

Cases and Problems in Criminal Law

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EIGHTH EDITION

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Contents

Table of Cases	xi
Preface	xix
Introduction	3
An Overview of the Criminal Process	3
Problem Analysis	7
Problem X	7
About the Model Penal Code	13
PART I	
ACTUS REUS AND MENS REA — IN GENERAL	
Chapter 1 · Mistake	19
Problem 1	19
California Penal Code	21
People v. O'Brien	22
People v. Snyder	24
Miller v. Commonwealth	30
Chapter 2 · Attempt	37
Problem 2	37
Title 18, United States Statutes	38
United States v. Roman	39
United States v. Mandujano	44
United States v. Joyce	58
Chapter 3 · Accomplice Liability	71
Problem 3	72
Florida Statutes	72
Hampton v. State	73
G.C. v. State	76
Estrada v. State	77
Gains v. State	77
Cable v. State	80
Rodriguez v. State (Rodriguez I)	82
Rodriguez v. State (Rodriguez II)	84
United States v. Ortega	85

PART II
PROPERTY CRIMES

Chapter 4 · Larceny	91
Problem 4	92
New York Penal Law	93
People v. Alamo	95
People v. Olivo	105
People v. Jennings	110
Chapter 5 · Embezzlement	121
Problem 5	122
Reporter’s Transcript—U.S. v. Buck	122
United States Code, Title 18, § 654	123
United States v. Titus	124
Government of the Virgin Islands v. Leonard	126
United States v. Whitlock	130
United States v. Selwyn	137
Chapter 6 · False Pretenses	141
Problem 6	141
Transcript of Grand Jury Hearing in U.S. v. Mann	142
District of Columbia, 1982, § 22-3211	143
Chaplin v. United States	143
Nelson v. United States	148
Locks v. United States	154
Chapter 7 · Burglary	163
Problem 7	163
Colorado Revised Statutes, § 18-4-202	164
People v. Ramirez	165
Regina v. Jones	172
People v. Davis	178
Chapter 8 · Robbery	189
Problem 8	189
Transcript of Interview with Willie Woods	190
Pennsylvania Statutes, Title 18	190
Commonwealth v. English	191
Commonwealth v. Sleighter	193
Commonwealth v. Brown	198
Commonwealth v. Rozplochi	204
State v. Holley	211

PART III**RAPE**

Chapter 9 · Rape	217
Problem 9	218
Testimony of Lois Lake	218
Maryland Code, Article 27	220
Goldberg v. State	222
State v. Rusk	229

Part IV**Homicide**

Chapter 10 · First Degree Murder	255
Problem 10	256
Transcript of Interrogation of Dick Dearborn	256
Washington Criminal Code	257
State v. Lindamood	257
State v. Brooks	260
State v. Bingham	263
State v. Ollens	272
Chapter 11 · Voluntary Manslaughter	279
Problem 11	279
Transcript of Berkowitz's Testimony	280
New Mexico Statutes, § 30-2-3(A)(2013)	280
State v. Nevares	281
State v. Castro	284
Sells v. State	287
State v. Munoz	292
Chapter 12 · Depraved Heart Murder and Involuntary Manslaughter	299
Problem 12	300
Transcript of Testimony of Anderson Smith	300
Utah Criminal Code	301
State v. Olsen	302
State v. Jensen	311
State v. Bolsinger	318
Chapter 13 · Felony Murder	331
Problem 13	332
Transcript of Testimony of Joseph Thursday	332
California Penal Code	332
People v. Washington	334
Taylor v. Superior Court	341

