

Western Sierra School of Law
Criminal law
Syllabus

Revised February, 21, 2010

Spring, 2010

Course: Criminal Law: (8) units

Instructor: Professor, Judge Robert B. Schneider (retired), Cell phone 619-820-6388 or home **Phone:** 858-552-9029. E-mail professor@san.rr.com

Class Meeting Dates: Tuesday and Thursday evenings, from 6:30 P.M. to 10:30 P.M. beginning on Tuesday, March 8, 2010 and ending on Thursday, May 20th, 2010. Final examination is the week of May 24th, 2010.

Required Texts: (1) Boyce, Ronald N., Donald A. Dripps and Rollin M. Perkins (“B&P”) Criminal Law & Procedure: Cases and Materials (10th Edition) Westbury, New York (Foundation Press: 2007); (2) Watne R. LaFave and Austin W. Scott, Jr. (“L&S”) Criminal Law (Horn Book Series) ; and Gilbert’s Law Summary Criminal Law .

Assignments and Suggested Preparation & Study for class:

Read the assigned portions of LaFave and Scott and then Brief, in writing, the assigned cases highlighted below in Boyce and Perkins. Keep your briefs in your “Student Notebook” for use on review for mid-term and final examination. *At the end of each class, each student will be assigned specific cases from the casebook to brief for class discussion in the next class.

Grading: Mid term 25%. Final examination 75%. Briefing and class participation may raise or lower your final grade. Please Be prepared to discuss cases assigned to you.

***Optional:** “Instructor’s Outline”: Your instructor has prepared his own outline of the cases with comments and hypothetical questions for use in class. These outlines may be available for you to copy at your expense at the beginning of the semester.

In case there is insufficient time to cover the Hornbook in any subject, read Gilbert’s summary. Under any circumstances, you should be prepared to recite the facts, the issues, the court’s finding and rational for all assigned cases.

All references to texts are by chapter, section and pages. No attempt has been made to cross reference Gilbert’s. You should check the reference index in the summary for the (B & P) casebook to find the topic desired. As stated above, the instructor’s outlines, in lieu of having to take extensive lecture notes, will be available periodically for copying. Recommendation of other Materials to help First year law students succeed in criminal law: Understanding Criminal Law (Second Edition) by Joshua Dressler. Legal Text Series. Mathew Bender. (); Casenote Legal Briefs, Criminal Law and Criminal Law: Case Note Law Outline by Joshua Dressler both published by Casenotes Publishing Co.Santa Monica .Ca.; Emmanuel Law Outlines on Criminal Law; and Learning Legal Reasoning, Briefing, Analysis and Theory by Professor John Delaney.

Week #1. Class #1. Tuesday, March 9, 2010

[Schneider’s outline #___]

Introduction. Common Law, Statutes, and Codes. The Courts. Criminal Procedure. Legalism. Methodology. IRAC. Professor Schneider’s Notes. Hypotheticals.

Chapter 1. The Substantive Criminal Law : Criminalization, Definition and Classification

Section 1. Nature and Purposes of the Criminal Law

Kansas v. Crane p. 3 _____
In re Winship p. 8 _____

Section 2. Moral and Constitutional Limits

Keeler v. Superior Court of Amador County p. 16 _____ -
City of Chicago v Morales p. 20 _____
Robinson v. California p. 37 _____
R.A.V. v. City of St. Paul, Minnesota page 42 _____
Lawrence v Texas p. 47 _____
United States v. Armstrong p. 66 _____
Ewing v California p 76 _____

Section 3. Classification

No cases

[Actus Reus Ch. 6:]

Chapter 6. Imputability

Section 1. The Necessity of an Act.

State v. Quick. Page 414. _____
State v. Rider page 415 _____

Section 2. What Constitutes an Act.

State v. Taft page 416 _____
People v. Decina page 417 _____
State v. Kimbrell page 419 _____

[Actus Reus. (L&S) Ch 3:

[Omission B&P Ch. 6:]

Chapter 6. Section 4. Negative Acts [Schneider’s outline #2]

Biddle v. Commonwealth page 453 _____
Commonwealth v. Teixeira page 455 _____
Walker v. Superior Court page 457 [note: The decision is not set forth in text]
Jones v. United States page 457 _____
Davis v. Commonwealth page 458 _____
Van Buskirk v. State page 461 _____

[Omission (L&S) Ch. 3:]

[Mens Rea. B&P Chapter 7:]

Chapter 7. Responsibility in General [Schneider’s outline #3]

Section 1. Mens Rea.

