

The Case of the Wandering MP3

Mock Criminal Law Scenario: R. v. Lee

Teacher Resource

Curriculum Links: Understanding Canadian Law (CLU3E), Grade 11, Workplace Preparation

Legal Focus: Criminal law, questioning techniques, legal process

Estimated Time: 1 period

Overall Expectations:

- Describe the criminal trial process.
- Explain how Criminal and Provincial Laws apply to young people.
- Apply the steps in the process of legal interpretation and analysis.

Specific Expectations:

- Describe the elements the Crown must prove for an action to be considered a crime.
- Describe the procedures that take an accused from being charged to being tried in court.

Description of the Scenario

On January 5th around 7:00 pm, two friends, Keri Lee and Tom Chang, went shopping at the local mall. They were looking for a joint birthday gift for their friend Andrea who was having a tough year since her parents split up.

They went into Musik Box because it was having a “2 for 1” New Year’s CD blowout sale. It was difficult for them to decide on how many CDs to buy, so Tom carried a pile of CDs around the store with him as they kept looking.

Keri went over to the mp3 player display counter where there were about 10 people testing players and only one sales person. She picked up a black mp3 player that was on sale for \$150.00. She clipped it to her belt, even though she and Tom had decided it was out of their price range. She tested the mp3 player and continued to walk around the store with it attached to her belt. She wanted to make sure no one else bought the last one, in case they changed their minds.

After twenty minutes of looking at CDs they finally decided to buy six. They waited in line for more than fifteen minutes, because the place was packed and the line-up was huge. Tom finally paid for

the CDs and then they left the store. As they were leaving the store, a security guard who identified herself as Fiona Smith stopped them. Keri panicked, and tried to get away, but the security guard held onto her arms firmly and made sure that they both followed her to the security office.

Once at the office, Fiona Smith asked Keri to empty her pockets and remove her belt. She placed her wallet, the belt and the mp3 player onto the desk. Fiona then called the police, and the storeowner Brian Box.

When Constable Swain (the police officer) arrived at the security office, he told Keri and Tom that Brian Box wanted to press charges against Keri for theft. Tom was told he could leave. Constable Swain put the mp3 player into a plastic bag and attached a tag to it. He asked Keri whether she owned the mp3 player and what her age was. He charged her with theft of goods of a value not exceeding five thousand dollars, contrary to section 334(b) of the *Criminal Code of Canada*. He also told her she would have to come to the police station for fingerprinting the next day. Keri was allowed to go home at about 9:00pm.

Note:

The case presented here is based on one of OJEN's Criminal Mock Trial scenarios, *R. v. Lee*. This case has been altered and simplified to allow for Workplace Level students to begin the first steps towards engaging in a full mock trial assignment. It is understood that some classes will be more successful than others in undertaking the preparation and role-playing required to complete a full mock trial. Teachers should gauge his or her class' readiness for the assignment.

The scenario has been designed so that outcome of the case will vary depending on how students argue the case. Neither a conviction nor an acquittal is the logical result. This case gives students the opportunity to realize how difficult the issues behind trials can be, given the lack of credible witnesses and the problem of finding the truth in a "he said, she said" exchange.

The Final Judgment

This is a mock scenario. Students will use the information provided to determine a fair judgment.

Teaching & Learning Strategies

1. Ask students to read *The Big Question* and use the *Think/Pair/Share* technique to introduce the idea of having a 'guilty mind'.
2. Introduce the mock trial by reading through *The Facts of the Case* and *The Relevant Law*. Review the *The Issue*. Explain to students that although they will not be completing a full mock trial at this point, this exercise will be preparation for that process. (A full mock trial may be used as a culminating activity for either the Criminal Law section of the course or for the entire Workplace Law course.)
3. Review *The Arguments in Court* with students using either student- or teacher- directed reading. You may also encourage volunteers to take on the roles of Kerri Lee and Fiona Smith,

and explain their versions of what happened. (additional materials are available in the full *R. v. Lee* mock trial package, which can be downloaded for free from the OJEN website, www.ojen.ca)

4. In pairs or small groups, ask students to complete *The Lawyers' Debate*. Take up the answers as a class, listing the potential arguments on the board.
5. Ask students to complete *The Final Judgment* individually and compare their answers with a partner. Once students have decided their verdicts, invite them to share their views with the class. They should be able to give justifications for their decisions.
6. Have students complete the *Check for Understanding* exercise and take up the answers as a class.
7. Optional: have students complete a full mock trial using OJEN's mock criminal trial package, *R. v. Lee*. This full mock trial package comes complete with witness sheets, speaking templates, and instructions for preparing opening and closing statements and questions. It can be downloaded from the Resources section of the OJEN website, www.ojen.ca.