People v. Antick	347
People v. Howard	355
People v. Wilkins	360
People v. Johnson	367
Chapter 14 · Causation	373
Problem 14	374
Transcript of Testimony of Phil Lerrup	374
New York Penal Law	374
People v. Kibbe	375
People v. Stewart	384
People v. Flores	390
People v. Rakusz	393
People v. Galle	396
People v. Duffy	397
People v. Matos	400
Part V	
Defenses	
Chapter 15 · Self-Defense	405
Problem 15	405
Transcript of Portion of Trial in State v. Henry	406
New Jersey Statutes	407
State v. Mulvihill	408
State v. Bonano	411
State v. Kelly	414
State v. Gartland	432
Chapter 16 · Necessity and Duress	443
Problem 16	444
Transcript of Testimony of Naveen Leong	444
United States v. Holmes	445
The Queen v. Dudley & Stephens	452
United States v. Contento-Pachon	458
Andrews v. People	469
State v. Thayer	480
Chapter 17 · Defense of Habitation; Prevention of Felony and Escape	497
Problem 17	498
Testimony of Victor Mompfrey	499
Testimony of James Conrad	499
Testimony of Ed Evans	499
California Penal Code	499
People v. Kilvington	501
People v. Ceballos	504

People v. Martin	510
Chapter 18 · Insanity, Diminished Capacity, and Incompetency	519
Problem 18	521
Transcript of Meeting with Psychiatrist	521
Transcript of Police Interrogation of Leslie Love	522
California Penal Code	523
People v. Wolff	525
People v. Drew	537
People v. Wetmore	550

Part VI
Anticipatory Offenses

Chapter 19 · Solicitation	567
Problem 19	567
Transcript of Testimony of Felicia Finkess	567
California Penal Code	568
Oregon Revised Statutes	569
People v. Burt	570
California Penal Code	573
In re Elizabeth G.	574
People v. Rubin	575
People v. Bottger	587
Chapter 20 · Conspiracy	597
Section A—The Agreement	598
Problem 20A	598
Transcript of Grand Jury Testimony	599
United States Code, Title 18	600
United States v. Rosenblatt	600
United States v. Escobar DeBright	606
United States v. Brown	610
Section B—The Intent	618
Problem 20B	619
California Penal Code	620
California Health & Safety Code	620
People v. Lauria	621
United States v. Blankenship	628
Section C—Scope of the Conspiracy	636
Problem 20C	637
Grand Jury Testimony of Walt Wild	638
McDonald v. United States	638
United States v. Bruno	642
Krulewitch v. United States	644
United States v. Perez	649

United States v. Lechuga	664
Section D: Overt Acts	673
United States v. Crippen	673
Appendix · Model Penal Code (Selected Sections)	679

Table of Cases

- Abbott, State v., 411, 412
Adami, People v., 591
Ager, People v., 169
Agnew v. United States, 150
Alamo, People v., 95, 100, 103, 104, 107, 113, 115
Almeida, Commonwealth v., 334
Amato v. State, 77
Anaya, State v., 425
Anderson, People v. (Cal. 1968), 274
Anderson, People v. (Cal. 2002), 468
Anthony M., Matter of, 394, 395
Antick, People v., 347
Aranda, People v., 581
Armintrout v. People, 168, 169
Ashley, People v., 148
Atchison, People v., 27
Austin v. United States, 266, 273, 274
Ayers, People v., 581
- Bachman, State v., 492
Bacon v. Towne, 503
Badji, People v., 104
Bailey, United States v., 460, 467
Baker, People v. (Cal. 1954), 534
Baker, People v. (Ill. 1936), 108
Baker, United States v., 629
Barr, State v., 507
Barton, People v., 286
Batimana, United States v., 62
Battle v. State, 246
Bayer, United States v., 603
Bechtel v. State, 425
Berrigan, Commonwealth v., 470
Bertling, United States v., 677
Bess, State v., 414, 422
Bielecki, People v., 169
- Bilderbeck, United States v., 50
Bingham, State v., 263, 273, 274, 275
Blankenship, United States v., 628, 666
Blanton, State v., 412
Blumenthal v. United States, 602
Bobo, People v., 558
Bogdanov v. People, 167
Bolsinger, State v., 318, 326
Bonano, State v., 411, 437
Bonhart v. United States, 399
Borelli, United States v., 602, 612, 643, 656, 660, 661
Boro v. Superior Court, 248
Bottger, People v., 587
Bouie v. City of Columbia, 517
Boyd v. State, 82
Brackett v. Peters, 378
Brandenburg v. Ohio, 579
Bray, People v., 25, 26, 28
Brennard, People v., 387
Bridgers, State v., 208
Bridges v. United States, 603
Brooks v. Superior Court, 344, 346
Brooks, State v., 259, 260, 265, 273
Brown, Commonwealth v., 198
Brown, State v., 439
Brown, United States v., 610
Bruhn v. Commonwealth, 129
Bruno, United States v., 642, 643, 652, 660
Bryant v. State, 84
Budoo v. United States, 466
Buffington, United States v., 66, 68, 70
Buffum, People v., 47, 570
Burko v. State, 212
Burns v. Erben, 502
Burt, People v., 570, 591

