

CONFIDENTIAL INSTRUCTIONS FOR LAWYER ROLE PLAY ON SEP 25

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CONFIDENTIAL INSTRUCTIONS FOR LAWYER ROLE PLAY

You are assigned to prepare to play the role of Simon's lawyer for the second client meeting, which takes place the day before the administrative hearing before the Housing Authority. Other members of your firm have been assigned to prepare to play the role of Simon, based on their own confidential instructions. The eviction 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 lawyer role (and you can be selected even if you played the lawyer in your firm for the first meeting). 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>

You have the information that was learned from Simon during the first meeting that was simulated last week. You also have the additional following information that has been provided to you by a staff investigator in the legal services office where you work. Conduct the meeting as you would in real life to prepare for the upcoming hearing.

MORNINGSIDE HEIGHTS LEGAL SERVICES

Memo: To Simon File
FROM: SUSAN SELLIGMAN, STAFF INVESTIGATOR

1/10/87. A telephone interview of Mrs. Montez -- She is 65 years old, a widow, a long-time project resident (but not in same building as client), and has poor eyesight (cataracts only partly corrected by prescription lenses). She did not know Gordon before the incident, though the description she gave the police of her alleged attacker (5' 10", 165 lbs., about 16 years old, wearing jeans, black leather jacket) matched Gordon (see Tauro and Gordon interviews, below). Mrs. Montez said her attacker leaped out at her from a doorway near the corner of 108th and Madison. She thought she saw another boy in the doorway, but she cannot be sure. The boy tried to grab her pocketbook. In the process, Mrs. Montez was knocked to the ground, breaking her wrist

and badly twisting an ankle. She started to scream, which apparently frightened the attacker. She lost no property as a result of the incident, but her arm is in a cast, her ankle is bandaged, and she is walking on crutches. Mrs. Montez said that, at the time of the incident, she and a Mrs. Jane Karp were returning together from a bingo game at a nearby church. Mrs. Karp called the police immediately after it happened from pay phone.

1/10/87. An telephone interview of Mrs. Karp - Mrs. Karp is also 65 years old, and also a long-time project resident. Claimed her eyesight is excellent, does not need glasses. She knew Gordon before the incident from living in her building, and is in fact one of the people who complained to project management about Gordon and his friends "loitering" and making noise in the hallway. She does not like Gordon. She is absolutely sure Gordon was Mrs. Montez's attacker. She too thinks another boy was in the doorway. Except for the positive nature of Mrs. Karp's identification of Gordon, everything else she said simply repeated Mrs. Montez's story.

1/11/87. A telephone conversation with Officer Tauro - He confirmed he had no first-hand knowledge of the events underlying the charges and that all he knows about the actual incident was what Mrs. Montez and Mrs. Karp told him. Arrested Gordon because he was evasive, matched the description, and was wearing jeans at the time of arrest. When asked why he waited three days for arrest, said that case was low priority.

1/11/87. A telephone conversation with Daniel Becker, Juvenile Defender Office, who represented Gordon. Not very helpful. Said he met Gordon 5 minutes before arraignment. Did not ask Gordon if he did it: "I never ask," he told me. Since this was a first offense, it was a "no brainer" to ask judge for "ACD" (adjourned in contemplation of dismissal). An "ACD" is a dismissal without a finding of guilt or innocence, frequently used in juvenile court for first offender or for a minor charge. Case will be automatically dismissed in six months unless Gordon is arrested for something else.

1/11/87. When called client, Gordon answered phone--said client was out. Asked Gordon if he owned a black leather jacket; he does. He then volunteered the following alibi. Gordon said he was at home with client that night. He remembered they watched a Jets football game together that night. The game stuck in his mind because there was a club record for sacking the opposing quarterback 9 times. I asked him who was the losing team; he said Pittsburgh. When asked why he didn't tell this to Tauro, he said he thought you were always supposed to insist on a lawyer if the police were questioning you; client was not home when Tauro arrested Gordon.

I decided to check to see if Gordon had the facts right about the game he says he was watching and guess what? The Jets didn't play Pittsburgh on Sunday night; the game was on Saturday when the Jets lost 7-28. See attached newspaper clipping. But, there was another football game on Sunday night played by the Giants and in that game the Giants did make a club record by sacking the quarterback 9 times (see attached newspaper article.)

