

**DISTRICT JUDGE (MAGISTRATES' COURTS): SELECTION EXERCISE
2007/2008**

CASE STUDY (QUALIFYING TEST)

SCENARIO A – CHARLIE

Charlie appears before the Court charged with common assault on his partner Tracey. Tracey and Charlie had been living together for three years in a flat rented from the local authority with Charlie as the tenant named in the rent book.

That evening Tracey was at home with their two year old daughter Amy, when Charlie came back from the pub. He had forgotten his key and began banging on the front door with such force that he cracked the glass panel. He demanded to be let in and called Tracey a “fat slag” and saying it was his flat and she should let him in. Fearful that he would completely wreck the door, Tracey left Amy on the settee and opened the door, whereupon Charlie pushed her back into the lounge and held her against a wall by her throat. He said that he had heard from his mates in the pub that she had been going with another man and he was going to teach her a lesson. Alerted by the screams of Amy, a neighbour came round and Charlie ran from the flat.

The Police are called and take photographs of the damaged door and of red marks to Tracey's neck. Tracey then goes with a police officer for a drive around the area where she picks Charlie out. He is arrested and taken to the Police Station where he makes a no comment interview.

Tracey makes a statement. The police crime report indicated that there have been three previous complaints by Tracey alleging assaults on her by Charlie. These have resulted in no further action as she has not wished to press charges.

The photographs and the statements of the police officers are in court. There is no transcript of the interview (although the tape is in the advance information) nor statement from the neighbour or Tracey.

The defence apply for an adjournment so all the prosecution evidence can be served on them.

Question 1

- Do you grant the adjournment?
- What are your reasons?

Eventually, the charge is put and the defendant pleads not guilty.

Question 2

- What do you do next?

At the case management hearing an application is made by the prosecution to admit in evidence the previous crime reports. The defence object on the basis that “allegations” are not evidence.

Question 3

- What is your response?

It is the day of the trial. The trial proceeds but Tracey is nowhere to be seen. The defence solicitor applies for the case to be dismissed. The prosecutor is nonplussed because of Tracey's failure to appear.

Question 4

- How do you deal with this application?
- What questions do you have for the prosecutor?

The trial is put back for an hour and Tracey appears in the back of the court and wants a word with the prosecutor. You are told that she still loves Charlie and does not wish to give evidence. However, warned about a witness summons or warrant, she goes into the witness box and takes the oath. When questioned by the prosecutor she says she cannot remember anything about that night, it is all a blank. The prosecutor asks her if she remembers making a statement to the police but the defence solicitor objects that the prosecutor is cross examining his own witness.

Question 5

- Has the defence solicitor a valid point?

The prosecutor hands up the statement made by Tracey which she admits is hers. It

contains a detailed account. She says it is all lies, because she now remembers that she was mad with Charlie as he had not done the lottery for her that week and her numbers had come up.

Question 6

- What is the evidential value of the written statement?
- What application would you expect to be made if she denied making the statement?

The police officer describes what he saw at the scene and taking Tracey around the estate. The neighbour describes hearing shouting and Amy's crying.

The defendant gives evidence but denies the offence saying he agrees with Tracey that there was shouting about the lottery but no violence.

Question 7

- What parts of the evidence do you find significant?

Apart from the allegations of violence against Tracey, Charlie has no convictions.

Question 8

- What directions would you give yourself before giving your verdict?

You convict Charlie who loudly protests his innocence in court and abuses you and Tracey.

Question 9

- What are the significant factors affecting sentencing?
- Would you adjourn for a report?
- What sentence would you impose? Give reasons.

**DISTRICT JUDGE (MAGISTRATES' COURTS): SELECTION EXERCISE
2007/2008**

CASE STUDY (QUALIFYING TEST)

SCENARIO B – TOM, DICK AND HARRIET

Tom, Dick and Harriet appear before the Borset Magistrates' Court, each charged with an offence of actual bodily harm (Dick and Harriet) and grievous bodily harm s. 18 (Tom). Tom is 16 years and Harriet is 17 years of age. Dick is 18 years.

The victim is the same in each charge.

The prosecutor has only just received the file which has not been reviewed fully. However, advance information has been supplied and the defence are, surprisingly, anxious to proceed and to decide venue.

Question 1

- What happens next?

The prosecutor hurriedly reviews her file and decides that Tom's charge should also be ABH and invites the bench to dismiss the GBH charge, which is done.

Question 2

- Does this make any difference to the procedure you have described?

The legal adviser then asks Dick if he wishes to indicate his plea. He says he wishes to indicate a not guilty plea.

Question 3

- What happens next?

Dick elects trial at the Crown Court. Tom and Harriet remain charged with ABH. The defence submit that the charges against them be remitted to the youth court as they will plead not guilty.

Question 4

- Do you take a plea from Tom and Harriet?

Dick has now had a rethink and is allowed to change his election to summary trial.

Question 5

- Could you try all three defendants together and if so, where?

The case is adjourned. Dick is given bail with conditions. The prosecution oppose bail for Tom and Harriet.

Question 6

- What are the options for remanding Tom if you refuse bail?

Question 7

- What is the procedure for Harriet?