- Bushnell v. Bushnell, 303
 Butler, People v., 196
 Butler, United States v., 676
- Caetano, People v., 529
 Caine, State v., 57
 Calabro, United States v., 602
 Caldwell, United States v., 672
 Cameron, United States v., 559
 Campbell, United States v., 462
 Canino, United States v., 670
 Canipe v. Commonwealth, 291
 Cantrell, People v., 542
 Capitolo, Commonwealth v., 470
 Casanova, Commonwealth v., 382
 Castro, State v., 284, 289
 Cavitt, People v., 360, 363
 Ceballos, People v., 504, 514
 Cepeda, United States v., 613, 614
 Cerro, United States v., 660
 Chagra, United States v., 635
 Chamberlain, People v., 528
 Chaplin v. United States, 143
 Chavez, People v., 340
 Chermansky, Commonwealth v., 513
 Christian, In re, 559
City of (see name of city)
 Civella, United States v., 677
 Clark, United States v., 32
 Coffman, People v., 539
 Collins, State v., 207
 Coltherst, State v., 657
 Commodore, State v., 259
Commonwealth v. (see name of defendant)
 Compton, United States v., 580
 Conley, People v., 552, 557
 Conrad v. Commonwealth, 309
 Contento-Pachon, United States v., 458
 Coogler, People v., 544
 Cooley, State v., 283
 Cooper v. People, 166, 167, 170
 Coplon, United States v., 42, 47, 60
 Cortez, People v., 634
 Cox v. People, 387
- Cram, State v., 486, 488
 Crenshaw, People v., 313, 317
 Crims, State v., 247
 Crippen, United States v., 673
 Croft, United States v., 635
 Curtis, People v., 409
- Damms, State v., 40, 43
 Daniels, People v., 346
 Dansinger, State v., 487
 Dapo, State v., 486
 Darcy, Commonwealth v., 198
 Dardi, United States v., 603
 Darling, People v., 527, 529, 530
 Darwish v. State, 153
 David, People v., 528, 529
 Davidson, United States v., 676
 Davis, People v. (Cal. 1998), 178
 Davis, People v. (Colo. 1996), 201
 Delaney v. State, 601
 Dennis, In re, 528
 Dennis, People v., 529
 Dennis v. United States, 578
 Devlin v. Morse, 303
 Diamond State Tel. Co. v. Hunter, 304
 Diana, State v., 492
 Direct Sales Co. v. United States, 622,
 623, 629, 631, 661, 662, 668
 Doe, United States v., 431
 Dominguez, United States v., 69
 Donaldson, State v., 100
 Doris, Commonwealth v., 336
 Dorrell, United States v., 470, 471, 487
 Doucet, State v., 135
 Dreas, People v., 203
 Drew, People v., 537
 Drum, Commonwealth v., 412
 Duffy, People v., 397
 Dunn v. United States, 612, 615
 Durham v. United States, 546
- Earl, People v., 359
 Eckelberry v. State, 212
 Edwards v. State, 197
 Eichorn, In re, 493

