

# The Case of the Stolen Basketball Shoes

## Mock Sentencing Scenario: R. v. Cain

### Teacher Resource

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

**Legal Focus:** Criminal Law, Sentencing

**Estimated Time:** 1 period

#### Overall Expectations:

- Describe the criminal trial process.
- Identify the sentencing options available to judges in a criminal trial or provincial prosecution.
- Communicate legal knowledge effectively.

#### Specific Expectations:

- Describe the procedures that take an accused from being charged to trial (e.g. arrest and release procedures).
- Identify some common and alternative sentencing options available to a judge in a criminal trial.
- Explain the purpose and principles of sentencing.
- Demonstrate an ability to listen and read critically, find relevant information, and express and support opinions, using proper legal terminology.

#### Description of the Scenario

On December 5, Nathan and Omar were walking home from school after their basketball practice. Both boys are 15 years old and in grade 9. It was about 5:30 but it was already dark outside and there was snow on the ground. The boys turned into an alley because it was a shortcut to the apartment building where Nathan lives.

Once they were in the alley, they were approached by a couple of guys that looked a bit older than them. Nathan and Omar didn't move. Nathan was wearing his new basketball shoes and one of the guys said that he liked them and told Nathan to give them up. Nathan refused. One of the guys reached over and pushed Nathan up against the wall. Nathan and Omar tried to push their way past them, but only Omar got away. Nathan was left alone with the two guys who started

punching him in the face, chest, and stomach. Nathan fell to the ground and they began kicking him in the back and legs. While he was lying there, one of them pulled off his shoes and hat.

The two guys got up, laughed at Nathan, and told him to walk home in his socks. Then, one of them pulled out a knife, waved it in Nathan's face, and told him not to go to the cops or he would regret it. He lunged at Nathan's stomach with the knife. The other guy yelled and pushed his arm away so that the knife would miss Nathan. The two guys started yelling at each other. The one without the knife said he wasn't going to be involved in stabbing anyone and that they had to leave before someone saw them. The other guy called him a coward, but they both turned and ran down the alley.

When they were gone, Nathan slowly got up. He had blood all over his face and neck, and his chest and stomach were really sore. He stumbled home and his mom called an ambulance and the police. The next day, Constable Richard Baker of the local police department interviewed him. Nathan was in the hospital for two days. He had two broken ribs, a broken nose, and severe bruising all over his body and the doctors said that he was lucky the attack didn't burst any of his internal organs.

Nathan did not go back to school right away and he refused to go back to basketball practice with Omar. Just before the Christmas holidays, Nathan's mom called the school, very concerned, because he was skipping class and moping around the apartment. He was referred to the school psychologist.

On January 8, Constable Baker called Nathan to the police station and told him that an arrest had been made. Nathan looked at some pictures and chose a photo of Anwar Cain. He identified him as the one who prevented the knife attack.

Anwar Cain was charged with *Assault causing Bodily Harm* and *Robbery*. The other attacker, Dwayne, was also apprehended and dealt with separately.

Anwar realized the harm he caused and decided to take responsibility. He pled guilty to both charges.

### ***The Final Judgment***

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

### ***Teaching & Learning Strategies***

1. Read *The Big Question* to students. Have a discussion about the questions and ask students to write a brief answer detailing their views.
2. Using a teacher- or student-centred reading strategy, review *The Facts of the Scenario*. After each paragraph, stop to paraphrase and answer any questions. Discuss *The Issue* with students.
3. Review *The Relevant Law* with students and point out how the law applies to the scenario.

