

2021 National Legal Research Teach-In Kit

Research Instruction & Patron Services Special Interest Section
American Association of Law Libraries

State Statutes Assignment

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These activities were used in multiple sections of an asynchronous basic research course during the Fall of 2020. Included is the practice problem, the discussion board prompt, a screenshot of one of the discussion boards, and a partial sample answer.

For this weekly assignment the students were given a research problem. They then were directed to a discussion board prompt where they were asked to go to the free [Kialo website](#) and post pro and con arguments. The following week we posted a partial answer, which they then could use to compare their work. It also sped up the time involved for providing individual feedback.

To view the entire kit, please visit <URL for this year's kit: TBD>

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Section 1: Did Mr. Surley commit the crime of aggravated assault and battery?

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Cons +

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Sam Surley committed a simple assault & battery, because he intentionally engaged in the fight and used his cane to cause bodily injury to another. Wyo. Stat. Ann. § 6-2-501. If the cane is considered as a deadly weapon under the standard in Wyo. Stat. Ann. § 6-1-104, or according to the standard set by the court in *Conine v. State*, he committed aggravated assault & battery, as deadly weapons elevate simple assault & battery to aggravated. Wyo. Stat. Ann. § 6-2-502; 197 P.3d 156 (Wyo. 2008).

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It is possible that Mr. Surley was acting in self defense, and could not be charged with assault and battery. If he was not the aggressor, and was attacked in a place in which he was lawfully present, Wyoming statutory law dictates that he may use reasonable force that a reasonable person in similar circumstances would judge necessary to prevent an injury or loss, or to prevent serious injury to another or the person applying the force. (Wyo. Stat. Ann. § 6-2-602 (a),(e)).

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Aggravated assault and battery "...do not require that the weapon used on. . .in fact cause serious bodily injury; they only require that Cox incurred bodily injury caused by Conine's use of an object which, in the manner it was used, was reasonably capable of producing death or serious bodily injury. *Conine v. State*, 2008 WY 146, 197 P.3d 156, 160 (Wyo. 2008) Sam Surley, with his cane, did not need to cause serious bodily injury; his cane only needed to be capable of doing so.

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If Mr. Surely was acting in response to a threat from the other shopper, his actions could be justified as self-defense. Wyoming Statute 6-2-602 states that a person who is attacked anywhere they are lawfully allowed to be present (like a store parking lot) does not have a duty to retreat before using "reasonable defensive force", but the other shopper's actions would have to be severe enough to justify the level of injury Surely inflicted on them.

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The case *Conine v. State*, 2008 WY 146, 197 P.3d 156 (Wyo. 2008) held that a "deadly weapon" could be anything that could reasonably cause serious bodily injury, even if the victim only received minor injuries. The "deadly weapon" in *Connie* was a frying pan. Similar to *Connie*, the cane that Mr.Surely used will likely be deemed a "deadly weapon," as it could, and did cause bodily injury -- a broken wrist, lacerations, and bruises.

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In *State v. John*, the court indicates that the latest amendment to S 6-2-602(f) creates an "immunity provision" for "...individuals who exercised reasonable force in self defense." *State v. John*, 2020 WY 46, 460 P.3d 1122, 1131 (Wyo. 2020). If there is any evidence that Sam Surley acted in a way consistent with the criteria of reasonable defensive force in S 6-2-602(a), he cannot be criminally prosecuted.

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A deadly weapon can mean "a device...which in the manner it is used or is intended to be used is reasonably capable of producing death or serious bodily injury." Wyo. Stat. Ann. § 6-1-104 (2020). Serious bodily injury is defined in that same section as something that causes protracted physical pain or a significant fracture or break of a bone. Wyo. Stat. Ann. § 6-1-104 (2020). The broken wrist, if caused by the cane, is

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Given that Mr. Surley used a cane, it is likely that the other shopper could have easily outrun him if they had chosen to flee. Given that they didn't run, it is unlikely they felt the "greater degree of fear" described by the court in *Dike v. State*, 990 P.2d 1012, 1018 (Wyo. 1999) If they did not feel threatened, then it is likely that the can could not reasonably cause serious injury in the manner it was used as described in *Conine v. State*, 2008 WY 146, 197 P.3d 156, 160 (Wyo. 2008)