Morrisette v. United States page 558 _____
United States v. Bailey p. 569 _____
United States v. Feola page 577 _____

Ch. 7. Section 3: Intent: General, Specific and Conditional

State v. Wickstrom page 604 _____
Dobbs' Case page 606: _____
Thacker v. Commonwealth page 606: _____
Commonwealth v. Shea page 609 _____
Holloway v. United States page 611 _____

[no assigned reading on specific intent in hornbook]
[malice, knowledge and wilful B&P ch.7.]

Chapter 7. Section 4. Other Particular States of Mind

(A) Malice

State v. Laughlin page 622 _____
Jerrell v. State page 623 _____
* **STATE v NASTOFF** page 625 _____

(B) Knowledge (Scienter)

State v. Beale page 630 : _____
People v. Kanan page 635 : _____
United States v. Jewelle page 636: _____

(C) Wilfulness

Fields v United States page 643 _____
Bryan v. United States p. 645 _____

[no readings from L &S]

Week #1. Class #2. Thursday, March 11, 2009

[criminal negligence: B&P Chapter 7:]

Chapter 7. Section 2. Negligence and Recklessness.

Gian-Cursio v. State page 589 _____
State v. Petersen page 592 _____
***CONROY v. STATE** page 593 _____
State v. Howard page 598 _____

[Criminal negligence L&S. Ch. 3:]

[specific intent. B&P.Ch. 7:]

Ch. 7. Section 3: Intent: General, Specific and Conditional

State v. Wickstrom page 604 _____
Dobbs' Case page 606: _____
Thacker v. Commonwealth page 606: _____
Commonwealth v. Shea page 609 _____
Holloway v. United States page 611 _____

[no assigned reading on specific intent in hornbook]
[malice, knowledge and wilful B&P ch.7.]

Chapter 7. Section 4. Other Particular States of Mind

(A) Malice

State v. Laughlin page 622 _____
Terrell v. State page 623 _____
* STATE v NASTOFF page 625 _____

(B) Knowledge (Scienter)

State v. Beale page 630 : _____
People v. Kanan page 635 : _____
United States v. Jewelle page 636: _____

(C) Wilfulness

Fields v United States page 643 _____
Bryan v. United States p. 645 _____
[no readings from L &S]

Week #2. Class #3. Tuesday March 16, 2010

[Strict & Vicarious Lia. B&P. Ch. 7:]

Ch. 7. Section 5: Strict Liability

[Schneider's outline #4]

Commonwealth v. Olshefski page 654 _____
*Staples v. U.S. page 655: _____
Stepnieweski v. Gagnon page 662 : _____
Commonwealth v. Koczwara page 667 _____

[strict and vicarious liability. L&S Ch. 3: 242-256]

[B&P. Agency and Corporate Liability: Ch. 6]

Chapter 6.

Section 6. Unlawful Conduct

Commonwealth v. Mink page 670 _____

State v. Horton page 671 _____
State v. Sealy page 673 _____

[no readings from hornbook]

[B&P Transferred Intent. Ch. 7:]

Section 7. "Transferred Intent."

[Schneider's outline #5]

Harrod v. State page 676 _____

Regina v. Smith page 679 (short case) _____

Regina v. Faulkner page 679

[L&S. Ch. 3 pages 3283(d)-287(f)]

Week 2. Class #4. Thursday, March 18, 2010

[B&P. Ch. 7.].

Ch. 7. Section 8. Motive

No Cases

[B&P. Concurrence Ch 7]

Ch. 7. Section 9. Concurrence of Mens Rea and Actus Reus

***PEOPLE v. JEFFERS** page 683 _____

***THABO MEL and OTHER v. REGINAM** page 687

[L&S. ch. 3 pages 267-277)

[B&P. Causation. Ch. 6]

Chapter. 6. Section 9. Causation

State v. Hallet page 523 _____

***PEOPLE v. ROBERTS** page 526 _____

People v. Lewis page 531 _____

Ex Parte Heigho p. 535 _____

People v. Stamp page 539 _____

State v. Sauter page 542 _____

Letner v. State page 544 _____

State v. Leopold page 546 _____

State v. Iten page 547 _____

Regina v. Bengé and Another p. 549 _____

Lewis v. State p. 550 _____

Green v. State p. 553 _____

[L&S: page 277-283(d)]

Week #3. Class #5. Tuesday, March 23, 2010

[B&P: Parties. Ch. 6]

Chapter 6. Section. 8: Parties to Crime.

