

# CRIMINAL CASE: STATE V. GARY GOODMAN

## A. SUMMARY OF STATE V. GARY GOODMAN



Smith and Wesson Chief Special with Hammer Shroud Seized by Fred Durkin

Gary Goodman and his brother Barry went to the Infernal Club on the evening of May 1, 20XX-1 (last year), for an evening of dancing. Gary Goodman had a .38 caliber revolver in his coat pocket. While they were inside the Infernal Club, Barry Goodman became engaged in a “staring” contest with Moe Helton, a local drug dealer who had a history of bad blood with Barry. The staring contest escalated into a confrontation, and the confrontation escalated into a fistfight. Barry came off second in the fistfight and Helton began to get the best of him.

Gary Goodman, who had been dancing on the dance floor, noticed the fight and went over to intervene. Goodman drew the revolver in his pocket and began shooting. John Elder, a business associate of Helton in the drug trade, attempted to intervene in the fight, trying to disarm Gary. Gary shot Elder in the stomach. When Gary shot Elder, Shemp Campbell, another drug associate of Helton, also intervened and was able to disarm Gary Goodman. When Goodman was disarmed, he and his brother fled the Infernal Club. Moe Helton was pronounced dead on arrival at the Lincoln County Hospital, and John Elder underwent emergency surgery to repair the damage done to his stomach by the bullet. Barry Goodman was treated at Riverton Hospital for trauma suffered in the fight with Helton.

## B. ASSIGNMENTS FOR THE GOODMAN CASE

### TABLE OF CONTENTS

ASSIGNMENT 1: Prosecutor’s Case Analysis and Case Theory Development

- ASSIGNMENT 2: Defense Counsel's Case Analysis and Case Theory Development  
ASSIGNMENT 3: Prosecutor: Content of the Cross-Examination of Barry Goodman  
ASSIGNMENT 4: Prosecutor: Content of the Cross-Examination of Gary Goodman  
ASSIGNMENT 5: Defense Counsel: Content of the Cross-Examination of Shemp Campbell  
ASSIGNMENT 6: Defense Counsel: Content of the Cross Examination of John Elder  
ASSIGNMENT 7: Prosecutor: Scripting the Cross Examination of Barry Goodman  
ASSIGNMENT 8: Prosecutor: Scripting the Cross Examination of Gary Goodman  
ASSIGNMENT 9: Defense Counsel: Scripting the Cross Examination of Shemp Campbell  
ASSIGNMENT 10: Defense Counsel: Scripting the Cross Examination of John Elder  
ASSIGNMENT 11: Defense Counsel: Cross-Examination of Shemp Campbell  
ASSIGNMENT 12: Defense Counsel: Cross-Examination of John Elder  
ASSIGNMENT 13: Prosecutor: Cross-Examination of Barry Goodman  
ASSIGNMENT 14: Prosecutor: Cross-Examination of Gary Goodman

### **ASSIGNMENT 1: Prosecutor's Case Analysis and Case Theory and Theme Development**

You are employed as a deputy prosecutor in the Criminal Division of the Lincoln County Prosecutor's Office. You have been assigned to the *State v. Gary Goodman* case. Gary Goodman is charged with murder in the second degree, attempted murder in the second degree, and carrying a concealed firearm. The charges result from an fight between the Goodman brothers – Gary and Barry - on one side and a notorious gang of local hoodlums led by Moe Helton on the other. Gary Goodman is a star athlete at the local high school and is very well known in the community. The local media has taken an interest in the case and has touted Gary Goodman as an innocent victim of circumstance who simply did what he had to do in order to protect his brother. Judging from the letters to the editor printed in the local paper, this characterization has gained some traction in the community.

Plea negotiations have gone nowhere, and you need to get ready for trial. Your first order of business in preparing for trial is to develop a case theory and theme.

