



# 2022 CASE and RULES Q&A

*Information contained in this Q&A posting is binding on all teams and participants.*

## THIS IS THE FINAL POSTING OF THE 2022 CASE AND RULES Q&A REPORT.

The last question of the 2022 season was accepted at 5 p.m. on Friday, January 21.  
No further questions will be entertained related to this mock trial case.

*The FINAL VERSION (clean copy) of these case materials are currently posted to the Team Information page of the Mock Trial website.*

Teams are to assume that the fault for any typographical error or any other correction or addition to the case materials indicated below lies with the Problem Subcommittee or Mock Trial Office, not with a particular witness, unless otherwise noted. The fact that a correction, clarification, or addition to the case materials was made at any point during the season is **not relevant** during a trial round.

The clean, corrected copy of the materials, posted by the end of the day on **January 26, 2022**, are to be considered the first and only version of the materials submitted by any party in this action when trying this case in a competition Round.

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*All teams must use clean, up-to-date copies of the case materials during all trial rounds.*

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## Typos Found & Corrected

If applicable, the correction/addition or ~~deletion~~ is highlighted and in bold.

### November 5

Saturday, line 31: ...though s/he started off with the ~~MCPD~~ **MPD**.

Saturday, line 103: Two more MPD units and a ~~MCPS~~ **MCSO** unit arrived...

### November 12

Ceridian, line 50: ...after her/his grandmother ~~passed away~~ **was diagnosed with Parkinson's**.

Ceridian, line 52: ...work on ACT to combat her/his feelings of abandonment, **which were compounded by her/his grandmother's death a year ago**.

Ceridian, lines 65-66: Carli/Carl anecdotally revealed to me the situation with the carjacking during one of our regular sessions **about two months after it happened**.

Ceridian, line 76: ~~With Carli/Carl,~~ **Together, we** worked on...

Ceridian, line 104: Although we did reach a breakthrough after six months of **this** intensive therapy,...

Ceridian, line 106: However, about a month **or two** before the incident...

Ceridian, line 125: about the incident, his **/her** attorney didn't want him **/her** to do so, fearing it may implicate him **/her** in **his the** case.

Ceridian, signature block: SIGNED AND SWORN to me on ~~March~~ **April** 30, 2021.

Exhibit 3, pg. 2: The date of report should read **3/22/21**

Exhibit 3, pg. 2: *The second to last paragraph of the narrative:* ...Holmes and s/he said s/he didn't want to talk any more. ~~Sgt. Saturday~~ **Lt. Foley** told me at the station...

Exhibit 8: The third text message timestamp should read 3/18/21, ~~14:15~~ **9:56**

## November 19

*Saturday, line 102:* In the doorway of the store was a ~~9-mm~~ .380 ACP Walther PPK...

*Ceridian, line 86:* We worked together through the plan for about ~~six~~ four months.

*Ceridian, line 104:* Although we did reach a breakthrough after ~~six~~ four months of this intensive therapy,...

*Ex. 3, line 5, "Date":* ~~3/21/2021~~ 3/20/2021

*Ex. 3 Narrative, 2<sup>nd</sup> paragraph:* One ~~9-mm~~ .380 ACP shell casing was found...

*Legal Authorities - O.C.G.A. 16-5-21. Aggravated Assault:* An "or" will be added at the end of paragraph (1).

## December 3

*Pierson, line 124:* ...his/her car and yelled at...

*Holmes, line 34:* I'd been seeing Dr. Ceridian since my ~~parents died~~ Grandma was given her Parkinson's sentence.

## December 10

The parenthetical reference at the end of *Rule 603. Oath or Affirmation* should reference Rule 16(a) instead of Rule 12.

## January 14

The second diagram in *Exhibit 2* has been tweaked to adjust the vehicle placements to align with the first diagram in the Exhibit. An updated version has been posted to the Team Info page.

## January 26

*Stipulation 13:* Exhibit 8 was obtained through a search warrant by the ~~Milton County Sheriff's Office~~ Miltonville Police Department.

*Ex. 9, last line of "Relevant Background Information" section:* ...before the shooting incident at the station in ~~June~~ March.

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## Questions & Answers

### November 5

*Q: Should Count 2 of the indictment read "shooting" and not "pointing"?*

A: Yes. It will be updated.

*Q: Should Count 3 of the indictment be "in the commission of..." both Counts 1 and 2?*

A: No.

### November 12

*Q: Who called 911 to report the robbery at the Miltonville Mini Mart?*

A: The case materials contain all relevant information.

