

CRIMINAL LAW  
CRJU 321  
SPRING, 2008  
M,W,F 1:25-2:15 p.m.  
CURRELL COLLEGE, ROOM 107

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Office Hours: Monday, 9am through 12 noon; Wednesday, 9am through 12 noon;  
Thursday, 8am through 9:15am; Friday, 12noon through 1:15pm,  
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Text: Samaha, Joel, Criminal Law (9<sup>th</sup> edition), (Wadsworth, 2008)  
You MUST have the 9<sup>th</sup> edition!!!

Note: Students WILL receive handouts and/or additional readings/cases posted on Blackboard. All such handouts and/or posted readings/cases will contain information that is pertinent to the class and students will be responsible for any such information on the exams.

**COURSE DESCRIPTION:**

The study of criminal law involves the study of the behavior that society has deemed to be unacceptable and worthy of punishment. Such study often involves coverage of the elements of each crime (i.e. what are the requirements of murder, robbery, theft, etc.). More than this, however, it also requires consideration of why certain behavior/activities rise to the level of criminality, and why others do not.

To this end, the goal of this course is to seek answers to two primary questions. First, given a particular set of circumstances, can we convict a person of a crime, and potentially more important, should we? The second question is also twofold: 1) even if the elements of the crime are met, should we convict that particular individual?; and 2) should that behavior be considered criminal in the first place?

The primary objective of this course is to introduce students to the many issues surrounding the field of criminal law...NOT to turn you into criminal attorneys. These issues are important and relevant to any member of society, regardless of the field or occupation you pursue after college. Criminal law, as much as anything else, is about who we are as a society, and the rules that we, as a society, choose to live under.

## **CLASS CONDUCT:**

This is going to be an interactive class. Your participation is expected and required. It is imperative that you arrive at class on time, and prepared. Respect for opinions voiced in class is essential, and I expect all students to treat each other courteously. Any type of disruptive or discourteous behavior is unacceptable and will not be tolerated; these types of behaviors will result in the student(s) being asked to leave the class.

## **ACADEMIC INTEGRITY:**

In order to promote an atmosphere conducive to learning, this class will adhere to the principles espoused in the Carolina Creed, USC Student Handbook and Policy Guidelines. Plagiarism or cheating of any kind will NOT be tolerated and will result in failing the course and other disciplinary action.

## **EXAMS**

There will be three exams in this class (including the final). Each exam will be worth 100 points (for a total of 300 points). Exams will be some combination of multiple choice questions, short answers and/or essay. Parts of the exam will likely be based on a scenario. The exams will NOT be SCANTRON, you will need to bring a new blue book for each exam. You must use a blue or a black pen for all exams (failure to do so will result in a reduction of your exam grade).

All of the exams will be cumulative (criminal law builds, so knowing items from the beginning of the semester is vital to understanding what we are talking about later in the semester).

All exams are CLOSED book, but OPEN notes. However, other than items that I have provided to you, you may NOT bring photocopies of any sort to the exam. This means that you may not photocopy any portion of the book, nor may you photocopy another student's notes from the class. You may, however, write out any portion of the book for your notes, and you may copy other students' notes (with their permission) for purpose of the exams.

All exams are mandatory and must be completed by all students. All students are expected to take the exam on the date and time that it is scheduled. Make-up exams may be given ONLY if there is a documented, unavoidable personal circumstance beyond the control of the student, such as a medical emergency. **You must contact the instructor or the main office 24 hours prior to the scheduled exam if circumstances prevent you from taking exams at scheduled times. Still, I reserve the right to give, or not give, a make-up exam.**

## **ATTENDANCE AND PARTICIPATION:**

Class attendance is **REQUIRED**. Beginning on Wednesday, January 23<sup>rd</sup>, I will have an attendance sheet which each student must sign. You are allowed to have three absences without penalty. However, each absence, after three, will result in a 2 point deduction from your final grade.