### **PREPARATION**

**READ:** Case Files Entries 1-11; Chapter 2.

## **THOUGHTS FOR THIS ASSIGNMENT**

1. What facts do you need to prove a prima facie case for each of the crimes charged?  
Are the testimonies of Shemp Campbell and John Elder sufficient to support the charges?  
Are there any other witnesses who can provide testimony supporting the charges?
2. What is the prosecution's persuasive narrative story? What are human values, which the jurors will care about, that underpin the story? How can you negate the positive image of the defendant? How can you mitigate the negative image of the victims? What is the plot? Who is the protagonist? Are both the story and the witnesses credible?
3. What are the strengths and weaknesses of your case?
4. What are your plans for addressing the mental health defense?

## **ASSIGNMENT FOR CLASS**

In class, be prepared to discuss your case theory including both factual sufficiency and persuasive story as well as the strengths and weaknesses of your case. Also be prepared to discuss your tentative trial plan. Also, be ready to discuss who the witnesses are that you are planning to call and how you will address the mental health defense.

### **ASSIGNMENT 2: Defense Counsel's Case Analysis and Case Theory Development**

You represent Gary Goodman who has been charged with murder in the second degree, attempted murder in the second degree, and carrying a concealed firearm. Your client has professed innocence to you and pled not guilty to the charges. You have had him examined and developed a mental health defense. This case is going to trial. It is time to build your case theory and plan your trial strategy.

## **PREPARATION**

**READ:** Case Files Entries 1-11; Chapter 2.

## THOUGHTS FOR THIS ASSIGNMENT

1. How do you intend to attack the sufficiency of the state's case? Is the prosecution's legal theory defective in any way? Can the prosecution produce sufficient evidence to support the charges? How is the prosecution's narrative story vulnerable? At this point, how do you plan on attacking the witnesses who are likely to testify for the state?
2. What is the defense's narrative? What are the human values in that story that the jury can relate to? How can you establish a human interest theme? What is the plot? Who is the protagonist? Are both the story and the witnesses credible?
3. What are the strengths and weaknesses of your case?

## ASSIGNMENT FOR CLASS

In class, he prepared to discuss your case theory including both factual sufficiency and persuasive story as well as the strengths and weaknesses of your case. Also be prepared to discuss your current trial plan including the witnesses that you plan on calling. What are your tentative plans for demolishing the state's case and witnesses?

### **ASSIGNMENT 3: Prosecutor: Content of the Cross-Examination of Barry Goodman**

When Barry Goodman became embroiled in a fistfight with Moe Helton, his brother Gary came to his aid. Barry Goodman has given a sworn statement exculpatory of Gary Goodman, but in conflict with the accounts of both Gary Goodman and the witnesses for the prosecution. You must design a cross-examination which highlights these discrepancies and otherwise discredits Gary Goodman's claim that he was defending his brother.

## PREPARATION

**READ:** Case Files Entries 1-11; Chapter 3.

## THOUGHTS FOR THIS ASSIGNMENT

1. What do you plan to say about Barry Goodman in your closing argument? Is he credible? Is he biased? Is he lying or telling the truth? Could he be mistaken? Is he embellishing his testimony?
2. Brainstorm for concessions that will help build your case theory or undercut the defense case theory. What concessions can you seek? Ask yourself: what helpful facts must this witness admit or stamp his answer as either a lie, mistaken or ludicrous?
3. With the aid of the list of nine areas of impeachment found at page \_\_\_\_\_, identify those areas that are applicable to these alibi witnesses.

### ASSIGNMENT FOR CLASS

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing about Barry Goodman. In class, be prepared to deliver your closing argument and to discuss the content of your cross-examination.

#### **ASSIGNMENT 4: Prosecutor: Content of the Cross-Examination of Defendant Gary Goodman**

Defendant Goodman gave a full and complete exculpatory statement claiming that he was acting in defense of his brother.

You anticipate that the defendant will take the stand and testify. The defendant's testimony contains inherent improbabilities and is in conflict with the testimony of the defendant's brother, Barry Goodman. Gary Goodman's statement also conflicts with the account of the incident he gave to Dr. Arden Conger.