*Q: When did Holmes start seeing Dr. Ceridian? There are discrepancies in Dr. Ceridian's statement.*

A: Dr. Ceridian's statement has been modified to clear this up. See the Typos section above.

*Q: There are discrepancies within a witness' statement/exhibits; they don't line up. I've emailed the Mock Trial office but don't see it addressed here...*

A: Not every discrepancy, mistake, inconsistency, etc. is a mistake. Some are intentional. Mistakes will be fixed in the Report as they are discovered.

*Q: Exhibit 1 shows eight shell casings but none of the other materials state that many shots were fired...*

A: Exhibits 1 and 2 are temporary placeholder exhibits, put in place to give the teams an idea of what the final exhibit will contain. The final exhibits should be ready to post next week, along with Exhibit 9.

### November 19

*Q: The police report (Exhibit 3) has a "Date" box on the same line as "Case Status" but with a different date than the date of the report and the date of occurrence. What is this one for?*

A: This is meant to state when the case status action happened; in this case, the arrest was made on 3/20\*/2021 (which is being corrected as well). Exhibit 3 is admittedly a bit of a mess and not the best layout of a police report and may be refashioned soon...

*Q: Will Exhibit 1 be added to (to include shell casings and the broken glass) or is it the final version?*

A: The version posted on the Team Info page on Nov. 18 is the final version.

*Q: Exhibit 6 starts off in the middle of a list of duties without any context as to whom it applies. What is this a list of?*

A: This is the end of section **3.8 – Lot Duties**, tasks that need to be performed outside during a shift.

*Q: In Breckett Pierson's statement on line 48, s/he says that Leonardo's was a "skeezy" gas station. Shouldn't this say "sleazy"?*

A: No. Merriam-Webster defines *skeezy* as "morally or physically disgusting or repulsive" whereas *sleazy* is "marked by low character or quality". An analogy, if you will: sushi from the gas station might be sleazy, but getting it from the van in the parking lot is most likely skeezy. In Breckett's opinion, Leonardo's is the former.

### December 3

*Q: Dr. Ceridian is a psychologist, not a psychiatrist, yet discusses medication with Holmes (Ex. 9). Since a psychologist can't write prescriptions, who would have given Holmes a prescription?*

A: Dr. Ceridian referred Holmes to talk to his/her primary care physician about the medication and communicated the appropriate patient records to facilitate the prescription.

### December 10

*Q: What's the deal with Exhibit 2? It's been MONTHS. When will the real one be ready? Where is the real Exhibit 2? Kids are bugging me about it every day. You had one job... We want the final version of Exhibit 2! Make Exhibit 2 Great Again!*

A: Yes, you are all right. It has taken way too long to get Exhibit 2 completed and out to the teams and for that, we apologize. We don't have much excuse. So we will blame Covid. (The next employee review for the mock trial office staff responsible for this delay will deal with this gross mismanagement of time.) However, the Exhibit will be ready for release soon. While we have learned our lesson on promising a timeframe – it may come out over the holiday break at this rate – it will be the best Exhibit 2 this state has ever seen. It will be tremendous. There won't be another one like it.

### December 17

*Q: The Nov. 5 Report noted that Count Two of the indictment will be modified from "pointing" to "shooting". What will the exact language be?*

A: It will read, "...did make an assault upon the person of Thanke Mercado with a deadly weapon, to wit: a firearm, by shooting a pistol at said victim..."

### January 7

*Q: Are any of the witnesses expert witnesses?*

A: If a team wishes to have one of their witnesses certified as an expert witness, they would do so during that witness's direct examination, by asking the judge to certify them as such. Before the judge can certify someone as an expert, there would need to be sufficient foundation laid, by the directing attorney, as to that witness's expertise that would qualify him or her as an expert. *See: Mona Lisa Vito*

*Q: No witness mentions Exhibit 7. Is it admissible?*

A: The case materials contain all relevant information regarding Exhibit 7.

*Q: What's the difference between a 9mm and .380 ACP?*

A: Those terms refer to specific sized/type rounds of ammunition. They both have the same diameter shell casing and bullet. The only difference is that a 9mm bullet is slightly longer than a .380 ACP, by about 2mm – or the thickness of a dime – with that difference in length coming from a longer shell casing. Being longer, the 9mm has more gunpowder, and therefore is slightly more powerful overall.

However...a 9mm Kurz is the German reference for a .380 ACP round. Metric vs. imperial.

All references to the Walther PPK and shell casings have been finalized, with any adjustments made through the entries above.

