

# CRIMINAL LAW MOCK TRIAL: R. v. WILSON



SCENARIO: <i>R. v. WILSON</i>	PAGE
Scenario	1
List of participants	2
What Happened?	3
The Information (charge)	4
Agreed Facts	5
Background information for witnesses	6 - 14

ROLE PREPARATION	PAGE
Preparing for a Mock Trial	1
Time Chart	2
Etiquette	3 - 4
Role Preparation for:	
Crown and Defence Lawyers	5 - 7
Judge and Jury	8
Court Clerk	9 - 10
Court Staff	11
Members of the Press	12

JUSTICE SECTOR VOLUNTEER PACKAGE	PAGE
Purpose of a Mock Trial	1
Mock Trial Time Chart	2
Information for:	
Lawyer Coaches	3 - 4
Mock Trial Judges	5



For each OJEN criminal mock trial, there are three packages:

- » OJEN Criminal Law Mock Trial **Scenario**
- » OJEN Criminal Law Mock Trial **Role Preparation Package**
- » OJEN Criminal Law Mock Trial **Justice Sector Volunteer Package**

Youth need the **Scenario** and **Role Preparation** packages.

Justice sector volunteers/teachers/organizers need all three packages.

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## **R. v. WILSON**

### **CHARGES:**

- » Possession of a firearm
- » Pointing a firearm

## LIST OF PARTICIPANTS

1. **Joe Wilson** (the accused)
2. **Laila Amar** (Joe's friend and defence witness)
3. **Mike Bourke** (crown witness)
4. **Constable Esperanza Gomez** (Crown witness)
5. **Defence lawyers** (4)
6. **Crown Lawyers** (4)
7. **Judge**
8. **Court Services Officer** (keeps order in the court) (*optional*)
9. **Court Clerk** (assists the judge) (*optional*)
10. **Jury Members** (10) (*optional*)
11. **The Press** (2, report on the trial) (*optional*)
12. **Court Artists** (2, sketch what happens at trial) (*optional*)

### WHY ARE CRIMINAL CASES ALWAYS CALLED R. v. SOMEONE?

In Canada, criminal charges are made in the name of the Queen, because she is the official head of our country. The Queen is also known as Regina (the Latin word for Queen), which when shortened to R. explains why criminal charges are called *R. v. [Accused's person's name]*.

Criminal proceedings involving accuseds (or witnesses) under 18 years of age are usually referred to by the initials of the young person rather than their full name (e.g., *R. v. S.M.*).

## WHAT HAPPENED?

Joe is 16. It was May \*\*, 20\*\*, and Joe's Mom was away for the night. Joe and his friend Laila invited some people over for a party.

Joe and Laila called their friends, who then called their friends. By 10:00 PM the apartment was almost full, with people from school, from the building and neighbourhood, and some people that Joe and Laila didn't know. The music was loud and people were talking and drinking in all of the rooms. People kept arriving, and by midnight the place was packed.

WHAT  
HAPPENED?

The noise from the party got pretty loud. At about 12:30 AM Mike Bourke, who had just moved into the apartment down the hall, banged on the door and demanded that the music be turned off. The partygoers, including Joe, started yelling at Mike, and he yelled back.

Mike yelled that he was going to get Joe's family kicked out of the building. In response, some people in the apartment pulled guns out and waved them at Mike. Mike ran down the hallway yelling. Suddenly the lights went out. Two gunshots went off. People screamed and started running through the apartment and down the hallway outside.

About five minutes later all of the movement and confusion had stopped. Joe turned on the lights. He was the only person left in the apartment. Suddenly the door burst open and five police officers stormed through the front door with their guns out. They yelled at Joe to get down and pushed him onto the ground and held him there.

The police searched the apartment and found a gun under the couch. When he saw it Joe yelled out "that's not mine – I've never seen that before – I don't have any guns – someone must have put that there". The gun was not loaded. No identifiable fingerprints were found on it.

Joe was arrested and charged with possession of a firearm, and with pointing a firearm at Mike Bourke.



**THE INFORMATION**

CANADA

PROVINCE OF ONTARIO

DATE \_\_\_\_\_

IN THE PROVINCIAL COURT OF ONTARIO

JUDICIAL DISTRICT OF \*\*\*

HER MAJESTY THE QUEEN AGAINST JOE WILSON

**JOE WILSON** who is a young person within the meaning of the Youth Criminal Justice Act stands charged:

That he, on or about the 7th day of May 20\*\*, in the City of \*\*\*, did possess a firearm, without being the holder of a license under which he may possess it contrary to section 91(1) of the *Criminal Code*.

That he, on or about the 7th day of May 20\*\*, in the City of \*\*\* did without lawful excuse, point a firearm at another person, contrary to section 87(1) of the *Criminal Code*.

