

2009-2010 Mock Trial Corrections & Clarifications

Clarifications on/ Additions to the Law

“Assault” shall be defined as “any willful attempt or threat to inflict injury upon the person of another, when coupled with an apparent present ability so to do, and any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm, constitutes an assault. An assault may be committed without actually touching, or striking, or doing bodily harm, to the person of another. Frequently used to describe illegal force which is technically a battery. For crime of assault victim need not be apprehensive of fear if the outward gesture is menacing and defendant intends to harm, though for tort of assault, element of victim’s apprehension is required.

“Assault and Battery” shall be defined as “any unlawful touching of another which is without justification or excuse. It is both a tort, as well as a crime. The two crimes differ from each other in that battery requires physical contact of some sort (bodily injury or offensive touching), whereas assault is committed without physical contact. In most jurisdictions, statutes have created aggravated assaults and batteries, punishable as felonies, and worded in various ways.

“Battery” shall be defined as “criminal battery, which is the unlawful application of force to the person of another, that may be divided into three basic elements: (1) the defendant’s conduct (act or omission); (2) his “mental state” which may be an intent to kill or injure, or criminal negligence, or perhaps the doing of an unlawful act; and (3) the harmful result to the victim, which may be either a bodily injury or an offensive touching. What might otherwise be a battery may be justified; and the consent of the victim may under some circumstances constitute a defense. The actual offer to use force to the injury of another person is assault; the use of it is battery, which always includes an assault; hence the two terms are commonly combined in the term “assault and battery.”

“Self-Defense” – to be added as a Defense, may be defined as follows:

The protection of one’s person or property against some injury attempted by another. The right of such protection. An excuse for the use of force in resisting an attack on the person, and especially for killing an assailant. The right of a man to repel force by force even to the taking of life in defense of his person, property or habitation, or of a member of his family, against any one who manifests, intends, attempts or endeavors by violence or surprise, to commit a forcible felony. Essential elements of “self-defense” are that defendant does not provoke difficulty and that there must be impending peril without convenient or reasonable mode of escape. The law of “self-defense” justifies an act done in the reasonable belief of immediate danger, and if an injury was done by the defendant in justifiable self-defense, he can never be punished criminally nor held responsible for damages in a civil action. [Baltimore Transit Co. v. Faulkner, 179 Md. 598, 20 A.2d 485, 487.]

A person is justified in the use of force against an aggressor when and to the extent it appears to him and he reasonably believes that such conduct is necessary to defend himself or another against such aggressor’s imminent use of unlawful force. One who is not the aggressor in an encounter is justified in using a reasonable amount of force against his adversary when he reasonably believes: (a) that he is in immediate danger of unlawful bodily harm from his adversary and (b) that the use of such force is necessary to avoid this danger. It may be reasonable to use nondeadly force against the adversary’s nondeadly attack (i.e. one threatening only bodily harm), and to use deadly force against his deadly attack (an attack threatening death or serious bodily harm), but it is never reasonable to use deadly force against his nondeadly attack.

Clarification Regarding Taylor Madigan’s Gender:

For the purpose of Mock Trial Competitions, Taylor Madigan will be the same gender as the defendant.

Corrections:

On page 18, line 27 (Sgt. Smith’s affidavit), it should read, “...no proof that *Corey* took *Taylor’s* lunch money...”