Assessment & Evaluation

- Class discussions
- *Think/Pair/Share*
- *The Lawyers' Debate* worksheet
- *The Final Judgment* worksheet
- *Check for Understanding* worksheet

Resources

Ontario Justice Education Network

- Criminal Law Mock Trial Scenario : *R. v. Lee*
- Criminal Law Mock Trial Role Preparation Package
- Criminal Law Mock Trial Justice Sector Volunteer Package
- *Making the Case: Mock Hearing Toolkit*
- *Mens Rea/Actus Reus* Handout

The Case of the Wandering MP3

Mock Criminal Law Scenario: R. v. Lee

Student Handout

The Big Question

For an act to be a crime, do you think the accused person must have intended to commit the crime (i.e. is it necessary for the person to have a “guilty mind”)?

Think about your response for 30 seconds. Discuss your thoughts and opinions with a partner. Also, think of an example of a situation where a person might have committed a criminal act without meaning to. Should the person be charged? Would it be fair to be convicted of the crime? Share your conclusions with the class.

The Facts of the Case

On January 5th around 7:00 pm, two friends, Keri Lee and Tom Chang, went shopping at the local mall. They were looking for a joint birthday gift for their friend Andrea who was having a tough year since her parents split up.

They went into Musik Box because it was having a “2 for 1” New Year’s CD blowout sale. It was difficult for them to decide on how many CDs to buy, so Tom carried a pile of CDs around the store with him as they kept looking.

Keri went over to the mp3 player display counter where there were about 10 people testing players and only one sales person. She picked up a black mp3 player that was on sale for \$150.00. She clipped it to her belt, even though she and Tom had decided it was out of their price range. She tested the mp3 player and continued to walk around the store with it attached to her belt. She wanted to make sure no one else bought the last one, in case they changed their minds.

After twenty minutes of looking at CDs they finally decided to buy six. They waited in line for more than fifteen minutes, because the place was packed and the line-up was huge. Tom finally paid for the CDs and then they left the store. As they were leaving the store, a security guard who identified herself as Fiona Smith stopped them. Keri panicked, and tried to get away, but the security guard held onto her arms firmly and made sure that they both followed her to the security office.

Once at the office, Fiona Smith asked Keri to empty her pockets and remove her belt. She placed her wallet, the belt and the mp3 player onto the desk. Fiona then called the police, and the storeowner Brian Box.

When Constable Swain (the police officer) arrived at the security office, he told Keri and Tom that Brian Box wanted to press charges against Keri for theft. Tom was told he could leave. Constable Swain put the mp3 player into a plastic bag and attached a tag to it. He asked Keri whether she owned the mp3 player and what her age was. He charged her with theft of goods of a value not exceeding five thousand dollars, contrary to section 334(b) of the *Criminal Code of Canada*. He also told her she would have to come to the police station for fingerprinting the next day. Keri was allowed to go home at about 9:00pm.

The Issue

- Keri Lee walked out of a music store with an MP3 player she did not pay for and was charged with theft. Is she guilty or not guilty?

The Relevant Law

Criminal Code of Canada

Theft

322. (1) Every one commits theft who fraudulently and without colour of right takes, or fraudulently and without colour of right converts to his use or to the use of another person, anything, whether animate or inanimate, with intent

(a) to deprive, temporarily or absolutely, the owner of it, or a person who has a special property or interest in it, of the thing or of his property or interest in it.