- Eisenhower, Commonwealth v., 388
Elizabeth G., In re, 574
Emmons, Commonwealth v., 509
English, Commonwealth v., 191, 194,
195
Enmund v. State, 79
Escobar DeBright, United States v., 606
Evanchyk v. Stewart, 635
Evans v. State, 134
- Faatea, State v., 207
Falcone, United States v., 601, 614, 622,
624, 629, 662
Farner, United States v., 42
Farris, State v., 288, 289, 290
Feiner v. New York, 578
Felton, State v., 425
Ferguson v. State, 80
Ferlin, People v., 352
Fiegelman, People v., 40
Fisher, People v., 170
Fiswick v. United States, 645
Flannel, People v., 441
Fletcher, United States v., 34
Flores, People v., 390
Flumerfelt, People v., 28
Flynn v. Commonwealth, 507
Fontana, State v., 321
Forbes v. Commonwealth, 306, 307
Fortes, Commonwealth v., 310
Fowler v. United States, 156
Fowlin, Commonwealth v., 440
France, People v., 322
Fraters, People v., 529
Freeman, United States v., 541
Frison, Commonwealth v., 201
Frye, People v., 203
Fuller, People v., 359
- Galle, People v., 396
Gallegos, People v., 168
Gallegos, State v., 425
Gallishaw, United States v., 602
Garcia v. State, 80
Garcia, United States v., 616
- Gartland, State v., 432
Garziano, People v., 487
Geaney, United States v., 613
Gilbert v. State, 81
Gilbert, People v., 342, 343, 350, 351,
352, 353
Giovannetti, United States v., 630, 662,
666
Glowacki, State v., 438
Goldberg v. State, 222, 240
Gomez, United States v., 463
Gonzales v. State (Tex. Crim. App. 1985),
290
Gonzales v. State (Tex. Ct. App. 1995),
176
Gonzales-Gutierrez, State v., 595
Gonzalez, United States v., 670
Gordon, People v., 576
Gordon, United States v., 459
Gorshen, People v., 541, 542, 547
Gottlieb, People v., 115
Graham v. United States, 156
Grant, State v., 108
Gray v. Combs, 506
Great American Indemnity Co. v. Yoder,
155, 157
Green, State v., 259
Gregg v. United States, 46, 47
Griffin, People v., 169
Griffith, State v., 259, 266
Grimmett, United States v., 649
Groomes v. United States, 108, 159
Grunewald v. United States, 603
Guerrero, State v., 378
Gustine v. State, 76
- Halbert, Commonwealth v., 291
Hales, State v., 326
Halstead, People v., 169
Hancey v. United States, 125
Harris, State v., 266
Harrison v. People, 96, 98
Harrison v. United States, 615
Harrison, People v., 334, 337, 339
Hart v. United States, 290

- Harvill, State v., 468
 Hastings, State v., 492
 Hauck, State v., 159
 Hawthorne v. State, 425
 Hazel v. State, 226, 227, 228, 229, 234,
 237, 239
 Heckstall v. State, 609
 Herfel, State v., 237
 Hernandez, People v. (Cal. 1964), 26, 27
 Hernandez, People v. (N.Y. 1993), 401
 Hernandez, United States v., 463
 Hill v. State, 24
 Hinkhouse, State v., 57
 Hoagland v. State, 494
 Hobson v. Commonwealth, 213
 Hodges, People v., 196
 Hogrefe, State v., 161
 Hoin, People v., 540
 Holley, State v., 211
 Holman v. Johnson, 626
 Holt, People v., 535, 536
 Hope, State v., 212
 Horn, People v., 591
 Howard, People v. (Cal. 2005), 355
 Howard, People v. (Cal. App. 1981), 250
 Hutchins, Commonwealth v., 490
 Hyde v. United States, 42, 603

 Iannelli v. United States, 602, 607, 666
In re (see name of party)
 Indelicato, United States v., 32
 Ingram v. United States, 602
 Iniguez, People v., 633
 Irby, People v., 270
 Iriarte-Ortega, United States v., 615
 Irving, United States v., 579

 J.H. v. State, 76, 79
 Jackson, People v. (Cal. App. 4th 2005),
 203
 Jackson, People v. (Cal. App. 4th 2010),
 171
 Jackson v. State of Texas, 624
 Jackson v. Virginia, 235, 237, 265, 612
 Jenks v. State, 492