### PREPARATION

**READ:** Case Files Entries 1-11; Chapter 3.

## THOUGHTS FOR THIS ASSIGNMENT

1. What story do you envision that the defendant will tell on the witness stand? What do you plan to say about the defendant's story in your closing argument?
2. Brainstorm for concessions that will help build your case theory or undercut the defense's case theory. What concessions can you obtain from the defendant? Ask yourself: What must the defendant admit or stamp his answer as either a lie, mistaken or ludicrous?
3. With the aid of the list of nine areas of impeachment found at page \_\_\_\_\_, identify those areas that are applicable to the defendant.

### ASSIGNMENT FOR CLASS

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing regarding the defendant and his testimony. In class, be prepared to deliver

your closing argument and to discuss the content of your cross-examination of the defendant.

### **ASSIGNMENT 5: Defense Counsel: Content of the Cross-Examination of Shemp Campbell**

Shemp Campbell is the prosecution's chief eyewitness to the shooting. You have yet to interview him, but you do have his sworn statement and certified copies of his prior convictions. His testimony conflicts with that of John Elder and also with the testimony of the Goodmans.

#### **PREPARATION**

**READ:** Case Files Entries 1-11; Chapter 3.

#### **THOUGHTS FOR THIS ASSIGNMENT**

1. In your closing argument, what do you plan to say about Shemp Campbell's credibility and his testimony?
2. Brainstorm for concessions that will help to build your case theory or undercut the prosecution's case theory. What concessions can you obtain from Campbell? Ask yourself: What must Campbell admit or stamp his answer as either a lie, mistaken or ludicrous?
3. With the aid of the list of nine areas of impeachment found at page \_\_\_\_\_, identify those areas that are applicable to Shemp Campbell.

#### **ASSIGNMENT FOR CLASS**

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing regarding Shemp Campbell and his testimony. In class, be prepared to deliver your closing argument and to discuss the content of your cross examination of Shemp Campbell.

### **ASSIGNMENT 6: Defense Counsel: Content of the Cross-Examination of John Elder**

John Elder is a victim of of the shooting and an eyewitness to the shooting of Moe Helton. You have yet to interview him, but you do have his sworn statement and certified copies of his prior convictions. His testimony conflicts with that of Shemp Campbell and also with the testimony of the Goodmans.

#### **PREPARATION**

**READ:** Case Files Entries 1-11; Chapter 3.

## THOUGHTS FOR THIS ASSIGNMENT

1. In your closing argument, what do you plan to say about John Elder's credibility and his testimony?
2. Brainstorm for concessions that will help to build your case theory or undercut the prosecution's case theory. What concessions can you obtain from Elder? Ask yourself: What must Elder admit or stamp his answer as either a lie, mistaken or ludicrous?
3. With the aid of the list of nine areas of impeachment found at page \_\_\_\_\_, identify those areas that are applicable to John Elder.

## ASSIGNMENT FOR CLASS

Outside of class, prepare a one-page statement summarizing what you intend to argue in closing regarding John Elder and his testimony. In class, be prepared to deliver your closing argument and to discuss the content of your cross-examination of John Elder.

### **ASSIGNMENT 7: Prosecutor: Scripting the Cross Examination of Barry Goodman**

Now that your brainstorming sessions have helped you identify the content of your cross-examination, it is time to write out your cross examination of defendant Goodman.

## PREPARATION

**READ:** Case Files Entries 1-11; Chapter 4.

## THOUGHTS FOR THIS ASSIGNMENT

1. What are the topical units that will make up your cross-examination of the defendant?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column of the cross notes in each topical unit contain short, clear statements, rather than questions? Are the statements well phrased and crafted to control the witness? Are they free of adverbs and adjectives?
4. In the right column of the cross notes (opposite any assertion in the left column) are there references to where the sources for the assertions can be found? Is there legal authority in the right column that can be cited if there is an objection made to the question?
5. Are the topical units organized into a story that has a beginning, middle and an end? Does the cross-examination begin and end in a powerful ways?
6. Have you edited your cross-examination to eliminate minutiae, too many topics, why questions and questions to which you do not know the answer?

