

EVIDENCE AND PROOF

In theory and practice

R v Bruce

Criminal Case File

The Brief

The following materials form the basis of the criminal applications to be conducted as Practical Exercises 5 and 6. Additional information is provided in the instructions for each of those exercises.

As with Practical Exercise 4, exercises 5 and 6 do not involve the calling of witnesses; rather counsel will argue on the basis of the statements and any other stipulated evidence before the court.

The Prosecution Case

Martin Bruce is charged with Robbery, contrary to s 137 of the *Criminal Law Consolidation Act 1935 (SA)*.

The charge is particularised as follows:

On 14 May, 2011 at King William Street, Adelaide, Martin BRUCE stole from Penelope FORTHRIGHT by use of force, money in the amount of \$500 and a handbag valued at \$900, both the property of Penelope FORTHRIGHT.

The Prosecution brief includes the following statements, records of interview and reports.

STATEMENT OF

Penelope FORTHRIGHT
41 yrs, cake decorator,
Pennsylvania, USA.

TAKEN BY

Constable Eileen Kennedy
Hindley Street Patrols
18 May 2011

I live in Philadelphia, Pennsylvania, USA. In May 2011 I travelled to Australia for a holiday with a girlfriend. We visited the Gold Coast, Sydney, Launceston and Adelaide.

At about 4.00 pm on Saturday, 14 May 2011, my girlfriend and I decided to have coffee on Pirie Street. I needed to get some money, so my girlfriend waited at the coffee shop and I walked down to King William Street to find an ATM. I found a CBA ATM not too far away. The ATM is near a bus stop and just down from what I learnt later from my girlfriend was the Adelaide Town Hall.

I withdrew AUD \$500. The money was made up of 10 AUD \$50 notes. I placed the money in my purse in my handbag. As I was walking back from the ATM, I saw a man walking towards me. He looked dodgy – and coming from Philly, I have a knack for picking people for what they are – so I made sure that the strap of my handbag was securely wrapped around my right wrist, and the handbag itself was between my right elbow and my body.

The man, who was shortish in height, then spoke to me.

He said: “Excuse me. I need bus fare to go home. Can you spare a couple of dollars?”

I said “Sorry, I can’t help you – I don’t have any change on me”.

I then tried to walk past him. Suddenly the man grabbed my handbag, which contained the \$500 I had just withdrawn, plus my credit cards and passport and various personal items. He pulled it free from between my elbow and my body, but the long strap was still wrapped around my right wrist, and I hung on tightly.

The man then pulled on my bag with such force that I fell to the ground. The man then ran off. He ran down Pirie Street on the other side from which I had walked – I think it has a different name, Waymouth?

I have a couple of bruises from falling, but nothing major – not the first time I’ve been mugged – happens all the time back home. The \$500 he took is not the end of the world, but I really liked that handbag which I’d bought in Sydney – and it didn’t come cheap – AUD \$900.

The man who grabbed my bag was about 5’ 2”, he was a nasty little man. He was wearing very tight black jeans and a purple checked shirt – I wouldn’t even have the heart to decorate a cake like that! He was skinny, and had a shaved head, but with a scraggly long, thin “rat tail” hanging down his back.

I think that I would recognise him if I saw him again. I had an opportunity to get a good look at him, and at the time it was broad daylight during a fine and sunny afternoon.

On Monday, 16 May 2011, as a result of a telephone call from a Detective Tracy, I went to police headquarters in Flinders St, Adelaide at about noon. I was shown a handbag by Det. Tracy. It was my handbag and I was very glad to have it back but it was empty.

On Friday, 20 May 2011 I am on a pre-booked flight out of Adelaide. Don’t know if I’ll come back to Adelaide – still it’s not that bad compared to Philly.

STATEMENT OF

Dick Tracy

Detective Senior Sergeant of Police

Major Crime Squad

Adelaide.

Re: BRUCE, Martin

At about 1400 hours (2.00 pm) on Sunday, 15 May 2011, as a result of information received, I went, in company with Sergeant York, to an address at 15 Crooked Street in Adelaide. Crooked Street is an inner city suburb street near the east parklands. Sergeant York went to the rear door. I knocked on the front door. A short time after I knocked I heard York call out. He said "And where do you think you are going?" I then ran around to the rear of the flat and saw York standing next to a man known to me as Martin Bruce. Bruce only had on a pair of boxer shorts.

I said "Going somewhere in a hurry, Martin?"

He said "Not me Mr Tracy. I heard someone knock on the front door, but I thought it would be those annoying kids from next door again so I didn't answer. Then I heard my cat, and I was just opening the back door to let her in."

I said "Mind if we come inside for a little chat?"

He said "Yeah OK. What's up?"

I said "There have been a number of bag snatches in the city area over the last couple of months. Yesterday a tourist was rolled in broad daylight on King William. You wouldn't be interested, but someone called *CrimeStoppers* last night with information that leads me to thinking you might be responsible. You have anything to say about that?"