THE CHARGE

DATED this \_\_\_\_\_ day of \_\_\_\_\_, at \_\_\_\_\_

Signed \_\_\_\_\_

JUSTICE OF THE PEACE



## AGREED STATEMENT OF FACTS

You may choose to assume, and/or agree, for the purposes of this mock trial, the following:

- That the gun is a firearm in accordance with the *Criminal Code* definition
- That Joe does not have a license or registration certificate for the gun
- That Joe's statement to the police that he knew nothing about the gun was a spontaneous utterance, and given voluntarily
- That there are no *Charter* arguments to raise

AGREED FACTS



## JOE WILSON, ACCUSED

### Your background:

- Your name is Joe Wilson
- You are 16 years old
- You are in Grade 11
- You have no previous criminal record.
- Some of your friends have been in trouble with the police before.

### Your version of what happened:

- On May 6, 20\*\*, you and your friend Laila decided to have a party in the apartment you live in with your Mom, who was away.
- You and Laila called your friends and by 10:00 PM the apartment was full of people, some from school, some from the building and neighbourhood, and some that you didn't know. Laila didn't know them either.
- You were drinking throughout the evening, but not very much. By midnight you weren't really drunk, but you weren't sober either.
- The music was loud. People were dancing, talking and laughing. It was pretty noisy.
- At about midnight Laila told you that someone was at the door demanding that the music be turned off. This made you angry, because you didn't want the party to end.
- You pushed your way into a group of partygoers standing by the door. They were people you didn't know. The man at the door was someone you had seen in the building a couple of times recently (who you now know as Mike Bourke).

### HOW CAN I PREPARE TO BE A GOOD WITNESS DURING TRIAL?

- » Learn your facts by heart.
- » You will be sworn in during the trial and need to spell your character's full name.
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## JOE WILSON, ACCUSED

- You asked Mike what his problem was. He yelled that he wanted the music turned off.
- The people yelled at Mike, telling him to get lost and that the music was staying on. You joined in yelling at him.
- Then Mike said that he was going to get your family kicked out of your apartment. This made you really angry. You, and the people around you yelled louder at Mike, and moved towards him.
- Suddenly, a guy beside you pulled out a gun and waved it at Mike. Other people around you pulled out guns too. You laughed at how scared Mike looked. Then someone handed you a gun. You held it up, looking at it. Then you realized what you were doing and tried to hand the gun back.
- Mike started running down the hallway. Someone turned the apartment lights out. Then you heard two gunshots. You didn't know who had fired them, or what they shot at. You dropped the gun.
- People started screaming and running through the apartment and down the hallway. You moved out of the way. You thought you had better stay at the apartment to make sure things didn't get wrecked or stolen.
- After about 5 minutes the noise and movement stopped. You turned on the light. Everyone else was gone.
- Suddenly the front door flew open and about 5 cops stormed into the apartment. They had their guns out. They yelled at you to get down and one pushed you to the floor and held you there.
- The police searched the apartment. They found a gun under the couch. As soon as you saw it you yelled out "that's not mine – I've never seen that before – I don't have any guns – someone must have put that there".
- You didn't know if it was the gun you had dropped.
- You were arrested and taken to the police station and charged with unlawfully possessing a firearm and with pointing a firearm at Mike.
- You were shocked at being arrested and didn't know what to do. You didn't answer any of the police questions at the police station, but told them your name, your address, and that the gun wasn't yours.
- You were held in a police station cell overnight. The next morning you were bailed out by your Mom under her custody.





## JOE WILSON, ACCUSED

### QUESTIONS YOU SHOULD THINK ABOUT WHEN PREPARING:

What kind of student are you?

How close are you to your friend Laila?

Have you ever gotten into trouble before?

Do you have friends who have guns?

How do you feel about guns? Have you ever had a gun?

How does your Mom feel about you being charged?

How do you feel about being charged?

How do you feel about what happened at the party to Mike?

How did you act when you were arrested? Did you cooperate with the police?

Are you scared about what might happen if you are convicted?

What was your grandmother's reaction?

How did you act when you were arrested? Did you cooperate with the police?

Are you scared about what might happen if you are convicted?

WITNESS  
INFORMATION



## LAILA AMAR, DEFENCE WITNESS

### Your background:

- Your name is Laila Amar
- You are 15 years old
- You are in Grade 11
- You have no previous criminal record

### Your version of what happened:

- On May 6, 20\*\*\*, you were at a party at your friend Joe’s apartment. His Mom was away. You knew most of the people at the party from school and Joe’s building, but some you had never seen before.
- At about midnight someone (who you now know as Mike Bourke) banged on the door and said he was a neighbour and demanded the music be turned off.
- You went and told Joe. Joe went over to the door and you followed.
- The people near the door were yelling at Mike. You didn’t know these people. Joe moved into the middle of their group. He started yelling at Mike too, and asked him what his problem was.
- Mike was yelling back. Everyone was angry and abusive.
- Then Mike yelled that he was going to get Joe’s family kicked out of the building. This made things worse. The yelling got louder, and the partygoers started moving toward Mike like they would hurt him.
- Then one of the partygoers you didn’t know pulled out a gun and pointed it at Mike. Other people with him pulled out guns too. You couldn’t see how many there were or what was

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## LAILA AMAR, DEFENCE WITNESS

happening because they were in front of you. You didn't see Joe with a gun. Everything happened very fast.