People v. Beeman page 506 _____

People v. Kefer page 509 _____

People v. Brown p. 511 _____

United States v. Roberson p. 516 _____

State v. Williams page 516 _____

State v. Truesdell page 518 _____

[L&S: Parties. Ch. 6: pages 569-602]

[B&P. Attempts. Ch. 6 pages 319-347C]

Section 3. Attempt and Kindred Problems

(A) Attempt

(i) In General

Moffett v. State page 421 _____

(ii) Mens Rea

People v. Collie page 423

People v. Van Ronk page 425

(iii) Perpetrating Act

People v. Rizzo page 428 _____

***YOUNG v. STATE** page 430 _____

(iii) Impossibility

State v. Mitchell page 434 _____

People v. Rojas page 435 _____

Booth v. State page 437 _____

United States v. Oviedo page 439 . _____

Chapter 6. Section 3. (B) Aggravated Assault

State v. Wilson page 445 _____

[L&S. Ch. 6 page 495-524]

[B&P: Solicitation. Ch. 6]

(C) Solicitation

State v. Blechman page 447 _____

(D) Abandonment

Stewart v. State. Page 449 _____

State v. Peterson page 450 . _____

[L&S. Ch 6 pages 486-495]

Week #3. Class #6: Thursday, March 25, 2010

[B&P. Conspiracy. Ch. 6]

Ch. 6. Section 5. Conspiracy

*STATE v. HANKS page 464 _____

*U.S. v. PAYAN p. 466 _____

Gebardi v. United States page 470 _____

*PEOPLE v. SWAIN page 473 _____

*U.S. v. LOSCALZO page 478 _____

Pinkerton v. United States page 480 _____

United States v. Rosado-Fernandez page 482 _____

*[not in outline #6]*Marquiz v. People* 484 _____

*[not in outline 6] *United States v. Turkette* page 487 _____

[L&S: Ch 6 page 525-568]

Week #4. Class #7. Tuesday, March 30, 2010

[B&P. Homicide Ch 2 pages]

Chapter 2. Offenses Against the Person

Section 1. Homicide

Patterson v. New York p. 99 _____

Errington and Others Case page 105 (short case) _____

*R v. VICKERS page 105 _____

Commonwealth v. McLaughlin page 108 _____

King v. State page 110 _____

State v. Hokenson page 115 _____

*PEOPLE v. PATTERSON page 118 _____

State v. Mayle page 124 _____

PEOPLE v. HANSEN page 126 _____

Commonwealth v. Drum p 131 _____

*PEOPLE v. PEREZ page 134 _____

Callins v. Collins page 139 _____

State v. Guebara p 148 _____

People v. Chevalier p 153 _____

Commonwealth v. Troila page 157 _____
People v. Borchers p 158 _____
State v. Dumlao p 161 _____
 ***MURRAY** v. STATE page 167 _____
People v. Rodriguez p. 170 _____
State v. Bier p 173 _____
People v. Watkins p 175 _____
Harris v State p 178 _____
State v Sety p. 179 _____
 ***PEOPLE v. OCHOA** page 182 _____

[L&S. Ch 7 pages 605-683]

Week #4 Class #8. Thursday, April 1, 2010

[B&P. Assault and Battery. Ch 2.]

Chapter 2. Section 2 Assault and Battery

State v. Jimerson p 197 _____
United States v. Bell page 200 _____
United States v. Jacobs page 202 _____
State v. Capwell p. 204 _____
People v Santiago page 207. _____
 ***COMMONWEALTH v. MATSOS** page 215 _____

[L&S. Assault p 684-696]

[B&P. Other Crimes to Person. Ch 2]

Ch. 2. Section 3. Other Offenses Against the Person.