## ASSIGNMENT FOR CLASS

Outside of class, prepare two topical units of cross notes for the cross examination of the defendant. In class, turn in your cross notes for the two topical units. Also, be prepared to discuss your lines of cross for the witness.

### **ASSIGNMENT 8: Prosecutor: Scripting the Cross Examination of Defendant Gary Goodman**

Now that your brainstorming sessions have helped you identify the content of your cross examination, it is time to write out your cross-examination of defendant Gary Goodman.

## PREPARATION

**READ:** Case Files Entries 1-11; Chapter 4.

## THOUGHTS FOR THIS ASSIGNMENT

1. What are the topical units that will make up your cross-examination of the defendant?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column of the cross notes in each topical unit contain short, clear statements, rather than questions? Are the statements well phrased and crafted to control the witness? Are they free of adverbs and adjectives?
4. In the right column of the cross notes (opposite any assertion in the left column) are there references to where the sources for the assertions can be found? Is there legal authority in the right column that can be cited if there is an objection made to the question?
5. Are the topical units organized into a story that has a beginning, middle and an end? Does the cross-examination begin and end in a powerful ways?
6. Have you edited your cross examination to eliminate minutiae, too many topics, why questions and questions to which you do not know the answer?

## ASSIGNMENT FOR CLASS

Outside of class, prepare two topical units of cross notes for the cross-examination of the defendant. In class, turn in your cross notes for the two topical units. Also, be prepared to discuss your lines of cross for the defendant.

### **ASSIGNMENT 9: Defense Counsel: Scripting the Cross Examination of Shemp Campbell**

Now that your brainstorming sessions have helped you identify the content of your cross examination, it is time to write out your cross-examination of Shemp Campbell.

## PREPARATION

**READ:** Case Files Entries 1-11; Chapter 4.

## THOUGHTS FOR THIS ASSIGNMENT

1. What are the topical units that will make up your cross-examination of the defendant?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column of the cross notes in each topical unit contain short, clear statements, rather than questions? Are the statements well phrased and crafted to control the witness? Are they free of adverbs and adjectives?
4. In the right column of the cross notes (opposite any assertion in the left column) are there references to where the sources for the assertions can be found? Is there legal authority in the right column that can be cited if there is an objection made to the question?
5. Are the topical units organized into a story that has a beginning, middle and an end? Does the cross-examination begin and end in a powerful ways?
6. Have you edited your cross-examination to eliminate minutiae, too many topics, why questions and questions to which you do not know the answer?

## ASSIGNMENT FOR CLASS

Outside of class, prepare two topical units of cross notes for the cross-examination of the defendant. In class, turn in your cross notes for the two topical units. Also, be prepared to discuss your lines of cross for Campbell.

### **ASSIGNMENT 10: Defense Counsel: Scripting the Cross Examination of John Elder**

Now that your brainstorming sessions have helped you identify the content of your cross-examination, it is time to write out your cross-examination of John Elder.

## PREPARATION

**READ:** Case Files Entries 1-11; Chapter 4.

## THOUGHTS FOR THIS ASSIGNMENT

1. What are the topical units that will make up your cross-examination of the defendant?
2. Does each topical unit have a beginning, middle and end?
3. Does the left column of the cross notes in each topical unit contain short, clear statements, rather than questions? Are the statements well phrased and crafted to control the witness? Are they free of adverbs and adjectives?
4. In the right column of the cross notes (opposite any assertion in the left column) are there references to where the sources for the assertions can be found? Is there legal authority in the right column that can be cited if there is an objection made to the question?
5. Are the topical units organized into a story that has a beginning, middle and an end? Does the cross-examination begin and end in a powerful ways?
6. Have you edited your cross-examination to eliminate minutiae, too many topics, why questions and questions to which you do not know the answer?

