantle and we caught the ferry to Rotto and then went to the units he and his mates had hired at Geordie Bay.
3. Most of Archie's friends are the surfing types. I am not. So while they were off surfing, I would borrow one of their bikes and go for a ride to various places around the island.
4. I would sometimes get back to the unit before them and sometimes not. Nobody complained when I got back to the unit about me having their bike. I just used whoever's bike was around.
5. I also made friends with a few girls that were staying in a unit looking out over Geordie Bay and would spend quite a bit of time there. I would take my guitar over and play stuff.
6. It was at this time that I got to know Ruby Nelson. Ruby was at that time going out with Cody Bickerton. He was not happy when he found out.
7. One night a group of us were at the Jetty at Geordie Bay trying to catch fish – it was hopeless. Anyway, everyone went off but I decided to keep trying. Cody Bickerton came up to me after everyone had left. He said "Is the rumour true?" I said "What rumour?" He said "You know what I am talking about." I said "I have no idea." He said "You are moving in on my girlfriend Ruby." I said "If you keep talking you'll scare the fish."
8. He then warned me that if I didn't keep away from Ruby he would teach me a lesson.
9. I didn't take any notice of Cody, he is a scrawny

little bloke and he didn't frighten me.

10. By this time I was really in love with Ruby. She is very beautiful and I think she really liked me. So, when the others were off surfing Ruby and I would grab some bikes and go riding to various places on the island.
11. I admit that I used Cody's bike. Cody saw me come back to the unit with it and said nothing.
12. The day everyone was due to go back home Ruby and I decided to stay one more day. I told everyone in the unit that I was going to stay and Cody said to me, "You can use my bike if you like. Just make sure you bring it back with you tomorrow night." I said "Thanks Cody." I was a bit suspicious but I needed a bike so I kept the bike.
13. After the others left I was riding Cody's bike through Thomsons. I was feeling really euphoric and in a hurry to get back to Ruby.
14. I was stopped by the police. I should have taken more care.
15. I said, "I didn't hit anyone I wasn't doing anything wrong."
16. One of the cops asked me whose bike I was riding. I then realised that I had been set up and I panicked a bit.
17. I said, "It is my bike." I was stupid. I was so panicked that I tried to run off.
18. I was taken back to the Police Station and was charged with theft. Cody had certainly got his revenge.

STATEMENT OF RUBY NELSON

Ruby Nelson, University Student of 70 Scenic Drive
Lemon Grove states:

1. In December last year I went with a group of my friends to Rotto. We had a unit overlooking Geordie Bay.
2. My boyfriend at the time, Cody Bickerton and his mates had a unit on the other side of the Geordie Bay tennis courts.
3. I was really looking forward to spending some time with Cody.
4. Cody didn't understand girls very well. He actually said to me once "Mates before dates."
5. Now I look back, I think Cody is a drop kick. He was more interested in surfing at Stricklands than spending any time with me.
6. Cody is a vengeful type of person. Archie Cusack once warned me about Cody. He said he had seen Cody lose his temper and get back at people that crossed him.
7. When the others went off surfing, Josh Dangerfield would come over to our unit. He would bring his guitar and we would spend time talking.
8. I realised after a few days that I liked Josh a lot and he was interested in me.
9. We decided to explore the island each day. I had a bicycle with me and Josh told me that the other guys allowed him to use their bikes while they were off surfing.
10. We would go riding every afternoon. I noticed that Josh would sometimes be riding Cody's bike. I was surprised. It is an expensive bike. I said to Josh "Are you sure that Cody is happy for you to use his bike?" Josh said "Yep he has seen me taking it out and bringing it back to the unit and said nothing."
11. Josh and I decided to stay another day at Rotto – we were going to stay with another group of

friends who were also going to stay at Geordie Bay.

12. The day that Cody and the others were going back, I met with Cody and told him that I thought we need to have a break in our relationship.
13. Cody was really angry. I mean really angry! He stormed off.
14. The next morning I met Josh near the bus stop at Geordies. I saw that Josh had Cody's bike. I said "What are you doing with Cody's bike?" Josh said "Cody said that I could use it."
15. I said "That is a really strange. He knows about us and he was really angry. Why would he do you a favour?" Josh said "I don't know. I needed the bike so I didn't really ask any questions."
16. I said "I don't trust him Josh, he is up to something."
17. Josh and I had a really great day and agreed to catch up that evening at the Basin. I had almost given up waiting for Josh and he turned up.
18. He looked awful. I said "What is the matter?" He said "I have just been charged with stealing Cody's bike."
19. I guess Cody got his revenge.
20. I still think that it is strange that Cody brought his bike over to Rotto. I have never seen him ride it before I saw him riding it at Rotto. He never rode in a triathlon during the 12 months we were going out.
21. As it happened Josh and I didn't stay together anyway. I guess it was just a "Rotto Romance."