- (A) **Abduction p. 219**
- (B) **Abortion p. 220**

(C) Rape p. 221

Commonwealth v. Mlinariich page 222 _____
People v. Galvarino-Gonzalez page 245 _____
People v. Iniguez page 248 _____
Jones v. State page 255 _____
Commonwealth v Lopez page 257 _____

(D) Kidnapping [no cases]

- (I) Simple Kidnapping
 - (ii) kidnapping for ransom
 - (iii) child stealing
 - (iv) Consent
 - (v) The Federal Kidnapping Act (The Lindberg Law)

- (E) Mayhem [no cases]
- (F) Dueling [no cases]

[L&S. Ch. 7 pages 696-699]



Spring Break April 5th to April 11, 2010

Week #5 Class #9. Tuesday, April 13, 2010

Mid-Term Examination (Note: This is a tentative date)

Week #5 Class #10. Thursday, April 15, 2010

[B&P. Burglary. Ch. 3]

Chapter 3. Offenses Against the Habitation

Section 1. Burglary

- Woods v. State* page 268 _____
- State v. Neff* page 269 _____
- State v Mann* p. 270 _____
- Davis v. Commonwealth* p 271 _____
- People v. Gauze* page p 273 _____
- Stowell v. People* p.276 [short case] _____
- People v Dupree* p 277 _____
- Nichols v. State* p 280 _____
- ***HEBRON v. Maryland** page 282 _____
- Walker v. State* page p. 284 _____
- Gray v State* p. 285 _____
- State v Bowen* page 287 _____
- Taylor v United States* p. 290 _____

[L&S. Ch. 8 p 792-801]

{B&P. Arson Ch. 3 }

Chapter 3. Section 2. Arson page 295

no cases

no L&S cite

[B&P. Larceny. Ch 4]

Ch. 4 Offenses Against Property

Section 1. Larceny.

(A) Personal Property

People v. Caridis p 301 _____
People ex rel Koons v. Elling, Sheriff p 303 _____
Bell v. State p 304 _____
The Queen v. Townley p. 306 _____

(B) Of Another

1. In General

State v. Cohen p 307 _____
People v. Walker p 309 (short case) _____
King v. Bazeley p 309 _____
Rex v. Sullens p 311 _____
 *STATE v. BROOKS p. 312 _____
Morgan v. Commonwealth p 314 _____
United States v. Bowser p.316 _____

(C) Taking

Thompson v. State p 319 _____
Cummins v Commonwealth p 320 _____

(D) Necessity of Trespass

1. Cases of Fraud

The King v. Pear p 321 _____
The Queen v. Prince p 322 _____
Wilkinson v. State p 324 _____
Regina v. Hands p. 325 _____

[L&S. Ch. 8, (702-711).]

Week #6. Class #11. Tuesday, April 20, 2010.

[B&P. Larceny Ch 4]

Chapter 4.

2. Lost property

Regina v. Thurborn page 326 _____
Brooks v. State. Page 327 _____
State v. Kaufman p 329 _____

3. Delivery by Mistake

Cooper v. Commonwealth p 331 _____
State v., Langford p 333 _____

4. Appropriation By Wife or Husband p 369

no cases

5. Appropriation By Bailee

Rex v. Banks p 336 _____

6. Continuing Trespass.

Regina v Riley p 337 _____
State v. Coombs p 339 _____

(E) Carrying Away

People v. Khoury p 340 _____

(F) With Intent to Steal

People v. Brown p 342 _____
State v. Savage p 343 _____
State v. Langis p. 345 _____
***STATE v. KOMOK** page 347 _____

(G) Grand Larceny

State v. Delmarter p. 350 _____

[L&S. Ch 8 p 711-729]

B&P. Robbery. Ch. 4.].

Chapter 4. Section 2. Robbery.

People v. Butler p 354 _____
State v. Skaggs p 356 _____

[L&S. P 775-789]

[B&S. Embezzlement.]

Ch. 4. Section 3. Embezzlement.

State v. Stahl p 359 _____
United States v. Faulkner p 361 _____

[L&S. Ch 8: 739-756]

Week. #6. Class #12. Thursday, April 22, 2010

[B&P. False Pretenses.]