## January 14

*Q: Who is the author of Exhibit 2? And can any witness use it?*

A: Exhibit 2 (the store diagram) isn't attributed to anyone and is one of those exhibits that lay out part of the known universe for the case. As to who may testify using it, the witness would have to discuss having familiarity with the Market in their statement to confirm their knowledge of the store (laying foundation).

*Q: The second diagram in Exhibit 2 shows a different arrangement of cars than is shown on the first page and what is described in the narrative of Exhibit 3. Are these meant to be inconsistent like this?*

A: Exhibit 2 has been amended.

*Q: As the trial of this case will take place in Feb-March 2022, is it a reasonable and fair extrapolation for Sgt. Saturday to testify that s/he has retired in the time between the execution of the affidavit in April 2021 and the trial date?*

A: Any extrapolation must be consistent with the information provided in the witness statements.

*Q: The 1/7 Q & A Report added this: "All documents relied upon by the Milton County Medical Examiner are admissible and require no further foundation." To what documents is this referring?*

A: This refers to any typical medical documents used in an autopsy and investigation: toxicology reports, ballistics reports, etc. The information contained in those wasn't important enough to have as stand-alone exhibits.

*Q: What is Montero's rank with the MCSO?*

A: Montero identifies him/herself as an "investigator", which is equivalent to a detective ranking.

## January 26

*Q: What is the status of Mercado's law enforcement relationship with Montero? Montero seems to call Mercado a confidential informant in some places but not others.*

A: The case materials relating to Mercado and Montero's relationship contain all relevant information.

## Substantive Additions and Changes to Case Materials

If applicable, the correction/addition or ~~deletion~~ is highlighted and in bold.

### October 23

The statute for felony murder will be added to the Legal Authorities section:

#### **OCGA § 16-5-1. Murder; felony murder**

- (a) A person commits the offense of murder when he unlawfully and with malice aforethought, either express or implied, causes the death of another human being.
- (b) Express malice is that deliberate intention unlawfully to take the life of another human being which is manifested by external circumstances capable of proof. Malice shall be implied where no considerable provocation appears and where all the circumstances of the killing show an abandoned and malignant heart.
- (c) A person also commits the offense of murder when, in the commission of a felony, he causes the death of another human being irrespective of malice.

The statute for assault will be added to the Legal Authorities section:

#### **OCGA § 16-5-20. Simple assault**

- (a) A person commits the offense of simple assault when he or she either:
  - (1) Attempts to commit a violent injury to the person of another; or
  - (2) Commits an act which places another in reasonable apprehension of immediately receiving a violent injury.

*Indictment, Count Two:* ...with a deadly weapon, to wit: a firearm, by ~~pointing~~ shooting a pistol...

### November 12

*Charge of the Court:* The following instruction will be added after "Retreat (No Duty to Retreat to be Justified)" on page 70:

#### **Reasonable Beliefs Explained**

For the Defendant's threat or use of force to be justified:

1. the Defendant must believe that his/her threat or use of force is necessary;
2. that belief must be reasonable, that is, a reasonable person would also believe that the threat or use of force is necessary; and
3. the Defendant's reasonable belief must be what prompts him/her to threaten or use force.

*Saturday, line 141:* ...talk with his/her doctor. ~~We never got a formal statement from Holmes until several weeks later.~~

### December 17

*Ceridian, line 136 onward:* ~~Given Carli/Carl's savior complex, I cannot conclude that s/he would have taken action that would harm another person. While I can concede that the defense of one person, even one's self, could result in harm to another person, I do not believe that was the case here. While I can concede that the defense of one person, even one's self, could result in harm to another person, given Carli/Carl's savior complex, I cannot conclude that s/he would have intentionally taken action that would harm another person without a perceived justified cause.~~

## January 7

*Exhibit 4: Montero's Report* has been updated and the new version is posted on the Team Info page.

*Stipulation 14:* ...The manner of death was ruled a homicide. All documents relied upon by the Milton County Medical Examiner are admissible and require no further foundation.

## January 14

*Stipulation 15 will be added:* The State previously filed a motion in limine to exclude any testimony related to Holmes' PTSD. The Court held a hearing and issued an Order denying the motion. Testimony related to Holmes' PTSD will be admissible and no objection to its admissibility on any basis other than those already included in the Rules of Evidence will be permitted.

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## Name & Word Pronunciations (neɪm ənd wɜːd prəʊˌnʌnsi' eɪʃənz)

*Dr. Maye Ceridian:* Dock-ter Mayz sur-ID-ion ('dɑktər meɪz sər'ɪdiən)

*Thanke Mercado:* TAIN-key meer-CAH-doe ('tæŋki mər'kadəʊ)