 Jennings, In re, 34
 Jennings, People v., 110
 Jensen, People v., 118
 Jensen, State v., 311
 Jimenez Recio, United States v., 641
 John Z., In re, 246
 Johnson, People v. (Cal. App. 1992), 367
 Johnson, People v. (Cal. App. 1993), 356
 Johnson, People v. (Colo. 1995), 177
 Johnson v. State (Ala. 1904), 336
 Johnson v. State (Md. App. 1970), 74
 Joiner, United States v., 677
 Jolley v. United States, 653
 Jones, People v. (Cal. App. 1961), 506,
 513
 Jones, People v. (Colo. App. 1996), 166,
 170
 Jones, State v., 247
 Jones, United States v., 613
 Jordan v. Commonwealth, 207
 Joyce, United States v., 58

 Kane, People v., 377, 387, 388
 Kauten, People v., 594
 Kaye, People v., 118
 Keeler v. Superior Court, 516
 Kelly, People v., 543
 Kelly, State v. (N.J. 1984), 414, 436, 438
 Kelly, State v. (Wash. 1984), 425
 Kelner, United States v., 579, 580, 581,
 586
 Kennedy, Commonwealth v., 47
 Kern, People v., 401
 Kibbe, People v., 375, 387, 392, 394, 397,
 399, 400
 Kidd v. State, 240
 Kilvington, People v., 501
 King v. Pear, 107
 King, State v., 261
 Knoller, People v., 328
 Knowler v. Miller, 328
 Koonce, State v., 409
 Kortum v. Alkire, 515
 Kotteakos v. United States, 653, 672
 Kramer, United States v., 670

- Krulewitch v. United States, 601, 614, 644
Kuhn v. State, 166
- Lamb, State v., 437
Lanning, State v., 259, 273
Lauria, People v., 621, 623, 629
Lechuga, United States v., 664
LeGrand, People v., 323
Lehnert, People v., 51
Leidholm, State v., 425
Leland v. Oregon, 527
Leno, Commonwealth v., 492
Leslie, People v., 352
Lewis, Commonwealth v., 383
Liefer, United States v., 670
Lillard, People v., 512, 515
Lilly, People v., 323
Lindamood, State v., 257
Lingman, State v., 304
Linn v. United Plant Guard Workers of America, 585
Littlefield, United States v., 677
Lockhart, Commonwealth v., 206
Locks v. United States, 154
Long Beach Police Officers Assn. v. City of Long Beach, 515
Long, State v., 212
Loomis, People v., 529
Lorenzo, People v., 158
Loustaunau, People v., 441
Lozano, People v., 395
Luoma, State v., 266
Lynch v. State, 77
- M.T.S., State v., 245
Majeed, Commonwealth v., 177
Mandujano, United States v., 44, 60, 67, 68
Manser v. Eder, 303
Manus, State v., 294
Markowski, United States v., 670
Martin, People v., 510
Martin, United States v., 76
Masonite Corp., United States v., 647
- Massachusetts in Commonwealth v. Levia, 207
Matos, People v., 400
Matter of (see name of party)
May, United States v., 461, 471, 472
Mayberry, People v., 26, 27
McBoyle v. United States, 516
McClain, State v., 439
McCoy, People v., 295
McDonald v. United States, 638
McGill v. State, 247
McIntosh v. State, 161
McKnight, People v., 470, 473
McLaughlin, People v., 624
McMillen, State v., 196
Mejia-Lenares, People v., 559
Metters, People v., 463
Michelson, United States v., 462
Micklus, United States v., 461
Miller v. Commonwealth, 30
Miller, Commonwealth v., 425
Miller, People v. (Cal. 1935), 61, 591
Miller, People v. (Cal. 1972), 537
Milton, People v., 338
Mims v. United States, 47
Minkowski, People v., 249
Missouri v. Hunter, 667
Mitchell v. Prunty, 616
Monholland, United States v., 60, 62
Montague, State v., 409
Montana v. Egelhoff, 561
Moore, People v., 169
Moore v. United States, 132, 133
Morado, United States v., 651, 653
Moran, People v., 40
Moran, United States v., 667
Morante, People v., 572
Moreland, People v., 516
Moretti, State v., 41
Morton, United States v., 33
Mower, People v., 488
Mullis v. State, 409
Mulvihill, State v., 408
Munn, People v., 317
Munoz, State v., 292, 293