4. Have students complete the ***You Be the Judge*** exercise. Students may want to discuss their ideas with 2 or 3 others. Discuss as a class what sentences students decided upon.
5. Using a teacher- or student-centred reading strategy, review ***Taking a Closer Look***. Guide students in a discussion around sentencing and the importance of considering individual circumstances. Read *The Purpose of Sentencing* and ask students how they feel about each of the purposes. Ask students to answer the question about revenge.
6. Read *The Sentencing Process* with students. Review each of the points in detail and ask students why they think each factor is important in the sentencing process. After the discussion, ask students to choose their four most important factors.
7. Once students have a clear understanding of why and how offenders are sentenced, complete the ***You Be the Judge...Again*** exercise. Students should consider the new information about Anwar Cain and determine an appropriate sentence for him. Discuss as a class whether students' sentences changed their original sentences and why. Ask students if they would choose a different sentence.
8. After answering the last question of the ***You Be the Judge...Again*** exercise, ask students to debate these two perspectives in groups of four.
9. (Optional) Ask three students to volunteer. One student acts as a judge, one student argues for a lesser sentence, and one student argues for a stricter sentence. After three minutes, ask students to switch sides and present new arguments for the opposite position. Discuss the advantages and disadvantages of both sentences and how they relate to the rules of sentencing.

### **Assessment & Evaluation**

- Class discussions
- *You Be the Judge* activity
- *Taking a Closer Look* worksheet
- *You Be the Judge...Again* worksheet
- Class debates

### **Resources**

Ontario Justice Education Network  
[www.ojen.ca](http://www.ojen.ca)

- Mock Sentencing Scenario: *R. v. Brown*
- Mock Sentencing Scenario: *R. v. Cain*
- *Making the Case: Mock Hearing Toolkit*

# The Case of the Stolen Basketball Shoes

## Mock Sentencing Scenario: R. v. Cain

### Student Handout

#### *The Big Question*

Most people would agree with the statement “the punishment should fit the crime”. The difficulty is deciding what the appropriate punishment should be and if the punishment should be the same for everyone. Do individual circumstances matter? If they do, how do we account for individual circumstances when deciding on a punishment? What are your beliefs on this issue? In a couple of sentences, explain how you think a punishment can be made to fit a crime in a fair and just manner.

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#### *The Facts of the Scenario*

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against the wall. Nathan and Omar tried to push their way past them, but only Omar got away. Nathan was left alone with the two guys who started punching him in the face, chest, and stomach. Nathan fell to the ground and they began kicking him in the back and legs. While he was lying there, one of them pulled off his shoes and hat.

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## Taking a Closer Look

Laws are intended to reflect the values of society. Similarly, the sentences that are imposed as a punishment should reflect how society feels about that particular crime. Murder carries a more severe sentence than assault. Both of these crimes are violent and looked down upon by society but clearly, murder is a much more serious offence and so the punishment must reflect that. Unfortunately, things are not that easy. Murder cannot carry one specific sentence for everyone. There are a number of circumstances that must be considered and every case is different. For example:

**Case One:** A man finds out his wife is having an affair. That night, he waits for her to fall asleep and he kills her.

**Case Two:** A woman is devastated that the man she has accused of raping her has been acquitted “on a technicality”. The day after his acquittal, she shows up on his doorstep and shoots him.

**Case Three:** A 14 year old boy is bullied endlessly at school by a couple of his classmates. One day after school, they beat him up and lock him in the boy’s washroom. He is left there until 9:00 pm, when the maintenance staff stumbles upon him. The next day, he comes to school with his Dad’s gun and shoots the two boys who beat him up the day before.

All of these cases involve the taking of a human life and yet the circumstances are very different in each. To give these people the same sentence would be unjust. So how do we make sure that the sentence fits the crime?

## The Purpose of Sentencing

In 1995, section 718 was added to the *Criminal Code* explaining the purpose of sentencing. It states that sentencing is necessary so that we can maintain a “just, peaceful and safe” society. It goes on to say that the sentence should fulfill one or more of the following purposes:

1. to express society’s disapproval of illegal conduct;
2. to deter the offender and other people from breaking the law;
3. to keep criminals away from the rest of society, where necessary;

4. to help rehabilitate offenders;
5. to allow offenders to compensate in some way for the harm done to victims or to the community; and
6. to get offenders to acknowledge and accept responsibility for their actions.

Some people think that the main reason for sentencing is retribution, revenge or payback. Despite this, we see no mention of this in the *Criminal Code*. Why do you think revenge is not one of the purposes of sentencing?