Ch. 4. Section 4. False Pretenses

- People v. Ashley* p 363_____
- State v. Duncan* p 366_____
- Allen v. State* p 370_____
- Barker v State* p 371_____
- Bell v. United States* p 374_____
- State v. Moses* p 377_____

 [L&S. Ch 8. p 739-756]

Chapter 4. Section 5. Theft.

[B&P. Ch 4.Theft. (Statutory)]

- State v. McCartney* p 379_____
- State v. Saylor* p. 382_____
- People v Home Insurance Co.* page 387

 [L&S. Ch 8 p 756-765]

[B&P. Receiving, Mischief, Forgery, Counterfeiting & Extortion]

Section 6. Receiving or Concealing Stolen Property p 389

Section 7. Computer Crime p. 389

Section 8. Malicious Mischief p. 390

Section 9. Forgery & Uttering a Forged Instrument. P. 390

United States v. McGovern p 390_____

Section 10. Counterfeiting p. 392

Section 11. Extortion p. 393

 {L&S. Ch. 8 pages 765-792 & 765-775}

Week #7. Class #13. Tuesday, April 27, 2010

[B&P. Various Sex & Morals Crimes. Ch. 5]

Ch. 5. Other Offenses p. 398

Section 1 Offenses Against Morality & Decency.

- (A) Adultery, Fornication and Illicit Cohabitation
- (B) Bigamy
- (C) Incest
- (D) Seduction
- (E) Sodomy

(F) Prostitution, Obscenity & Indecency

Salaiscooper v. Eighth Judicial District Court page 400_____

[B&P. Ch. 5. Public Peace Crimes]

Chapter 5. Section 2. Offenses Against the Public Peace. P. 404

- (A) Breach of the Peace
- (B) Fighting
- (C) Unlawful Assembly, Rout & Riot
- (D) Disturbance of Public Assembly
- (E) Disorderly House
- (F) Forcible Entry & Detainer
- (G) Libel
- (H) Carrying Weapons
- (I) Vagrancy

[no cases cited]

[L&S. No cite]

[B&P. Government crimes. Ch. 5.]

Chapter 5. Section 3. Offenses Affecting Sovereignty or the Administration of Governmental Functions pp 407-413

- (A) Treason
- (B) Perjury & Subordination
- (C) Bribery
- (D) Misconduct in office (Official Misconduct)
- (E) Embracery
- (F) Counterfeiting
- (G) Obstruction of Justice
- (H) Escape and Kindred Offenses
- (I) Misprison of Felony
- (J) Compounding Crime
- (K) Contempt
- (L) Other Offenses

[no cases cited]

[L&S. No cite]

Week #7. Class #14. Thursday, April 29, 2010

[B&P. Infancy (Defenses) p 745

Ch. 8. Responsibility: Limitation on Criminal Capacity

Section 1. Immaturity (Infancy)

State v. Q.D. page 694 _____
Corder v Rogerson page 697 _____
McKeiver v. Pennsylvania p 700 _____

[L&S. 398-403]

[B&P. Competency, Insanity & Automatism. Ch. 8]

Ch. 8. Section 2. Mental Disease or defect (Insanity).

Finger v. State page 708 [Long decision] _____

***STATE v. FETTERS** page 734 _____

State v. Smith p. 738 _____

People v Ramsey page 740 _____

Fulcher v. State page 744 _____

[L&S. Pages 304-387]

Week #8 Class #15. Tuesday, May 4, 2010

[B&P. Ch. 8 Intoxication.]

Ch. 8. Section 3. Drunkenness (Intoxication)

State v. Cooper p. 751 _____

Harris v State page 753

***MONTANA v. EGELHOFF** page 761 _____

***PEOPLE v. SAILLE** page 765 _____

Burrows v. State page 769 _____

Powell v. Texas page 772 _____

[L&S. Ch 4 p. 387-398]

[B&P. Coverture. Ch 8]

Chapter 8. Section 4. Coverture. P. 778

No cases

[L&S. Ch 5 p 440(f)]

[B&P. Ignorance of the Law. Ch. 9.]

Ch. 9. Responsibility: Modifying Circumstances.