In addition, I will randomly call on students during class to discuss concepts and cases. Class participation is also a requirement. Participation is worth 50 points in class. If you are not in class on a day when you are called, it may adversely affect your participation grade (however, if you know in advance that you are going to miss a class and let me know ahead of time, I will **NOT** call on you during that class).

Whenever you are called on, or volunteer to answer a question, please begin by stating your **FULL NAME** so that I can, first, learn all of your names and, second, credit those students who have participated in class.

## **CASE BRIEF ASSIGNMENTS:**

Each student is required to keep a notebook of case briefs for this class. Below, I will give a complete description of how to brief a case. Briefing the cases as we are going through the course is the absolute best way for you to gain a full understanding of the issues and intricacies of the elements of the crimes that we will be discussing. It is also a very good tool for discussing the cases and issues presented in them.

I will be collecting your case brief notebooks three different times during the semester and grading them. Each section will be worth up to 50 points (for a total of 150). **CASE BRIEFS MUST BE TYPED.**

I will post, each week, on Blackboard, what cases you are required to brief. However, it is in your best interest to brief **all** of the cases that are in the text.

## **Instructions for Case Briefs:**

1. Format each case brief as illustrated in the example I provide;
2. See your textbook (pp. 39-40) for definitions of the sections of a case brief and additional important information related to briefing cases **BUT** follow the layout as presented in my example;
3. All cases that are briefed should be read in full (i.e., you need to find the **COMPLETE** case; do **NOT** brief the excerpt that is given in the textbook!);
4. Lexis-Nexis Academic and other legal internet websites will provide you with the full cases.

## Directions for finding/using Lexis-Nexis Academic

1. Either go to the library, or using the internet connect with the USC library;
2. Under “Research Tools” click on “Article Databases & Indexes;”
3. Click on the “L” in the alphabet, and then click on LexisNexis Academic;
4. Once there, you can search for the criminal law cases in a variety of ways (i.e., by parties, by citation, etc.). Make sure that you have chosen the proper timeframe to make sure that you get the case that you are looking for.

## Case Brief Format:

Following is an example of how you need to format the case briefs that you prepare:

Name of the Case  
Citation

Vote:

Author(s):

Concurrences: if applicable, (please list)

Dissents: if applicable, (please list)

Facts:

This should be approximately 1-2 paragraphs that contain the facts of the case including information about the defendant and the path the case took before being heard by the appellate court.

Issue:

This explains the overall issue being examined by the court and its relevance to our modern penal code or criminal justice process. There are times when there is more than one issue. When that is the case, please use separate paragraphs to identify and discuss the separate issues.

Court:

Name of the court (i.e., Minnesota Court of Appeals, U.S. Supreme Court).

Court Decision:

*Affirmed, Reversed, Affirmed in part and Reversed in part, or Reversed and Remanded*

Reasoning:

An explanation of the reason(s) the court decided this case in the manner that they did.

Case Significance:

Why did the court examine this case and how did its outcome affect our system or the laws involved.

Concurrences:

You only add this section if a concurrence was published. Make sure to include the Judge/Justice who authored it, and make sure to separate each individual publishing a concurrence.

Dissents:

You only add this section if a dissent was published. Make sure to include the Judge/Justice who authored it, and make sure to separate each individual publishing a dissent.

Comments:

A one or two paragraph section explaining your personal thoughts about this case. How would you have ruled in this appeal were you the judge?

**Sample Case Brief**

Garnett v. State  
332 Md. 571, 632 A.2d 797

Vote: 6-2  
Author(s): Chief Justice Murphy  
Concurrences: N/A  
Dissents: Judge Eldridge; Judge Bell

Facts:

Raymond Garnett was a 20 year-old mildly retarded man. He was described as reading on a third-grade level and socially interacted at school with others on the level of an 11 or 12 year old. He was introduced by a friend to Erica Frazier, then age 13, in November of December of 1990. They talked occasionally by telephone. On February 28, 1991, at about 9:00 p.m. Raymond stopped by Erica's house apparently to use the phone to call for a ride home. She opened her bedroom window and, according to Raymond, "she just told me to get a ladder and climb up to her window." He did. The two talked and later had sex. Raymond left about 4:30 a.m. Erica gave birth to a baby on November 19, 1991. Raymond is the baby's father.