- Mike ran down the hallway. Someone turned the apartment lights out. You heard two gunshots. You didn't see who had fired them or what they fired at.
- People screamed. Everyone was trying to get away from the guns. People started running out of the apartment and you joined them.
- You left the building and went home. The next day you found out that Joe had been charged with possession of a firearm and with pointing a firearm at Mike.
- You have never seen Joe with a gun, and he has never talked about guns to you.

### QUESTIONS YOU SHOULD THINK ABOUT WHEN PREPARING:

What kind of student are you?

Have you ever gotten into trouble?

Do you have friends who have guns?

How close are you to your friend Joe?

How do you feel about Joe being charged?

Have you ever seen Joe with a gun before?

How was Joe acting at the party before this happened?



## CONSTABLE ESPERANZA GOMEZ, CROWN WITNESS

### Your background:

- Your name is Constable Esperanza Gomez
- You are 35 years old
- You are a Constable with the Toronto Metropolitan Police Service, and have been for 7 years
- You patrol the east part of the city in a police car

### Your version of what happened:

- Just after midnight on May 7, 20\*\* you were on patrol in the east of Toronto. You received a call from headquarters advising you of a 911 call of gunshots in a building at Pape & Danforth.
- Due to the nature of the 911 call, you and the four other responding officers entered the apartment in question with your weapons drawn.
- There was one person in the living room, who was 'taken down' and searched. You later identified him as Joe Wilson, who lives in the apartment with his mother. No firearms were found on Joe.
- You and the other police officers searched the apartment. You found a gun under the couch. When Joe saw you find the gun he yelled out that it wasn't his and that he had never seen it before. He said there had been lots of people at the apartment for a party, and someone must have put the gun there
- The gun was not loaded. You put it into a bag and marked it as evidence. Later you took it to the police station.
- You interviewed Joe's neighbour Mike Bourke, who had made the 911 call. He told you what had happened and confirmed which apartment the party was in.

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## CONSTABLE ESPERANZA GOMEZ, CROWN WITNESS

- You took Joe to the police station and charged him with unlawful possession of a firearm, and with pointing a firearm at Mike Bourke.
- Joe looked scared and wouldn't answer any more questions other than his name and address. All he would say was that the gun wasn't his.
- Joe spent the night in custody and was released on bail the next day.
- You had the gun tested and there were no identifiable fingerprints on it.

### QUESTIONS YOU SHOULD THINK ABOUT WHEN PREPARING:

What reason did you have for arresting Joe?

Is it clear that Joe possessed the firearm?

Is Mike Bourke able to identify Joe as a person who had a gun?

Why do you think Joe didn't answer questions at the Police Station?

Have you been to other gun-related incidents in this neighbourhood?

Does this neighbourhood have a gun problem?



## MIKE BOURKE, CROWN WITNESS

### Your background:

- Your name is Mike Bourke
- You are 36 years old
- You live in an apartment down the hall from Joe Wilson and his mother
- You work as a taxi driver

### Your version of what happened:

- You moved into the building at Pape & Danforth on April 28, 20\*\*. You live alone.
- On May 6 you got home from work at 9:00 PM. You were starting work again at 6:00 AM, and needed some sleep.
- When you arrived home you noticed a party in an apartment down the hall. Over the next three hours it got louder and louder.
- At midnight you went and knocked on the apartment door. Someone opened the door and you saw a room full of young people. They were drinking and dancing and there was lots of shouting.
- You asked for the music to be turned down. The person who answered the door left to get the person who lived there.
- The young people by the door started yelling at you, telling you to get lost and that the music was going to stay on.
- Another youth joined the group. You recognized him as someone you had seen in the building maybe once or twice since you moved in. You hadn't met him before, but you now know him as Joe Wilson.

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**MIKE BOURKE, CROWN WITNESS**

- He joined in with the people yelling at you. He asked what your problem was and you asked again for the music to be turned off. He refused.
- You told him that you would get his family kicked out of the building. When you said that, the youth got even angrier and started moving toward you.
- One of the young people pulled out a gun and pointed it at your face. Then other guns were pulled out by other youth. You are sure that you saw Joe with a gun.
- You ran off down the hallway. Suddenly two gunshots went off. You ran into your apartment and called the police. You were not injured.
- The police arrived and interviewed you.

**QUESTIONS YOU SHOULD THINK ABOUT WHEN PREPARING:**

Why did you ask for the music to be turned off?

How often had you seen/met Joe Wilson before the incident?

Why did you yell at the partygoers?

Did you see which people actually held the guns?

How did you feel when the guns were pointed at you?

How quickly did everything happen?

What do you hope happens to Joe?

Is this considered a dangerous neighbourhood? Do you feel safe in your building?

Was there anything else about the evening that was confusing or out of the ordinary? For example, were you very tired?

WITNESS  
INFORMATION