He said "Nah. That's bullshit. Just some prick trying to make trouble for me. You know how it is – friends come and go and enemies accumulate."

I said "Yes. I know how it is. Maybe it is how you say – just bull shit. But you understand we have to check it out."

I said "Where were you yesterday afternoon between 3.00 and 5.00 pm?"

He said "Home watching TV and having a few beers."

I said "Anyone with you?"

He said "Nah. On me own."

I said "You weren't having a wander on King William at about 4?"

He said "No way. City's dead then mate – why would I hang around there? Only went out a bit after 8 to Hindley.

I said "Well you must have a look-alike, Mr Bruce, because I was looking at some CCTV footage from cameras on the intersection of Pirie and King William – did you know they have cameras near ATMs now? Anyway, the cameras filmed a bloke yesterday afternoon – a bit after 4.15 – that looked just like you." Don't you think that's strange?

He said "Oh yeah. I did walk through town on my way to Hindley. Just couldn't remember the time – I went out and had a pretty big one with my mate Alf who had just arrived in at the Franklin St bus depot from Mount Gambier."

I said "Where were you around 4.00 pm?"

He said "By then we were having a beer at the World's End".

I said "I see. As I said, we have to check out this anonymous tip off. Do you have any objection to us searching your flat?"

He said "Have you got a warrant?"

I showed Bruce a copy of the general search warrant I held. I then searched the flat in the company of Bruce and Sergeant York. Nothing of note was located. The three of us then walked back to the rear yard of the flat. Next to the rear wall of the flat there was a small "wheelie" bin. York opened the lid of the wheelie bin and looked inside. He then tipped the contents of the wheelie bin onto the ground. In amongst the rubbish, I saw a woman's brown leather hand bag with a long strap, embossed with the logo 'Prada'.

Sergeant York then placed the hand bag in a plastic exhibit bag after looking inside the hand bag and finding it was empty.

- I said "This handbag exactly matches the description of the one stolen from the tourist yesterday. What have you got to say about that?"
- He said "F*%\$. Please, Mr Tracy. Can we do a deal?"
- I said "I don't do deals, Martin. You need to save any comments for the interview".
- He said "You and I both know what happened here. When I was in town yesterday, I saw this woman wandering around without a care in the world. And she has this nice bag, so I asked her for a bus fare, and then I heard she's a Yank. Well, it was just too easy to pass up. But she was a tough chick, and I ended up throwing her to the ground before she let go of the handbag. I'm not a violent man, Mr Tracy, but things just got carried away – she wasn't hurt or anything. You know that I'm trying to go straight, Mr Tracy. I told Alf that I had had a bit of luck in the city on the way to meeting him at the bus station. Alf and I came back to my place after the World's End. Alf got aggro towards the end of the night and said the reason he came to Adelaide was to collect an old debt which I owed him for a old car I had bought from him when I left the Mount. I said I didn't have any money and Alf got even angrier and stormed off. Alf must have taken the bag off the kitchen bench and must have tossed it in my bin last night when I wasn't looking to stitch me up."
- I said "I am now arresting you on suspicion of having committed a serious offence, namely robbery. While you are in custody, you have the right to refrain from answering questions. Anything you do say may be taken down and used in evidence. You have the right to make a phone call to a friend or relative to inform them of your whereabouts. You have the right to have a solicitor, relative or friend present during any interrogation or investigation whilst you are in custody. You have the right to an interpreter if English is not your native language. Do you wish to avail yourself of any of these rights?"
- He said "Nah. Not at the moment anyway."

Bruce was then taken to police headquarters in Flinders Street. At about 1700 hours (5.00 pm) I made a written record of the conversation that I had with Bruce at his flat in Crooked Street. At 1745 hours (5.45 pm) I conducted a video record of interview with Bruce. I later marked the video tape "DT1".

When I started recording the interview I spoke again to Bruce.

I said "I am going to read out to you the record I have made in writing of our conversation at your flat. While I am reading out the notes, you may interrupt me at any time if you want to point out any errors or omissions. Do you understand?"

He said "Yes."

I said "I remind you again that whilst in custody, you do not have to answer questions unless you wish to do so, but anything you say may be given in evidence. Do you understand?"

He said "Yes."

I then read aloud the record I made of the interview with Bruce at his flat. When I had finished I again spoke to Bruce.

I said "Is that a true and correct record of our conversation at your flat?"

He said "You said we were going to do a deal, Mr Tracy. You said you'd help me. Now I see you're just trying to stitch me up. Shit – everyone is trying to stitch me up! I had nothing to do with any of this, you're making it up!"

I said "Did you notice any errors or omissions that you want to bring to my attention?"

He said "I'm not going to talk to you any more. I want a lawyer – you're an arse\$%&#!"

I said "Are you telling me that you are not willing to answer any questions I put to you?"

He said "Damn right I am, you bastard."

I said "Very well. I will not ask you any further questions about the robbery.

Bruce was then taken to the City Watch House, charged with robbery and placed in the cells.