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### The Sentencing Process

Judges have a number of factors that they consider when deciding on the type of sentence that is most appropriate. Some of these include:

- Recommendations by the Crown and defence lawyers
- The criminal record of the accused
- A victim impact statement
- The Criminal Code and the Charter of Rights and Freedoms
- Precedents from previous cases
- A guilty plea versus a plea bargain
- The safety of the community
- Whether or not violence was involved
- Public opinion
- A pre-sentence report (A detailed report of the accused's personal life that includes age, marital status, children, finances, employment status and testimonials from family, friends)

In your opinion, which of these four factors are the most important?

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_



The *Youth Criminal Justice Act* (YCJA) contains specific sentencing principles which guide a judge in making sure that youth do not receive sentences which are too harsh. Judges will weigh the seriousness of the offence and the amount of responsibility the youth had for the offence. All available alternatives to custody are considered. The least restrictive sentence, focusing on rehabilitation and reintegration will be chosen.

## You Be the Judge...Again

Now you know why and how we sentence offenders in Canada. Below is some background information on Anwar Cain that is similar to some of the information that might be presented to a judge before sentencing. Take a few moments to read about him and the events in his life before the attack.

- Anwar is 16 years old and in grade 10. He has no previous criminal record.
- His mother died five years ago and he is still struggling with her loss.
- His father works as a janitor in a hospital. Sometimes he works nights, and isn't home with Anwar. He hates this but he has to work to support them. He is very surprised and disappointed by his son's violent behaviour.
- Anwar has a part time job at a cell phone store in the mall. His boss says he is a good worker and was planning to offer him full time work for the summer.
  
- His marks in school are good, especially in computer and technology courses. He wants to go to college for computer studies.
- Anwar spent a lot of time at the local recreation centre where he would go for help with his homework. He also helped set up computers and tried to fix any problems they had. He loved helping and learning more about computers.
- He met Dwayne there 3 months ago. Dwayne didn't go to school and had been in trouble with the law before. He was a tough guy with a bad attitude.
- Since meeting Dwayne, Anwar spent less time at the centre and more time in the mall and on the street.
  
- Crystal, the Youth Leader at the centre, was concerned about their friendship. She was close to Anwar, and tried to talk to him about Dwayne, but this only put distance between them.
- Crystal wasn't surprised to hear that Anwar had gotten into trouble while with Dwayne, but was very surprised to hear what type of trouble it was. Anwar was not a violent person. He was usually a very kind and likeable young man.
- Anwar was saving up to buy a pair of running shoes he really wanted but it was taking a really long time. On the day of the incident, he asked his dad for some money for the shoes, but his dad said there was no money in the budget for such expensive shoes. Anwar was furious. His dad was never home and now he wouldn't even give him money for something that would make him so happy.

- When Dwayne and Anwar ran into those boys in the alley, they saw that one of them had on a brand new pair of the shoes Anwar wanted. Dwayne suggested they get them from the boy.
- Anwar was so caught up in his anger at his dad that it seemed like a good idea. He even got some of his anger out by punching and kicking the kid.
- After the attack and the knife incident, he saw a different side of Dwayne and stopped hanging out with him.
- Anwar is fully aware of the harm he caused and decided to take responsibility. He pled guilty to both charges.
- Crystal, his youth leader and friend, thinks that an intensive Youth Violence program would be good for Anwar. It is a 12-week free and voluntary program that meets once a week to talk about violence, the impact it has on victims and on attackers, and how violence can be avoided.

1. With this new information in mind, what kind of sentence you would give Anwar? Is this different from your previous sentence? If so, how and why?

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2. Which purpose(s) of sentencing does your sentence fulfill? Check all that apply.

- to show that breaking the law is unacceptable;
- to deter the offender and other people from breaking the law;
- to keep criminals away from the rest of society, where necessary;
- to help rehabilitate offenders;
- to allow offenders to compensate in some way for the harm done to victims or to the community; and
- to get offenders to acknowledge and accept responsibility for their actions.

3. How do you think Nathan would feel about the sentence you have decided on? Explain.

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