Attached:
Police Report
Newspaper Article

METROPOLITAN POLICE DEPARTMENT
LAW ENFORCEMENT OFFENSE/INCIDENT REPORT

Officer injured: Yes ____ No X

Processed by: Tauro

Complaint Number: 86-4-261

Type of Incident: Attempted Robbery

How Complaint Was Received: Radio ____ Phone X On View ____

Location of Occurrence: Corner 108th and Madison (Ravenwood Project)

District: 2

Geographic Code: FP

Type of Premise (Drugstore, garage, etc.): Public sidewalk

Point of Entry: N/A

Method of Entry: Walking

Weapons/Objects Used or Displayed: None

Victim: Lucille Montez

Victim Conveyed to: Metro East Community Hospital

Victim Conveyed by: EMS

Hospital Disposition:

Admitted ____ Left for Treatment ____

Treated and Released X DOA ____

Type of Injuries:

Fatal ____ Evident, Not Disabling x ____

Not Apparent ____ Disabling ____ Probable, Not Apparent ____

Witness(es):

Name: Jane Karp

Residence : 1066 Madison, Apt 233

Phone: 366-2333

Vehicle Codes: N/A License Number: N/A

Property Codes: A-Currency Notes B-Jewelry/Precious Metals C-Clothing, Furs

D-Damaged Property E-Office Equipment F-TV, Radio, Cameras, etc.

H-Household Goods I-Consumer Goods J-Live Stock K-Misc. L-Tools

Code: N/A Quantity: N/A Reference No.:

Property Description: NA Value: NA

Prefix: A-Arrested R-Runaway W-Wanted J-Juvenile

M-Missing Person

Suffix: 1-Armed & Dangerous 2-Assaults Officers

3-Mental Condition

Code: J

Last Name: Simon

First Name: Gordon

Middle Name: _____

Age: 17 Home Phone: 366-6413

Social Security Number: 702-81-3686

Operator's License #/ State: N/A

Address: 1066 Madison, Apt. 657

City: New York State: NY

Employed: Yes _____ No Occupation: Student

Employer (present or last): N/A

Business Address: N/A

City: N/A State: N/A

Business Phone: N/A

Charges: Attempted Robbery

Date of Offense: 12-14-86

NARRATIVE REPORT OF INCIDENT OR EVENT:

On 14 December 1986 at approximately 20:10 hours I received a radio dispatch to the corner

of 108th and Madison on attempted robbery, injured victim. Upon arrival was approached by Jane Karp, WF age 65, who indicated she made 911 call from pay phone at corner. On sidewalk was victim, Lucille Montez, Hispanic F age 65, complaining of pain to right wrist and right ankle. Montez stated at about 20:00 she was approached from behind by person unknown to her who grabbed at purse in her right hand. She did not let go of purse and was dragged to the ground, injuring wrist and ankle. She and companion Karp both started screaming and assailant fled. Due to poor eyesight and low light conditions, she stated that she was unable to provide detailed description. Stated assailant appeared to be 16-18 yrs old, white male, approximately 5'10", wearing blue jeans and black leather jacket. Dark hair, medium length, no facial hair noted, no distinguishing marks.

Witness Karp stated she did recognize assailant as Gordon Simon, a teen age boy living several floors above her in same apartment building.

Victim conveyed to hospital by EMS.

Supplemental: 17 December 1986

Contacted suspect at residence. When asked whereabouts on night of 14 December was evasive, said he would not answer questions without a lawyer present. Taken into custody and transferred to juvenile division.

[end of report]



REVIEW

SUNDAY'S LONGEST

84 yds: Herschel Walker, Cowboys, vs. Redskins
10 yds: Joe Cribbs, 49ers, vs. Patriots

Morris, Giants grind out 27-7 win against Cards

By Steve Hershey
USA TODAY

EAST RUTHERFORD, N.J. — There wasn't much celebrating of the New York Giants' NFC Eastern Division championship. In fact, it was "sack time" as the Giants beat St. Louis 27-7 Sunday.

Methodically going about their business, the Giants sacked Cardinals quarterback Neil Lomax a club-record nine times en route to winning their eighth consecutive game.

"This is not like baseball where you celebrate winning the pennant," veteran line-backer Harry Carson said. "There's a lot more games ahead. But if we play the way we're capable of, I don't think we can be beat."