Raymond was tried and convicted of second degree rape. In Maryland, this means that “sexual intercourse between a person under 14 years old and another person at least four years older than the complainant. At the trial the defense gave evidence that both Erica and her friends had told Raymond that she was sixteen, and that he had acted with that belief. The trial court said the evidence was immaterial because, “[i]t is in the Court’s opinion a strict liability offense.” The court sentenced Raymond to 5 years in prison, suspended the sentence and imposed 5 years of probation and ordered Raymond to pay restitution to Erica and her family.

Issue:

The issue is should an explicit mens rea (level of mental intent) be required of strict liability offenses.

Raymond based his appeal on the meaning of the criminal law, that it “exists to assess and punish morally culpable behavior.” He stated that such culpability or blameworthiness is absent in this case. He asked the Court to add onto the law an implicit mens rea requirement. He said that it was unjust, under the circumstances of this case which led him to believe that his conduct was lawful.

Court: Court of Appeals of Maryland

Court Decision: Affirmed

Reasoning:

Chief Justice Murphy’s reasoning is that although many states, for good reasons, have introduced a mens rea element into their statutory rape laws, the way Maryland’s law was written makes it clear that the legislature purposefully did not allow mens rea, in the form of mistake of age, to be a factor in deciding culpability. He thinks it is therefore the job of the legislature to amend the law and that it would be inappropriate for the courts to do it. This means that defendants in extraordinary cases, like Raymond, “will need to rely upon the tempering discretion of the trial court...” He also states several reasons why he thinks the legislature intended that statutory rape be regarded as a strict liability offense.

Chief Justice Murphy stated that this is a strict liability offense and that the way the law is written means that it should be interpreted (by citizens and the courts) as such and should include Raymond. Furthermore, that it remains the legislature’s job to rewrite the law to cover situations such as Raymond’s. However, he also stated that the trial court would need to use discretion in similar situations. Since the Court of Appeal’s of Maryland affirmed Raymond’s conviction, it can be inferred that the Court felt that Raymond’s sentence (suspended prison, 5 years probation, and restitution) was a reasonable out come although the law failed to address this specific situation.

Case Significance:

Strict criminal liability elements and punishments associated with strict liability offenses do not have to be applied by the court as strictly as it appears if unusual circumstances warrant it. Also, strong holding that legislatures, not courts, should amend laws.

Concurrences: N/A (not applicable OR none given)

Dissents: Judge Eldridge  
Judge Bell

Judge Eldridge's opinion is that although the majority (the rest of the Court of Appeals, except Bell) considers this a strict liability offense, he does not see it as that limited. He states that although "an ordinary defendant's" mistake about the age of the sexual partner is not a defense, this does not mean that the statute contains no mens rea requirement at all. He disagrees with Chief Justice Murphy's assertion that the legislature intended that the law would "impose criminal liability regardless of the defendant's state of mind." He contends that although an ordinary person would be expected to at least be aware of a risk that the younger person is not above consent, "there is no indication" that the legislature intended that awareness of risk would apply equally to someone with mental impairment.

Judge Bell also dissented. He stated that he does not believe that the General Assembly can *in every case* subject a defendant to strict liability. He states that to interpret so strictly this subsection of the statutory rape law to mean that the state is not required to prove that the defendant possesses the necessary mental state to commit the crime "offends a principle of justice...inconsistent with due process."

In short, the two judges stated that this (statutory rape) is a strict liability offense for *most* individuals, except someone like Raymond who is mentally impaired and that the law should not be so strictly interpreted as to not make an exception in a case such as this.

Comments:

It was fascinating to see Judge Eldridge and Chief Justice Murphy both cite the same sentences in the criminal statute as evidence in support of their opposing positions. Maryland's statutory rape law makes it possible for a minor to be convicted of statutory rape. Since the law does not state that the perpetrator must be 18 years old, only that the perpetrator is four or more years older than the victim and the victim is under 14 years old, the law would apply to a 17 year-old perpetrator and a 13 year-old victim.