- Murtishaw, *People v.*, 591
- Nakashima v. Takase, 508
- Nash, *People v.*, 534
- National Life & Accident Ins. Co. v. Gibson, 125
- Neitzel v. State, 322
- Nelson v. United States, 148
- Nevares, *State v.*, 281, 285, 289
- New York Times Co. v. Sullivan, 585
- Nicholson, *State v.*, 323
- Noel, *People v.*, 328
- Noreikis, *United States v.*, 45
- Norman, *People v.*, 148
- Nye & Nissen v. United States, 77
- Nyland, *State v.*, 513
- O'Brien, *People v.*, 22, 25, 27
- Oakland Cannabis Buyers' Coop., *United States v.*, 488
- Olivo, *People v.*, 104, 105, 113, 115
- Ollens, *State v.*, 272
- Olsen, *State v.*, 302
- Ortega, *United States v.*, 85
- Ortiz, *State v.*, 196
- Osborn v. United States, 41
- Osegueda, *People v.*, 179
- Oxnam, *People v.*, 526
- Palermo, *United States v.*, 655, 656
- Palmer, *People v.*, 609
- Palmer, *United States v.*, 604
- Patrick, *United States v.*, 462
- Patterson v. New York, 537
- Patton, *United States v.*, 157
- Peaslee, *Commonwealth v.*, 47, 60
- Peltier, *United States v.*, 459, 460, 462
- Peoni, *United States v.*, 86, 602, 629
- People v. (see name of defendant)**
- Pereira v. United States, 662
- Perez, *People v.*, 634
- Perez, *United States v.*, 649
- Peterson v. Long Beach, 515
- Petti, *United States v.*, 128, 138
- Pinkerton v. United States, 603, 647, 659
- Pino-Perez, *United States v.*, 629
- Piorkowski, *People v.*, 513, 514
- Poddar, *People v.*, 557, 558
- Podolski, *People v.*, 334
- Podolsky, *United States v.*, 605
- Pohlot, *United States v.*, 559
- Pontery, *State v.*, 437
- Pope v. State, 74, 78
- Pope, *State v.*, 212
- Poplar, *People v.*, 74
- Poplis, *People v.*, 322
- Powell, *State v.*, 421
- Praetz, *People v.*, 395
- Prince, *State v.*, 487
- Provoid, *State v.*, 412
- Quesada, *People v.*, 515
- Rael, *People v.*, 169
- Raines, *State v.*, 56
- Rakusz, *People v.*, 393
- Ramirez, *People v.*, 165
- Randolph, *People v.*, 213
- Ray v. State, 82
- Reed, *People v.*, 344, 346
- Rembert, *People v.*, 99
- Reynolds, *State v.*, 289
- Rhode Island Recreation Center v. Aetna Casualty and Surety Co., 459
- Richards v. People of the V.I., 129
- Rios, *People v.*, 285
- Robbins, *Commonwealth v.*, 177
- Robinson, *People v.*, 302
- Robinson, *State v.* (Me 1985), 247
- Robinson, *State v.* (N.M. 1980), 289
- Robles, *People v.*, 541
- Robtoy, *State v.*, 265, 273
- Roman, *United States v.*, 39, 46
- Roman, *United States v.*, 39
- Root, *Commonwealth v.*, 377
- Rosenblatt, *United States v.*, 600
- Rosenheimer, *People v.*, 377
- Roth, *United States v.*, 661
- Rozplochi, *Commonwealth v.*, 204
- Rubin, *People v.*, 575

