

### Case Inquiries

1. There is nothing in the case materials about the age young people can drink alcohol. It is clear in the case materials that high school students –including the defendant- were consuming alcohol. Can we apply present Colorado law and conclude that drinking is illegal?

ANSWER: Yes.

2. Cameron Paul puts the date of enrollment for Jo situation as follows, “According to Army records, Jo had enlisted on May 23, 2011, the Monday following the Chautauqua High senior formal.” The senior formal was May 14<sup>th</sup> according to the materials. Is this a typo?

ANSWER: Yes. See case edits. Page 72 paragraph 14.

3. Should the defense plan to argue solely against murder in the first or should they plan on casting reasonable doubt on all crimes?

ANSWER: The prosecution team must pursue the most serious charge--first degree murder--throughout the trial. Failure to pursue first degree murder--after the prosecution has charged the defendant with first degree murder--is not only a violation of the mock trial rules, but also is extremely unethical and unprofessional. The defendant team must present a defense to the first degree murder charge--as it deems appropriate. Either team may also chose to argue any of the lesser included offenses--as the team deems appropriate.

4. Is the Prosecution supposed to choose whether to press for murder in the first, murder in the second, reckless manslaughter or criminally negligent homicide, or do we have to present a case for murder in the first degree?

ANSWER: See Answer #3 listed above

5. Is the bullet in Exhibit 1 embedded in the floor?

ANSWER: See Exhibit 1. See affidavit of Cameron Paul.

6. We are at 6 people if all stay with us. As a point of clarification, the rules say a team can be up to twelve people. They also say a timekeeper cannot be a participating member of the trial and the registration has attorneys listed and timekeepers separate. Does this mean if we get 7 people one has to remain a timekeeper the whole time or could you have one person be a time keeper during one trial and then participate in another trial?

ANSWER: See Rule 2.1.2. The timekeeper must remain the timekeeper.

7. The witness statement for Casey Vince is titled “Casey Vince, MD,” but Casey Vince’s Statement of Qualifications makes no mention of a medical degree. Is this a typographical error?

ANSWER: Yes, this is a typo. See updated case problem.

8. Also, in your response to Inquiry No. 3, you indicate that, besides being unethical, failing to pursue first degree murder is a violation of mock trial rules. Will the ruling judges and scoring panelists be informed of this fact or must the defense raise the issue if it happens? If the defense must raise it, is it by objection, by in the bar dispute or by some other mechanism?

ANSWER: Presiding Judges and Scoring Panelists will be advised and trained on this issue. We will also insert a check box on the score sheets.

9. This case raises the issue of how to deal in cross-examination with things that the three experts failed to do during their investigations when a competent expert would have normally done those things during an investigation of this sort.

The National Rule of Evidence 611(b) clearly states that in cross-examination it is proper to "inquire into any omissions from the witness statement that are otherwise material and admissible." Our Colorado Rules used to have that provision. For some reason, in recent years, that provision has been deleted. Because of this, some mock trial judges and scoring judges consider any cross-examination questions about material omissions from trial statements to be unfair extrapolation.

This issue was discussed at the recent coaches meeting. However, many left confused about what will be considered proper technique when cross-examining the experts about things they should have done but didn't. Please clarify. Can one simply ask "You didn't do \_\_\_\_." Or do you prefer "Your trial statement doesn't mention that you \_\_\_\_." Or is there a third alternative.

ANSWER: Colorado does not have a correlating rule. Please see Rule 6.5.1.

10. On Exhibit 5, the Ballistics/Firearms Analysis the first page gives the Analysis Date as 5/27/11 and the second page lists the Analysis Date as 5/26/11. Is this intentional or unintentional?

ANSWER: Unintentional. Please see exhibit corrections.

11. The Vince Trial Statement paragraph 5 on page 74 in the 3rd line from the top of the page states "five samples from the abandoned auto were from the same individual." Exhibit 4, the Forensic DNA Analysis, only shows 3 samples from the car were tested. Is this intentional or unintentional?

ANSWER: Unintentional. Please see updated case problem. Paragraph 5 Page 74.

12. It is clear that the roles in the mock trial problem are intended to be gender neutral. One issue that has arisen in cases like this year's case is the defense putting a female in the role of the defendant and then claiming she is physically unable to do something that allegedly occurred in the case. In this case, it could be claimed that a small female could not have removed and hidden the body of the alleged victim. Is this type of claim in violation of the gender neutral philosophy of the mock trial program. Could it be considered to be "unfair extrapolation" because there is nothing in the case materials about the defendant not being physically able to do a alleged task of the defendant.

ANSWER: Please see Rule 6.5.1.

13. What is the deployment date of Joe to Afghanistan?

ANSWER: Please refer to case problem.

14. What was the date Cameron Paul spoke with Joe's parents?

ANSWER: Please refer to case problem.

15. We have updated the following to the Jury Instructions.

#### INSTRUCTION NO. 6

The elements of the crime of murder in the first degree are:

1. that the defendant,
2. in the State of Colorado, at or about the date and place charged,
3. after deliberation and with intent to cause death of a person other than himself/herself, causes the death of that person.

After considering all the evidence, if you decide the prosecution has proven each of the elements beyond a reasonable doubt, you should find the defendant guilty of murder in the first degree.

After considering all the evidence, if you decide the prosecution has failed to prove any one or more of the elements beyond a reasonable doubt, you should find the defendant not guilty of murder in the first degree.

16. Jury Instruction No.9 has been removed. Previously read as below has been omitted and consequently all other Jury Instructions have been re-numbered.

OMITTED: INSTRUCTION NO. 9

“Universal Malice” means depravity of the human heart, which determines to take a life upon slight or insufficient provocation, without knowing or caring who may be the victim. It does not mean a malicious purpose to take the life of all persons.