It is also interesting that Judge Murphy spent little to no time talking about the reasonable belief of age defense which has been used in some other states. Overall, I would likely decide the case more like Judge Eldridge than Chief Justice Murphy.

## **GRADING:**

There are 500 total points available in this class (300 for exams, 150 for case brief assignments, and 50 for participation). There will be NO EXTRA CREDIT available for any student. Grades will be as follows:

A	=	450-500 points
B+	=	425-449 points
B	=	400-424 points
C+	=	375-399 points
C	=	350-374 points
D	=	320-349 points
F	=	319 or fewer points

I do NOT round numbers. If you end up with 449 points, that is a B+, not an A. If you end up with 319 points, that is an F, not a D.

## **ASSIGNMENT AND EXAM SCHEDULES**

Following is the schedule for when your case briefs will be due as well as the dates of your exams. For your case briefs, as stated earlier, I will post each week which cases must be briefed. I will also give you a reminder a week before they are due as to what briefs are required to be in the notebook you turn into me.

The exams will be on the dates listed below. I will inform you, by e-mail and in class, at least one week prior to the exams which chapters/readings will be included in the exams.

### **EXAMS**

#1 WEDNESDAY, 02/20/08  
#2 WEDNESDAY, 03/26/08  
#3 [FINAL] TUESDAY, 05/06/08 @2PM

### **CASE BRIEFS**

#1 FRIDAY, 02/22/08  
#2 FRIDAY, 03/28/08  
#3 WEDNESDAY, 04/23/08

The final exam is scheduled by the University and I cannot change the date or the time.

## TENTATIVE SCHEDULE

This is a TENTATIVE schedule and is subject to change as the semester progresses. Any changes made will be announced in class and posted on Blackboard.

Week 1 [1/14-1/18]: INTRODUCTION and CHAPTER 1  
Week 2 [1/21-1/25]: CHAPTERS 1&2  
Week 3 [1/28-2/1]: CHAPTERS 2&3  
Week 4 [2/4-2/9]: CHAPTERS 3&4  
Week 5 [2/11-2/15]: CHAPTER 4 AND BEGIN REVIEW  
Week 6 [2/18-2/22]: REVIEW, EXAM #1; BEGIN CHAPTER 5  
Week 7 [2/25-2/29]: CHAPTERS 5&6  
Week 8 [3/3-3/7]: CHAPTERS 6&7  
SPRING BREAK  
Week 9 [3/17-3/21]: CHAPTER 8  
Week 10 [3/24-3/28]: REVIEW, EXAM #2, BEGIN CHAPTER 9  
Week 11 [3/31-4/4]: CHAPTERS 9&10  
Week 12 [4/7-4/11]: CHAPTERS 10&11  
Week 13 [4/14-4/18]: CHAPTERS 11&12  
Week 14 [4/28] REVIEW FOR FINAL

Again, it is imperative that you have the 9<sup>th</sup> edition of your textbook. There are cases in this text which do NOT appear in prior editions, and there have been some changes to the laws from previous editions.

The Chapters from the 9<sup>th</sup> edition are as follows:

- #1 The Nature and Limits of Criminal Law in U.S. Society
- #2 Constitutional Limits on Criminal Law
- #3 The General Principles of Criminal Liability: Actus Reus
- #4 The General Principles of Criminal Liability: Mens Rea, Concurrence, and Causation
- #5 Defenses to Criminal Liability: Justifications
- #6 Defenses to Criminal Liability: Excuse
- #7 Parties to Crime and Vicarious Liability
- #8 Inchoate Crimes: Attempt, Conspiracy and Solicitation
- #9 Crimes Against Persons I: Criminal Homicide
- #10 Crimes Against Persons II: Criminal Sexual Conduct, Bodily Injury, and Personal Restraint
- #11 Crimes Against Property
- #12 Crimes Against Public Order and Morals
- #13 Crimes Against the State