The Arguments in Court

Testimony of Keri Lee, Defendant

- On January 5, you decided to go shopping with your friend Tom Chang at the local mall.
- The plan was to combine your money and buy a birthday gift for your friend Andrea.
- You arrived at the mall around 7:00 PM and you entered the Musik Box, which was having a CD sale.
- You and your friend Tom picked up about a dozen CDs and carried them around the store while you decided which ones to buy.
- You picked up a black mp3 player that was on sale and attached it to your belt to try it out. You kept it on your belt as you walked around the store because you didn't want anyone else to buy the last one.
- The store was packed and the line up for paying for the six CDs you chose with Tom was huge. You waited in line for about 15 minutes before he was able to pay for the CDs.
- You were feeling tired and hungry and you had completely forgotten about the mp3 player clipped on your belt until a security guard grabbed you when you were exiting the store.
- You were so scared when it happened you could hardly talk, your first reaction was to try and get away because you were going to get into trouble and you didn't mean to do anything wrong.
- You went with the security guard to the office and gave her the mp3 player.
- She called the police and storeowner. Constable Swain explained that the police were charging you, but they let your friend Tom leave.
- Constable Swain asked a few questions and then charged you with theft. He also told you to go to the police station the next day for fingerprinting. They let you leave the mall around 9:00 PM.

Testimony of Fiona Smith, Store Security Guard

- On January 5, you were working at the Musik Box in the local mall. You noticed these two young people in particular because their arms were full of CDs and they were laughing and fooling around as they shopped.

- You saw the accused, Keri Lee, go over to the mp3 display counter which was very crowded at the time. She picked up a few different mp3 players and then clipped a black one onto her belt and started listening to the earphones. After awhile she took the earphones out and continued to walk around the store with the mp3 player hidden under her sweatshirt, still attached to her belt.
- You kept watching the accused and her friend.
- Eventually they waited in line and paid for the CDs and left the store.
- As soon as they stepped out of the store you stopped the accused for shoplifting. The accused struggled with you and tried to get away, but you held onto her two arms so she couldn't escape.
- You took them both down to the Security Office. The accused was uncooperative and noisy along the way.
- When you asked for mp3 player she handed it to you and you called the owner of the store and the police.
- At around 8:45, Constable Swain and the storeowner, Brian Box, arrived at the Security Office. The officer questioned Keri – she was cooperative. You handed the police the mp3 player and told him what you had seen. Constable Swain told the accused that she was being charged for theft under.
- Her friend was not charged and told to leave. The accused was then released after she was asked some questions by the police officer.

The Lawyers' Debate

1. Pretend you are the Crown Attorney prosecuting Kerri Lee for the crime. Use the space below to come up with two questions you would like to ask each of the witnesses when they are testifying in front of the judge.

Kerri Lee

- i. _____

- ii. _____

Fiona Smith

- i. _____

- ii. _____

2. Pretend you are the Defence lawyer defending Kerri Lee against the charge. Use the space below to come up with two questions you would like to ask each of the witnesses when they are testifying in front of the judge.

Kerri Lee

- i. _____

- ii. _____

Fiona Smith

i.

ii.

3. What other witnesses would you like to call to the stand? Why do you think it is necessary to hear from these witnesses?

4. List one or two questions you would like to ask these witnesses.

The Final Judgment

Based on the information you have about the case, if you were a judge or a juror, would you choose to acquit Kerri or find her guilty? Justify your response.



Check for Understanding

1. Kerri and Tom were shopping for a birthday present for their friend, Andrea.
TRUE/FALSE
2. While wandering around the store, Kerri picked up an mp3 player and clipped it to her belt.
TRUE/FALSE
3. The security guard accused Tom of stealing a CD when he tried to leave the store.
TRUE/FALSE
4. When Kerri tried to run away, the store owner, Brian Box, held onto her arms so she couldn't get away.
TRUE/FALSE
5. Kerri was arrested and charged with theft under \$5000.
TRUE/FALSE
6. Constable Swain also charged and arrested Tom with theft under \$5000.
TRUE/FALSE
7. Check which of the following you think would qualify as having a guilty mind.
 - A 6-year old finds a lighter while playing in his neighbour's backyard. He burns the cushions on their patio furniture.
 - A 16-year old is arrested for smoking marijuana on school property.
 - A 17-year old accidentally hits a cyclist while driving. She is scared and drives away.
 - A 90 year man, diagnosed with Alzheimer's Disease, takes his son's car and crashes into a bus shelter.
8. Can you think of any other instances where a crime may have been committed, but the accused would not have 'a guilty mind'?