After stressing the passing game the last two weeks, the Giants (13-2), who clinched the division title when Washington lost Saturday, returned to their ball-control mode and put Joe Morris in charge.

Morris gained 179 yards on 28 carries, scored all three Giants touchdowns and said afterward he wasn't happy with his performance.

"This wasn't one of my better games because I fumbled three times," Morris said. "Those things don't normally happen to me."

GAME STAR: Giants RB Joe Morris gained 179 yards and scored the team's 3 TDs.

Morris broke runs of 54 and 49 yards, but his scores came on plunges from the three, two and one.

"I wanted to get the running game going," coach Bill Parcells said. "If you keep pounding it, you're going to get some bad plays, but every once in a while you're going to crease one."

Morris' running overshadowed a poor passing performance by Phil Simms, who completed five of 21 for 82 yards and often seemed out of synch with his receivers.

Showing no sign of a let-down, the Giants defense came out charging, sacking Lomax once in each of the Cardinals' first four possessions.

The Cardinals (3-11-1) were plagued by poor field position, starting their first four possessions at their 17-, 14-, 25- and 10-yard lines. They crossed the 50 only once in the first half.

"We couldn't protect our quarterback," Cardinals coach Gene Stallings said. "One of the Giants best strengths is their team defense. It's going to take

a good team to beat them. They're a Super Bowl team."

Surprisingly, Lawrence Taylor, the NFL sack leader with 20½, had only one.

"I felt like a decoy today," said Taylor, who needs two more to break the NFL record. "There's still Green Bay, but if we can make it to the Super Bowl, that's all that counts."

NOTES: Morris ran his season's rushing total to 1,401 yards, setting a Giants club record. ... Giants' Mark Bavaro set a club record for catches by a tight end, with 61 on the season. ... The Cardinals' 3-11-1 record is their worst in 27 years in St. Louis.

St. Louis	0	0	0	7	—	7
N.Y. Giants	7	10	3	7	—	27

FIRST QUARTER

N.Y. Giants — Morris 3 run (Allege 1:03), 10:21. Drive: 28 yards, 7 plays. Key play: McCarney 11 punt return to Cardinals' 25. E.J. Junior holding penalty for Clark first down. Giants 7, St. Louis 0.

SECOND QUARTER

N.Y. Giants — Morris 3 run (Allege 1:03), 11:21. Drive: 80 yards, 8 plays. Key play: Morris 54 run. Giants 14, St. Louis 0.

N.Y. Giants — FG Allege, 28, 14:48. Drive: 45 yards, 7 plays. Key play: Simms 38 pass to Bavaro. Giants 17, St. Louis 0.

THIRD QUARTER

N.Y. Giants — FG Allege, 25, 11:30. Drive: 37 yards, 14 plays. Key play: Bergers roughing kicker penalty. Simms 14 run. Giants 20, St. Louis 0.

FOURTH QUARTER

St. Louis — Green 15 pass from Mitchell (Schubert 1:03), 8:23. Drive: 28 yards, 3 plays.

SATURDAY'S NFL GAMES

Pittsburgh	0	17	0	28	—	45
N.Y. Jets	0	14	3	7	—	24

SECOND QUARTER

Pittsburgh — Abernethy 1 run (Anderson 1:03), 2:50. Drive: 52 yards, 7 plays. Key plays: Woods interception and 23 return to Pittsburgh 28; Malone 21 and 8 passes to Laps. Pittsburgh 7, N.Y. Jets 0.

PLAYER STATISTICS

Missed field goals: None.

Pittsburgh rushing: Jackson 23-101, Abernethy 17-65, Malone 4-14.

N.Y. Jets rushing: Michel 23-137, Barber 1-6. Total: 1-1.

Pittsburgh passing: Malone 16-27-1 (INT) for 188 yards, 13:37.

Jackson: Denver 26, Washington 16, Washington — Morse 55 pass from Schroeder (Zandee 1:03), 7:27. Drive: 77 yards, 2 plays. Key play: Schroeder 22 pass to Diller. Denver 26, Washington 23.

Denver — FG Korte 32, 11:38. Drive: minus 1 yard, 4 plays. Key play: Harden 31 interception return to Washington 14. Denver 21, Washington 23.