

HYPOTHETICALS

Prima Facie Case of Battery—Dual Intent

A travels to the airport to pick up his wife on her return from a business trip. As he is walking through baggage claim, he sees his wife facing away from him. He recognizes her from behind and walks up behind her and then gives her a big bear hug and “romantic” kiss on the ear. The woman, *B*, is not his wife, but someone else. It was a case of mistaken identity.

A intends to touch *B*, but intends the touching to be friendly. *A* taps *B* on the shoulder with his full hand, and *B* cries out in pain. As it turns out, *B* is actually seriously harmed by the touch because of a previously broken collar bone. The hand tap aggravates the injury greatly.

Prima-Facie Case of Assault

A drives his automobile close to the curb for the purpose of frightening *B*, a pedestrian. *B* is put in fear of his bodily safety but is otherwise unharmed.

A, intending to frighten *B*, discharges a pistol behind his ear. *B*, who is deaf, does not hear the pistol and does not discover what happened until later.

A, standing behind *B*, points a pistol at him. *C* overpowers *A* before he can shoot. *B*, hearing the noise, turns around and for the first time realizes the danger to which he had been subjected.

A, a scrawny individual, attempts to strike *B* with his fist. *B* is a heavyweight boxer. *B* is not at all afraid of *A*, is confident that he can avoid any such blow, and in fact succeeds in doing so.

A, a notorious gangster, who is known to have killed other men, telephones *B* and tells him that he will shoot him on sight. A week later, coming around a corner, *B* encounters *A* standing on the sidewalk. Without moving, *A* says to *B*, “Your time has come.” After waiting 2 minutes, *A* then walks away, having done nothing.

A calls *B*, his next-door neighbor, and says: “I’m coming over right now and I’m going to beat you up.” *A* slams down the phone, but becomes absorbed in a TV program and never leaves his house.

A is playing golf. *B*, his caddie, is inattentive and *A* becomes angry. Intending to frighten but not harm *B*, *A* aims a blow at him with a golf club which he stops some eight inches from *B*'s head. Owing to the negligence of the club maker, the rivet which should have secured the head is defective, though *A* could not have discovered the defect. The head of the club flies off and strikes *B* in the eye, putting it out.

A throws a stone at *B*, whom he believes to be asleep. *B*, who in fact is awake, sees *A* throwing the stone and escapes by dodging.

Prima-Facie Case of False Imprisonment

We work at a restaurant. Just before closing, I tell you to inventory the items in a freezer. I then forget and accidentally lock you in and go home. I realize as much, run back and let you out. Requisite intent for false imprisonment?

Same as above, except that when I get home and realize I locked you in I decide to leave you there. It would be a pain to drive back to work to let you out now, and I'm so tired, so I'll let you out tomorrow morning. First thing, I swear!

I put you in a room intending to send poisonous gas in it to scare you, and thus commit a battery or at least an assault, but I did not intend to confine you in that room. I locked the door accidentally. Is that enough intent for false imprisonment?

I intend to confine you to a room for five hours, and nothing more. I accidentally hit a button on a machine sending poisonous gas in, thereby causing a touching and harm. Claim for battery?

I dig a pit that is 10 feet deep, intending for you to fall in it. I know you will be hurt when you fall in. I don't intend you to be trapped, but you are. Requisite intent for false imprisonment?

I am a store security person and I suspect that you are shoplifting. I order a lock down of the store, intending to confine you in it. In the process, I also accidentally lock in someone else that I was not aware was in the store. That other person wants to sue for false imprisonment. Sufficient intent as to them?

I take away the crutches or wheelchair of someone who requires them to be mobile, is that confinement?

You are in a locker room, showering naked, and I steal your clothes, is that confinement?

You are in this classroom, and I grab your wallet and say it stays with me in this classroom, are you confined? What if I take a pencil?

I tell you, you cannot leave the classroom after class because the police are on their way here to question you about a book theft.

You drive your car into a parking lot and the lot then locks the lot at night, and it will reopen in the morning. False imprisonment?

I lock you, a young athletic person in a room with an openable window four feet from the ground outside. False imprisonment? What if you are elderly?

You want to leave this room and I yank you back by grabbing your jacket, but a split second later I let you go. False imprisonment?

I lock you in a room while you are sleeping. False imprisonment?

I slip you a sedative to quiet you down in a nursing home without you knowing it. False imprisonment?

Prima-Facie Case of Trespass to Land

An unidentified cat perches atop a fence that divides the Plunkett property from the Durfee property. The cat sets up an intolerable caterwauling in the middle of the night and Durfee hurls a shoe at the cat from her side of the line. The cat dodges and continues its serenade, but the shoe falls on Plunkett's property. Trespass?

John Dangle took off from a mountain point in a hang-glider. He passed over Pergolesi's land at a height of 250 feet. Shortly thereafter a shotgun blast from an unidentified source ripped holes in the glider's surfaces and Dangle lost control. He landed safely in Burger's back yard. No damage was done to Burger's property. Is Dangle a prima-facie trespasser as to either Pregolesi or Burger?

Prima-Facie Case of Trespass to Chattels

I take your car for a joy ride but bring it back unharmed.

I use your toothbrush and brush my teeth with it.

I hide your car from you for a full day.

I touch your dog, causing the dog to bite you.

I take the wrong hat from a restaurant, thinking it is mine, but it is yours. I discover my mistake three months later and return it.

I am at the same restaurant and am carrying a large bag. Someone at the restaurant knocks your hat into my bag. I do not notice and I leave the restaurant with the bag and with your hat within it.

I use your torts casebook everyday, for the entire semester, making it impossible for you to use your own book. I don't write in it and return it unharmed at the end of the semester.

I hand my car over to a car dealer to have him sell the car on consignment. It is assumed that the car will be test driven by potential purchasers, but not more. The dealer drives the car 2,000 miles on his own business.

I intend to throw a bucket of ink at you and I miss and hit a valuable book you own, causing it to be covered in ink, but leaving you squeaky clean and unharmed.