- Rumfelt v. United States, 65
 Rusk, State v., 229
 Rutherford, State v., 511
 Rutherford, United States v., 579
 Ryals v. State, 76
- Saephanh, People v., 592
 Saille, People v., 559
 Sayklay, United States v., 133, 135, 139
 Schenck v. United States, 579
 Scheuermann v. Scharfenberg, 506
 Schoon, United States v., 479, 489
 Scott, People v. (Cal. 1996), 328
 Scott, People v. (Cal. 2009), 208
 Sdoulam, United States v., 635
 Sears, People v., 352
 Sears v. United States, 601, 607
 Sells v. State, 287, 293, 294
 Selvage v. State, 239
 Selwyn, United States v., 137
 Shapiro, United States v., 460
 Shears, People v., 116
 Shelton, United States v., 63
 Sherman v. United States, 608
 Shields, People v., 167
 Shirley, State v., 261
 Shockey v. State, 81
 Shotton, State v., 487
 Siering, State v., 247
 Simpson, Commonwealth v., 192
 Simpson v. State, 509
 Simpson, United States v., 461, 471
 Siu, People v., 40
 Skantze v. United States, 156
 Sleighter, Commonwealth v., 193
 Smallwood v. State, 55
 Smiley, State v., 439
 Smith v. State, 284
 Smith, State v., 195
 Snell, United States v., 65, 67
 Snelling, Commonwealth v., 200
 Snyder, People v., 24
 Son, People v., 469
 Squires, State v., 486
 St. Louis, City of v. Klocker, 478
- Stamp, People v., 347
 Standiford, State v., 302
State v. (see name of defendant)
 Stavroulakis, United States v., 604
 Steckler v. United States, 615
 Steele v. Lackey, 304
 Steele, People v., 553
 Stewart, People v., 384, 394, 397, 398,
 400
 Stewart, State v., 426
 Still, United States v., 67, 70
 Stills, State v., 298
 Strock, People v., 470, 471
 Studifin, People v., 31
 Sullivan, People v., 47
 Sullivan, State v., 486
 Superior Court (Decker), People v., 63
 Swain, People v., 633
 Sweezy v. New Hampshire, 577
- Tallmadge, United States v., 32
 Tate, State v., 436
 Taylor v. State, 336
 Taylor v. Superior Court, 341, 350, 351,
 353, 354
 Taylor, People v., 353, 354
 Tennessee v. Garner, 512
 Terrell, People v., 593
 Thayer, State v., 480
 Thomas, Commonwealth v., 336
 Thomas, People v. (Cal. 1953), 336
 Thomas, People v. (Cal. App. 2005), 202
 Thomas, State v., 436
 Thomas, United States v., 441
 Thongvilay, People v., 359
 Tikka, State v., 259
 Titus, United States v., 124
 Torres, People v., 425
 Townsend, United States v., 658, 669,
 671, 672
 Tufunga, People v., 197
 Tyler, United States v., 613, 614
- Ulibarri, State v., 289
United States v. (see name of defendant)

- United States v. Atencio, United States v.,
460, 462
- Van Vechten v. American Eagle Fire Ins.
Co., 113
- Van Winkle, People v., 529
- Vaughn, People v., 389
- Velez, People v., 390
- Ventimiglia v. United States, 41
- Victor, State v., 102
- Virgin Islands, Government of v. Leon-
ard, 126, 133, 135
- Vogel, People v., 26, 27
- Vue, State v., 429
- Vue, United States v., 431
- Wables, United States v., 670
- Walker v. State, 179
- Walker, People v., 513
- Walton v. State, 74
- Wanrow, State v., 438
- Ward v. State, 82
- Warren v. State, 135
- Washington, People v. (Cal. 1965), 334,
342, 343, 350, 351, 353, 354, 359, 360
- Washington, People v. (Ill. App 1964),
412
- Watts v. United States, 579, 584
- Way, State v., 246
- Weeks v. State, 57
- Weiland v. State, 438
- Wells, People v., 527, 542, 550, 552, 557
- Werblow, People v., 46
- Werner v. State, 426
- Wetmore, People v., 550
- Wheeler, People v., 394
- Whiddon v. Malone, 303
- White, Commonwealth v., 192
- White, People v., 558
- Whitlock, United States v., 130
- Whitmore v. State, 149
- Wilkins, People v., 360
- Willard, People v., 526
- Williams v. State (Fla. App. 1968), 79
- Williams v. State (Md. App. 1993), 463
- Williams, Commonwealth v., 203
- Williams, People v., 161
- Willis, United States v., 466
- Wilson v. State, 336
- Wilson, People v., 425
- Wilson, United States v., 676
- Wilson-Bey v. United States, 87
- Winegan v. State, 228
- Winn, United States v., 607
- Winship, In re, 377, 658
- Wolff, People v., 525, 541, 544, 553
- Wood, United States v., 460
- Woodruff v. Superior Court, 352
- Wooldridge v. United States, 61
- Yaklich, People v., 426
- Yang, United States v., 633
- Yates v. United States, 579
- Younes, United States v., 677
- Zombo, People v., 99

