

FACT SHEET

Defence witness – C. Gervais - Passenger

C. Gervais is a grade 13 high school graduate who was celebrating his/her 19th birthday on August 9th, 1986. That evening at approximately 7:15 pm., C. Gervais was picked up at home by the accused and C. Gervais intended to attend a house party that evening at 31 Maple Street.

Your story:

- You arrived with the accused at 31 Maple Street at approximately 7:30 pm that evening.
- You were celebrating your 19th birthday, and the fact that you had reached the “age of majority”
- You remember consuming “several” beers and a “couple” of mixed drinks during the two-hour period at which you were in attendance at the house party at 31 Maple Street.
- You know that the accused consumed one beer shortly after your arrival, although you cannot recall if the accused consumed any additional alcohol.
- You did not see the accused during the party at 31 Maple again until just prior to your departure from the house at approximately 10:15 to proceed to another house party at 19 Poplar Street
- Upon departing from the house party at 31 Maple, you brought a can of Pepsi, and you remember that during the drive, you had played the radio loudly and were drinking the Pepsi.
- You remember that while draining the last drops of Pepsi out of the can, the accused suddenly swerved into the oncoming lane and shouted, “Look out!” You saw a dog running away on the sidewalk to the right of the car.
- Prior to this, you were unaware of the exact speed of the car, but you did not notice anything unusual about the driving habits of the accused that evening.
- You think that the accused was driving carefully
- You are quite sure that the accused has never driven in a state of impairment with you in the past, and you feel confident with his driving abilities on this occasion.
- You have in the past gone to house parties with the accused and, in those cases where the accused was driving, you are fairly certain that the accused did not drive after drinking
- You remember that there were one or two empty beer bottles on the floor of the accused’s car in front of your seat.

You will play C. Gervais in the mock trial. In order to carry out your role successfully, you will have to meet with defence counsel before the trial to work out other details about your character.

It is important to prepare completely for every possible question that may be asked of you. You will have to be flexible and be prepared to respond on the spot. Be consistent throughout your testimony. Your credibility is on the line. You have to make the judge believe that you are telling the truth.

FACT SHEET

Accused – R. Murdoch

R. Murdoch is a 19-year-old high school graduate who intends to go to college next year. R. Murdoch and C. Gervais are long time friends. Both R. Murdoch and C. Gervais had planned to attend a house party at 31 Maple Street on the evening of August 9th 1986 to celebrate Gervais' 19th birthday. R. Murdoch has no previous criminal record.

Your story:

- You were working a double shift that day at the supermarket bagging groceries
- You picked up Gervais at his/her home in your blue Camaro at approximately 7:15 pm., that night to attend a house party at 31 Maple Street
- You were both excited about celebrating Gervais' 19th birthday
- At the party, you remember having one beer at 7:30 pm., upon your arrival, and you are fairly certain that you only had one more beer at 9:30 pm.
- You noticed that Gervais was drinking a considerable amount throughout the evening and s/he was, in your words "enjoying him/herself"
- At approximately 9:30 pm., Gervais approached you at the house party, and suggested that you go to a second house party on Poplar Street
- You were unfamiliar with the route to the second house party, and Gervais was giving you directions
- Gervais was playing the car radio loudly, and changing the radio station frequently while drinking from a can of Pepsi
- You came to a full stop at the corner of Princess and Maple drive and at that point Gervais blurted out "Turn right, this is Princess.... now look for Poplar Street"
- You immediately turned right on Princess looking for street signs since you did not know where Poplar Street was
- You did not notice that you had abruptly turned in front of a car travelling eastbound along Princess
- You were not concentrating on your driving since you were looking for Poplar Street; you were driving slowly to ensure you did not miss any street signs
- While looking for street signs to locate Poplar Street, you thought you noticed at the last second that a dog had run onto Princess Street in front of your car and you swerved into the oncoming lane to avoid the dog
- Immediately thereafter, you noticed the flashing red light of a police cruiser behind you and you pulled over at the side of the road
- The police officer asked for your licence, registration and insurance; you were very nervous; you had never been stopped by the police before and you fumbled with your wallet to obtain your licence
- In response to his/her question about why you suddenly swerved into oncoming traffic, you explained that you swerved to avoid a dog that was on the road

- After following the police officer back to the cruiser, the police officer informed you of your rights under the Charter of Rights and Freedoms and then advised you that you were being charged with “impaired driving”

You will play R. Murdoch in the Mock Trial. In order to carry out your role successfully, you will have to meet with defence counsel before the trial to work out other details about your character.

It is important to prepare completely for every possible question, which may be asked of you. You will have to be flexible and be prepared to respond on the spot. Be consistent throughout your testimony. Your credibility is on the line. You have to make the judge believe that you are telling the truth.

FACT SHEET

Crown witness – Police officer J. Robertson

J. Robertson is a 26-year-old police constable who has been with the force for 4 years. P.C. Robertson started his/her shift at 9:00 pm., on the evening of Friday August 9th 1986. At 10:30 pm, Robertson was along in his/her cruiser on regular patrol of a residential neighbourhood. It was dark and the road conditions were excellent. There had been no rain all day.