### ASSIGNMENT FOR CLASS

Outside of class, prepare two topical units of cross notes for the cross-examination of the defendant. In class, turn in your cross notes for the two topical units. Also, be prepared to discuss your lines of cross for Elder.

### ASSIGNMENT 11: Defense Counsel: Cross-Examination of Shemp Campbell

The prosecutor has called Shemp Campbell to testify. Unless your instructor informs you otherwise, you can assume that Campbell has testified consistent with his recorded statement in Case File Entry 7.

Defense counsel has finished direct examination and stated “No further questions.” The judge looks your direction and says, “Counsel, your cross-examination?”

### PREPARATION

**READ:** Case Files Entries 1-11; Chapters 5, 8 and 12.

## **THOUGHTS FOR THIS ASSIGNMENT**

1. What concessions must the witness make that will support your case theory?
2. What techniques can you apply if the witness proves to be difficult to control during your examination?
3. Does the witness have a motive to fabricate? What could it be? How will expose the motive, if at all?

### **ASSIGNMENT FOR CLASS**

In class, conduct the cross-examination of Shemp Campbell.

### **ASSIGNMENT 12: Defense Counsel: Cross-Examination of John Elder**

The prosecutor has called John Elder to testify. Unless your instructor informs you otherwise, you can assume that he has testified consistent with his written statement in Case File Entry 6.

Defense counsel has finished direct examination and stated “No further questions.” The judge looks your direction and says, “Counsel, your cross examination?”

### **PREPARATION**

**READ:** Case Files Entries 1-11; Chapters 5, 8 and 12.

## **THOUGHTS FOR THIS ASSIGNMENT**

1. What concessions must the witness make that will support your case theory?
2. What techniques can you apply if the witness proves to be difficult to control during your examination?
3. Does the witness Elder have a motive to fabricate? What could it be? How will expose the motive, if at all?
4. Are you prepared to respond to objections?
5. How will you highlight the favorable responses that you get from the witness?

### **ASSIGNMENT FOR CLASS**

In class, conduct the cross-examination of John Elder.

### **ASSIGNMENT 13: Prosecutor: Cross-Examination of Barry Goodman**

Barry Goodman testifies that he was the victim of an unprovoked attack by Moe Helton and that his brother, Gary Goodman came to his rescue.

Unless your instructor informs you otherwise, you can assume that Barry Goodman has testified consistent with his recorded statement in Case File Entry 8.

Defense counsel: "Your witness, counsel."

#### **PREPARATION**

**READ:** Case Files Entries 1-11; Chapters 5, 8 and 12.

#### **THOUGHTS FOR THIS ASSIGNMENT**

1. What concessions must the witness make that will support your case theory?
2. What techniques can you apply if the witness proves to be difficult to control during your examination?
3. Does the witness Barry Goodman have a motive to fabricate? What could it be? How will you expose the motive, if at all?
4. Are you prepared to respond to objections?
5. How will you highlight the favorable responses that you get from the witness?

#### **ASSIGNMENT FOR CLASS**

In class, conduct the cross-examination of Barry Goodman.

### **ASSIGNMENT 14: Prosecutor: Cross-Examination of Defendant Gary Goodman**

Gary Goodman testifies that he came to the rescue of his brother who was the victim of an unprovoked attack by Moe Helton.

Unless your instructor informs you otherwise, you can assume that Gary Goodman has testified consistent with his recorded statement in Case File Entry 9.

Defense counsel: "Your witness, counsel."

#### **PREPARATION**

**READ:** Case Files Entries 1-11; Chapters 5, 8 and 12.

## **THOUGHTS FOR THIS ASSIGNMENT**

1. What concessions must the witness make that will support your case theory?
2. What techniques can you apply if the witness proves to be difficult to control during your examination?
3. How will you expose Gary Goodman's motive to fabricate, if at all?
4. Are you prepared to respond to objections?
5. How will you highlight the favorable responses that you get from the witness?

## **ASSIGNMENT FOR CLASS**

In class, conduct the cross examination of Gary Goodman.