Preface

Many criminal law casebooks focus on the theory and philosophy of criminal law. This casebook takes a slightly different approach. The authors have designed the book to help students develop the legal analysis skills necessary to address the kinds of problems encountered by lawyers who practice criminal law. The format of this book requires students to work beyond merely reading and understanding criminal law; students should move to the next stage of performing legal analysis by interpreting statutes, applying precedent, and advocating for different parties.

Suppose a client comes to a lawyer with a difficult legal problem involving a complex set of facts. The lawyer begins representation by performing the necessary research of the legal issues and finding a cluster of cases and statutes, usually from the jurisdiction in which the problem arises. To advise the client (and—if necessary—to litigate the case), the lawyer must analyze, distinguish, reconcile, and interrelate the authorities in the research cluster that represents the body of law in the jurisdiction.

One goal of this book is to recreate the lawyer’s experience for law students by setting a task through an introductory Problem at the start of each chapter. Each Problem is followed by statutes and cases that relate to the crime(s) presented in the Problem. The statutes and cases follow a traditional casebook form, offering the student tools to resolve the Problem. The role of the teacher, then, is to help students identify the statutory and common law rules, find the rationale for those rules, and apply that new knowledge to the Problem. By placing analytical skill-building squarely within the doctrinal textbook and, by extension, within the doctrinal classroom, this textbook pushes students toward a deeper understanding of the material by providing them an opportunity to apply the knowledge they are acquiring throughout the course. Moreover, the chapters are ordered so that students will review material from the earlier part of the course as they move into more complex legal doctrine later in the course. We have placed notes throughout the chapters to help students think about the Problem as they are reading the material.

We have tried to select cases that have interesting facts, raise issues that tend to be central to the topic of the chapter, and that contain understandable—though not always “correct”—analyses by the courts. We have edited the cases with an eye toward making them readable and comprehensible for first-year students. In most

chapters, the main cases are all from a single jurisdiction (the jurisdiction in which the Problem takes place) and presented chronologically. Practicing lawyers generally focus on cases in the jurisdiction where the case is to be tried, trying to understand and reconcile them. We want our students to do the same.

This book is a tool for learning both the intricacies of criminal law doctrine and practical skills. While the materials enable the professor to explore the traditional principles of criminal law, greater breadth of coverage can be obtained from a good treatise or hornbook. We usually suggest that our students read Wayne LaFave, *Criminal Law* (6th ed.), which we consider the best of its kind. The LaFave *Criminal Law* material appearing throughout this work has been reproduced with the permission of the authors and West Publishing Company.

While we believe that the approach taken by this book is pedagogically sound, we have another, more selfish reason for using this approach in our teaching: it is more fun for the students to play lawyer than merely read about how other people have played lawyer. Our students agree, and we think this enhances their learning. This approach demands more work from them. They must read and think beyond the statutes and the cases to apply the reading to the Problem. We also ask them to prepare an outline of an analysis of the Problem, based on the authorities in the chapter. All this takes more time and effort, but they do it and seem to enjoy doing it. They know that they are reading the cases as a lawyer would, for a specific purpose: to resolve the Problem. We hope you enjoy it too.

ELIZABETH BOALS, AMY DILLARD, AND MYRON MOSKOVITZ