Your Story:

- You were proceeding eastbound along Princess Street, a two lane main street, approaching the intersection of Princess Street and Maple Drive
- The speed limit was 50 km/hr.; you were travelling 45 km/hr
- You observed a dark blue Camaro proceeding northbound on Maple towards the same intersection
- The Camaro came to a full stop, but then proceeded to make a right turn in front of your cruiser, forcing you to apply your brakes suddenly
- You followed the Camaro for a few blocks east – bound on Princess and observed the following:
 - The Camaro's speed was slow, approximately 25 km/hr
 - The driver's head moved from left to right constantly
 - The Camaro weaved somewhat on two occasions, crossing one wheel over the solid line each time
 - Suddenly, the Camaro weaved markedly for no apparent reason, crossing fully into the westbound lane, luckily there was no oncoming traffic
- You then decided to pull the Camaro over and switched on your overhead flashing lights
- The Camaro pulled to the side of the street and you approached the car
- The driver rolled down the window
- Right away, you smelled beer from the car
- You asked to see the driver's licence, registration and insurance
- The driver opened his/her wallet and fumbled for and eventually pulled out the required documents, saying "Here you are officer, I hope it's all in order"
- You asked if the driver had been drinking and s/he replied "Yes, officer, but I only had two beets at a house party"
- You asked how long ago that was
- The driver replied "I had one at 7:30 when I got there, and I had another at 9:30"
- You asked the driver why s/he was driving so slowly and weaving
- The driver replied that s/he was looking for Poplar Street, as s/he was going to visit some friends and wasn't familiar with the area
- You shone your flashlight in the car and saw an empty beer bottle on the floor of the car
- You asked the driver to get out of the car
- You smelled an alcoholic beverage on the driver's breath

- You asked the driver to accompany you to your cruiser and noticed that the driver walked slowly, with deliberate steps
- You complied in all respects with the Charter of Rights and Freedoms and then arrested the driver for “Impaired driving”

You will play J. Robertson in the mock trial. In order to carry out your role successfully, you will have to meet with Crown counsel before trial to work other details about your character.

It is important to prepare completely for every possible question, which may be asked of you. You will have to be flexible and be prepared to respond on the spot. Be consistent throughout your testimony. Your credibility is on the line. You have to make the judge believe that you are telling the truth.

FACT SHEET

Crown witness – S. Mantini – Bystander

s. Mantini is 62 years old and wears glasses. On Friday evening, August 9th 1986, s/he left the house at approximately 10:00 pm., as is his/her usual habit every evening to walk Fido, Mantini's German Shepard. At approximately 10:30 pm., Mantini was walking westbound on the south side of Princess Street, three or four blocks east of Maple Drive

Your story:

- You observed a dark coloured Camaro traveling slowly, and a little erratically, eastbound on Princess Street
- The car's radio was blaring loudly
- Through the open passenger window, you saw one passenger drinking from, what looked like a can of beer
- You then realised Fido was no longer at your side
- You turned to look for Fido just in time to see the Camaro swerve wildly
- Fido ran safely back to you
- You then saw a police cruiser with its lights flashing
- You watched the officer talking to the driver outside the car, and then the two of them walked back to the police cruiser
- Afterwards, you walked over to the cruiser and complained to the police about "these young hoodlums who drink and drive"

You will play S. Mantini in the mock trial. In order to carry out your role successfully, you will have to meet with Crown counsel before the trial to work out other details about your character.

It is important to prepare completely for every possible question, which may be asked of you. You will have to be flexible and be prepared to respond on the spot. Be consistent throughout your testimony. Your credibility is on the line. You have to make the judge believe that you are telling the truth.

INDICTMENT

File number
3270527098

Canada
Province of Ontario
Judicial District of York

HER MAJESTY THE QUEEN

Against

R.MURDOCH

INDICTMENT

Name of
Accused

R. Murdoch stands charged:

State of
Offence

Count 1 That, in the City of Toronto, in the Judicial District of York, Ontario, on or about the 9th day of August 1986, s/he did unlawfully operate a motor vehicle while his ability to operate the vehicle was impaired by alcohol or a drug contrary to s. 237 of the Criminal Code of Canada.

DATED this _____ day of _____, at _____.

Agent for the Attorney
General of Canada

APPLICABLE LAW

CANADA CRIMINAL CODE

Operation of a Motor Vehicle, Vessel, or Aircraft While Impaired of with more than 80 MG Alcohol in Blood.

237 Every one commits an offence who operates a motor vehicle or vessel or operates or assists in the operation of an aircraft or has the care or control of a motor vehicle, vessel, or aircraft whether it is in motion or not,

- a) While his/her ability to operate the vehicle, vessel or aircraft is impaired by alcohol or drug, or
- b) Having consumed alcohol in such a quantity that the concentration thereof in his/her blood exceeds eighty milligrams of alcohol in one hundred millimetres of blood.
- c) 1985, c. 19, s. 36

244 (1)A person commits an assault when

- 1) Without the consent of another person, he applies force intentionally to that other person, directly or indirectly;