Section 1. Ignorance or Mistake

(A) Ignorance or Mistake of Law

State v. Cude. page 782 _____

People v. Marrero p 783 _____

People v. Weiss p 788 _____
Lambert v California page 790 _____

[L&S. Ch 5 p. 405-420]

Week #9 Class #16. Thursday, May 6, 2010

[B&P. Mistake of Fact. Chapter 9.]

(B) Ignorance or Mistake of Fact

People v Hernandez page 795 _____
People v. Cash p 799 _____
***PEOPLE v. CRANE** page 803

[no L&S]

[B&P. Impelled Perpetration. Ch 9]

Ch. 9. Section 2. Impelled Perpetration.

People v Anderson page 881 _____ [this is a very long case]
Tyner v. State page 825 _____
State v. Burney p 827 _____
Commonwealth v. Capitulo p 831 _____

[L&S. Ch 5 pages 432-450]

[B&P. Consent. Ch. 9.]

Ch. 9. Section 3. Consent of the Other Party

Rex v. Turvey pages 837 _____
People v. Cook page 839 _____
State v. Lankford page _____
***U.S. v. BYGRAVE** page 841 _____
R v. BROWN page 845 _____

[L&S.Ch 5 pages 477-480(b)]

***Week #9. Class #17. Tuesday, May 11, 2010**

[B&P. Ch 9 Guilt of Victim.]

[Ch. 9]. Section 4. Guilt of the Injured Party.

[Schneider's OUTLINE #13]

United States v. Dykes page 852 _____

Section 5. Conduct of the injured party.

State v. Munnell p. 854_____

Regina v. Holland p. 855_____

[L&S. Ch 5 page 481(d)-483]

[B&P. Condonation. Ch.9.]

Ch. 9. Section 6. Condonation by Injured Party

No Cases

[L&S. Pages 481(d)-(3)

[B&P. Special Defenses. Ch. 10]

Chapter 10. Special Defenses page 913

Section 1. Public Authority.

*U.S. v. BURROWS page 861_____

State v. Mantelli page 864_____

[L&S. Ch. 5 pages 450-451]

Week #10. Class #18. Thursday, May 13, 2010

[B&P. Domestic Authority. Ch. 10.]

Ch. 10. Section 2. Domestic Authority.

Cleary v. Booth page 880_____

*STATE v. CROUSER page 882_____

[L&S. Ch 5 page 451-454]

[B&P. Crime Prevention. Ch 10]

Ch 10. Section 3. Prevention of Crime

Commonwealth v. Emmons page 891_____

*STATE v. BARR page 893_____

People v. Ceballos p. 897._____

[L&S. Ch 5 pages 470-477]

[B&P. Self-Defense. Ch 10.]

Ch. 10. Section 4. Self-Defense.

State v. Realina page 906_____

People v. La Voie page 910_____

People v. Goetz p 912_____

*PEOPLE v. HUMPHREY page 918_____

People v. Ligouri page 924_____

*BROWN v. U.S. page 926 _____
State v. Davis p. 929
Cooper v. United States 932 _____
State v. Hanton page 936 _____
State v. Broadhurst page 939. _____

[L&S.Ch. 5 pages 454-463]

Week #10. CLASS #19. Tuesday, May 18, 2010

[B&P. Defense of Others.]

Ch. 10. Section 5. Defense of Others

State v. Saunders page 944 _____
Alexander v State page 947 _____
People v Curtis p 951. _____

[L&S. Ch 5 pages 466(b)-469)(e).]

[B&P. Defense of Habitation. Ch 10.]

Ch 10. Section 6. Defense of the Habitation.

State v. Mitcheson page 953 _____
***PEOPLE v. McNEESE page 955** _____

[Ch 5.465-466(b)-469)(e)

[B&P. Defense of Property. Ch. 10.]

Ch. 10. Section 7. Defense of Property.

Commonwealth v. Donahue page 964 _____
People v. Ceballos page 965. _____

[L&S. Ch 5 pages 465-466(b)-469)(e)-470]

[B&P. Entrapment. Ch 10. pages]

Ch. 10. Section 8. Entrapment.

People v. Barraza page 970. _____
Jacobson v. United States page 975 _____ --

Week 10. Class #20. Thursday, May 20, 2010

Completion of semester cases and review for final examination

Date of **Final Examination**: To be Announced

FINAL EXAMINATION