

Plea Negotiations Exercise
Defense Attorney

Andrew Scott

Charge(s): Felony Breaking or Entering and Obtaining Property by False Pretenses, both class H felonies
Lesser Included Offenses: Misdemeanor Breaking or Entering (class 1 misdemeanor), no lesser included offenses for OPFP

Prior Record Level: Felony: II Misdemeanor: III
1 felony in 2018 (Obtaining Property by False Pretenses), 1 Misdemeanor Larceny in 2015, 4 Driving While License Revoked charges (one in 2015, two in 2018, and one in 2019)

Facts from Discovery: On July 28, Jordan Riley and his wife Elizabeth Riley reported that their home had been broken into and an Xbox had been stolen. On August 4, Defendant pawned the stolen Xbox (same serial number), using his own ID at a pawn shop in town. Defendant is 22 years old.

Additional notes from the defense attorney's file: Your client tells you that a person he knows from the neighborhood named "Trevor" asked him to help him pawn the Xbox because Trevor didn't have an ID. He cannot provide any additional contact information for Trevor. Mr. Scott wants to get his CDL. He trusts you and will accept whatever plea you say he should take.

James Cole

Charge(s): Assault by Strangulation, a class H felony, and Assault on a Female, a class A1 misdemeanor
Lesser Included Offenses: Simple Assault (class 2 misdemeanor) for both charges

Prior Record Level: Felony: IV Misdemeanor: III
2 felonies (AWDWISI in 2005, Habitual Misd. Assault in 2016), 4 prior convictions for Assault on a Female on different dates in 2001, 2003, 2012, and 2013, Communicating Threats in 2007

Facts from Discovery: Jennifer Smith called the police to report that her ex-boyfriend had assaulted her. Defendant was not present when police arrived. Jennifer was bleeding from her lip and had red marks around her neck. The apartment appeared to be in disarray, with tables upended and broken items strewn across the floor. Police never talked to Defendant.

Additional notes from the defense attorney's file: Mr. Cole tells you that he did punch Ms. Smith in the mouth but did not strangle her. He and Ms. Smith are still in a dating relationship. Ms. Smith has called you to tell you that she wants the charges dismissed. You have asked her to come to your office to write an affidavit to that effect, but she has not done so. Mr. Cole says Ms. Smith does not intend to come to court to testify against him.

Alice Newman

Charge(s): Habitual Larceny, a class H felony
Lesser Included Offenses: Misdemeanor Larceny, a class 1 misdemeanor

Prior Record Level: Felony: III Misdemeanor: III
No felonies, 5 prior convictions for Misdemeanor Larceny on different dates in 2015, 2016, 2017, 2018, and 2020, 1 DWI in 2018

Facts from Discovery: Defendant is on camera at Target placing various makeup items and teeth whitening strips in her purse and walking out of the store. She was never stopped by loss prevention officers. The store manager showed her picture to other loss prevention officers at other Target stores

in the area, and one of them recognized Defendant from a previous larceny and identified her. Defendant is on probation for her most recent Misdemeanor Larceny conviction and has a pending Habitual Larceny in another county. Estimated value of the property taken was \$225.

Additional notes from the defense attorney's file: Ms. Newman cannot remember whether she committed this larceny or not. She committed a lot of larcenies around the same time. You have not seen the video yet. Ms. Newman is very adamant that she does not want a felony on her record but will accept any sentence for a misdemeanor. She would prefer probation.

Robert Greene

Charge(s): Trafficking Cocaine 28-200g, a class G felony with mandatory minimum 35 month sentence, Possess Drug Paraphernalia, a class 1 misdemeanor, Carrying a Concealed Gun, a class 2 misdemeanor

Lesser Included Offenses: Attempted Trafficking Cocaine 28-200g (class G felony, no mandatory minimum), PWISD cocaine (class H felony), Simple Possession of Cocaine (class I felony)

Prior Record Level: Felony: I Misdemeanor: II

Noise Ordinance Violation (class 3 misdemeanor) from 2003

Facts from Discovery: Defendant was driving a car that was stopped for speeding. Defendant's older brother was the front seat passenger and owner of the car. Officers asked for and were granted consent to search the car. Cocaine was located in the unlocked glove compartment next to a firearm.

Defendant's brother was also charged with the cocaine as well as Possession of Firearm by a Felon.

Neither Defendant nor his brother admitted ownership of the cocaine.

Additional notes from the defense attorney's file: Mr. Greene tells you that he absolutely did not know the cocaine or the gun were there. He regularly drives and rides in his brother's car. He tells you his brother is in a gang but that he himself is not.

Charles Summers

Charge(s): Attempted Robbery with a Dangerous Weapon, a class D felony

Lesser Included Offenses: Attempted Common Law Robbery (class H felony), Attempted Larceny from the Person (class I felony), Assault with a Deadly Weapon (class A1 misdemeanor), Misdemeanor Larceny (class 1 misdemeanor) Simple Assault (class 2 misdemeanor)

Prior Record Level: Felony: II Misdemeanor: II

2 felonies in 2005 (PWISD Cocaine and Felony Larceny), Possess Drug Paraphernalia in 2008

Notes from Defense Attorney's File: Mr. Summers is a single father with two children. He lost his job, working at a janitorial service through a temp agency, as a result of being arrested for this offense. He tells you that he attempted to steal the space heater because his apartment's HVAC was broken and it was freezing outside.

He did pull out a knife, but it was a pocket knife with a 3-inch blade. He says that he never intended to threaten anyone, and in fact, the loss prevention officer was in plain clothes and he did not know who was putting his hand on his cart when he was leaving the store. He says he never used the knife to get away with the heater. He says he only pulled the knife out to protect himself and when he realized it was an employee of Wal-Mart, he backed away.

He wants any plea offer that will allow him to be released from jail (i.e., probation or time served).

Plea Negotiations Exercise
Negotiated Pleas

Andrew Scott

Plead guilty to: _____

Dismiss: _____

Agreement as to sentencing: _____

James Cole

Plead guilty to: _____

Dismiss: _____

Agreement as to sentencing: _____

Alice Newman

Plead guilty to: _____

Dismiss: _____

Agreement as to sentencing: _____

Robert Greene

Plead guilty to: _____

Dismiss: _____

Agreement as to sentencing: _____

Charles Summers

Plead guilty to: _____

Dismiss: _____

Agreement as to sentencing: _____
