

CONFIDENTIAL INSTRUCTIONS FOR CLIENT ROLE PLAY FOR SEP 25

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CONFIDENTIAL INSTRUCTIONS FOR CLIENT ROLE PLAY

You are assigned to prepare to play the role of Simon for the second client meeting, which takes place the day before the administrative hearing before the Housing Authority. This hearing will be conducted very much like a hearing in a regular court, with the Administrative Law Judge functioning as a judge, deciding issues of both fact and law. The Housing Authority will be represented by a lawyer from its law department. Remember that this is a civil proceeding, not a criminal prosecution, even though the central issue is whether Gordon committed a crime.

In class each firm is responsible for conducting a realistic simulation of this meeting, taking up to 20 minutes. The instructor will circulate among firms to observe. One member of the firm will be responsible for time keeping. You will not know until the day of class whether you will be selected to play the role of Simon. Each firm member will receive 3 points toward the cumulative quiz score if the firm conducts a realistic meeting and contributes to a well-informed class discussion comparing its meeting to the meetings conducted by the other firms. A firm member who is not well-prepared for the client meeting will receive no points absent good cause for inability to prepare.

The paper due October 12 will be a comparative analysis of two videotaped simulations of this client meeting conducted by students from prior semesters, so conducting a realistic simulation and helping to generate thoughtful class discussion will assist you in preparing to write the paper.

Re-read The Simon Case: General Background Information
<http://law.gsu.edu/ccunningham/PR/SimonCaseF10.htm>
and then the following additional information.

CLIENT INSTRUCTIONS FOR FIRST MEETING

Gordon is a fair student in school. His grades are a mix of B's, C's and D's and you greatly hope he will graduate from high school this year. He has been suspended from school twice --once for two days for smoking marijuana on school grounds and once for a week for participating in a fight in the lunch room at which another student received a broken rib. Quite recently, Gordon has begun getting into trouble within the Project. He has been "hanging out" with a new group who live in the project. You were called to the project office twice in the two months before the termination of tenancy notice to discuss Gordon's alleged involvement with a group of boys who allegedly broke a project window and on another date allegedly rode on top of the project elevator. No criminal or termination of tenancy charges were filed as a result of these other incidents, apparently because HA management either believed they were petty or could never really prove Gordon was involved in them. You, however, got the feeling during the interviews that management was "out to get" Gordon out of the project and was just waiting for an opportunity.

Gordon was arrested three days after the robbery and you bailed him out for \$100. You went to juvenile court with Gordon but Gordon's lawyer didn't include you in his one

brief meeting with Gordon. You went up to the judge with Gordon and the judge said the criminal charges against Gordon were "ACD." When you asked the judge what that meant, the judge said it meant "adjourned in contemplation of dismissal." Gordon's lawyer said the case was over but you were afraid to ask him what had happened. Gordon told you he didn't know why an "ACD" had been entered in his case. You have not seen the police report and don't know why the police think Gordon did the robbery.

Gordon has consistently denied to you being anywhere near Madison and 107th Street the night of December 14. He said did not remember exactly where he was on that evening and time. All he said was that he was "hanging out" with his friend John Clayton that evening, who was the boy who broke the window that Gordon was blamed for. You yourself had spent the evening at home alone studying for a test that you were taking the next day. Gordon had gone out after dinner and at the time you had no idea where Gordon had gone. Over Christmas the Clayton family moved out of the projects and neither you nor Gordon know where they went or how to reach them now.

After you got the termination notice you got very worried about being evicted or being forced to kick Gordon out in order to keep the apartment. You have no family in New York that could take Gordon in. Thus you had a long talk with Gordon. Gordon continued to deny flatly to you that he tried to rob anybody or knew anything about it. Although you really weren't sure in your heart of hearts that you believed Gordon, you told him that you did and tried to make yourself believe that you did. You also told him, however, that, even though he was telling the truth, the hearing officer was not likely to believe him if Gordon could not account for his whereabouts that night. You told him that you and he would have to come up with a better story, even if it meant lying. Lying was bad but being unjustly evicted was worse.

Gordon agreed and you then discussed with him what your story would be. Gordon said he remembered watching a Jets football game that weekend and thinks it was the Sunday evening he spent with John Clayton. The game stuck in his mind because there was a club record for sacking the opposing quarterback 9 times. He suggests that you two just say he was watching the game at home with you instead of with Clayton. As you two talk he remembers that the losing team was Pittsburgh. You then recalled that 60 Minutes (which you always watch) started 15 minutes late that Sunday because of the football game. Because you, of course, don't know any details of the game (you didn't watch it at all), you and Gordon agree to say that you were in and out of the living room during most of the game preparing dinner and studying in the bedroom.

You told Gordon it really would hurt you to have to lie (you had long preached the importance of honesty) and that you and he were forced into this position because of his poor judgment in hanging around with John Clayton and others like him. You emphasized once again that Gordon was jeopardizing his whole future. You think Gordon really will try to keep his nose clean. You also know, however, the pressures on 17-year-olds from their peers.

You know that the Housing Authority sometimes allows a tenant to "plead guilty" and get probation. You really don't want to do that. For one thing, you are afraid that Gordon

won't be able to stay out of trouble and that any little problem while you two are on probation could cost you your apartment. You would spend the whole probation period in great anxiety. Your other major reason for opposing probation is that, as you understand it, accepting probation will require you to plead "no contest" to the charge that Gordon robbed Mrs. Montez and that is something that you do not want to do, if Gordon didn't commit the robbery. Moreover, of course, your "no contest" plea would be in the Housing Authority records and, although those records are supposed to be confidential, you cannot be sure that there won't be a leak that would hurt Gordon's future.

At the meeting with the attorney, be prepared to relate the alibi story. Be prepared also to embellish the facts provided here with other plausible information. Reread these instructions several times so that you have the story clearly in mind. Work hard during the meeting to stay in character but if necessary consult these instructions rather than risk making a factual mistake. Think through in advance the attitudes and the tone you want to project. Be prepared for the possibility that the attorney will "cross-examine" you on the alibi to test your credibility and to determine for himself or herself if you are telling the truth. Plan, in a general way, what your response will be to each possibility. Help make the experience a believable one for your attorney. During the meeting, try to make yourself feel like Simon. Try to remember what emotions you experience as your attorney talks to you. Do NOT at any point during the first interview admit that the alibi is false.

CLIENT INSTRUCTIONS FOR SECOND MEETING

The day before your second meeting with the lawyer Gordon tells you that he got a call at home from an investigator working for the lawyer. The investigator asked for you but since you weren't home, starting asking Gordon questions. Gordon told the investigator that he was home watching the Jets football game with you that Sunday night. He even went into details like the fact that the Jets made some kind of record by "sacking" the opposing quarterback a bunch of times. You asked Gordon how he knew so much about that football game if he hadn't watched it and Gordon told you he remembered hearing about the game from friends at school the next day.

You are beginning to have your doubts about whether Gordon was indeed involved in the mugging but are determined to make every effort to win at the hearing. At the second meeting with the lawyer, you can admit that the alibi is false if it seems to you realistic to do so given the way the meeting goes. However, even if you admit to the lawyer that the alibi is false, tell the lawyer that you and Gordon still plan to testify at the hearing that he was watching the Jets game at home with you that Sunday night because that still seems the best way to avoid eviction. You should refuse to agree to any kind of settlement, neither an admission that Gordon committed the mugging nor even a "no contest" settlement -- you just are too afraid that once the family is on some kind of "probation" that the housing authority will look for any excuse to evict you. Do your best to come across as reasonable and sympathetic, not stubborn or reckless about lying to the tribunal.