

## CRIMINAL LAW

### SAMPLE EXAM QUESTION

#### UNIVERSITY OF DAYTON

BARNEY FIFE WORKED FOR THE SHERIFF OF MAYBERRY, ANDY TAYLOR. AS YOU WELL REMEMBER, THE SHERIFF HAD A SON NAMED OPEY (BETTER KNOWN AS DOPEY OPEY). BARNEY HAD NOT QUITE YET GROWN UP COMPLETELY AND SOMETIMES PLAYED GAMES WITH OPEY, WHO WAS NOT GROWN UP AT ALL AND WAS A CHILD.

ONE DAY THE TWO WERE PLAYING CARS AND TRUCKS OUT BEHIND THE JAIL IN MAYBERRY. OPEY BROUGHT HIS TOYS KNOWN AS "POCKET CARS" AND THE TWO PLAYED FOR MANY HOURS SINCE THERE WAS NOT MUCH CRIME IN MAYBERRY AT THAT TIME OF YEAR. AS WAS THE CASE, SOME OF THE PLAYING INVOLVED PUTTING THE TOY CARS IN THE POCKETS OF THE PLAYERS, THIS WAS THE WAY THE TWO PLAYED THE GAME; SOMETIMES THE CARS WERE IN BARNEY'S POCKET AND SOMETIMES THEY WERE PLACED IN THE POCKET OF OPEY, AT THE END OF THEIR PLAYTIME, THE CARS WERE PACKED AWAY IN THE BOX WHICH OPEY HAD BROUGHT, UNKNOWN TO BARNEY ONE OF THE CARS REMAINED IN HIS POCKET AFTER THEY HAD QUIT THEIR GAME.

LATER THAT NIGHT, WHEN BARNEY WAS GETTING READY TO GO OUT WITH THELMA LOU, HE NOTICED THAT HE STILL HAD ONE OF OPEY'S TOY CARS IN HIS POCKET. BARNEY FIGURED THAT SINCE HE AND OPEY WOULD BE PLAYING LATER IN THE WEEK, THAT HE SHOULD JUST KEEP THE CAR UNTIL THEN. OPEY CAUGHT CHICKEN POX AND HAD TO BE QUARANTINED FOR SEVERAL WEEKS. IN THE INTERVAL, HIS MOTHER WON CUSTODY OF OPEY IN HER SUIT AGAINST ANDY TAYLOR AND OPEY WENT TO LIVE IN MOUNT PILOT, A NEARBY TOWN. BARNEY THOUGHT THAT HE SHOULD KEEP THE CAR UNTIL OPEY CAME TO VISIT THE NEXT SUMMER.

AS LUCK WOULD HAVE IT, OPEY NEVER CAME BACK TO VISIT AND ONE DAY BARNEY DECIDED TO JUST KEEP THE CAR AS A MEMENTO OF HIS RELATIONSHIP WITH OPEY.

A GUNG-HO PROSECUTOR, GOT WIND OF THIS TERRIBLE CRIME AND SOUGHT AND RECEIVED AN INDICTMENT AGAINST BARNEY FIFE FOR LARCENY OF THE TOY CAR. A JURY IN MAYBERRY CONVICTED BARNEY OF LARCENY OF THE CAR, BASED ON THE ABOVE FACTS.

**Question: SHOULD BARNEY HAVE BEEN CONVICTED OF LARCENY OF THE TOY CAR?**

**IN YOUR ANSWER, YOU SHOULD INCLUDE THE DEFINITION OF COMMON LAW LARCENY, SHOW WHETHER EACH ELEMENT WAS PRESENT OR WHY IT WAS NOT PRESENT, RELATE THE FACTS OF THE CASE TO EACH ELEMENT OF LARCENY, AND COME TO A DEFINITE CONCLUSION CONCERNING GUILT OR INNOCENCE OF BARNEY FIFE (WRITE AS IF YOU ARE ANSWERING THIS QUESTION TO EXPLAIN THIS CASE TO A PERSON WHO HAS NO KNOWLEDGE OF THE CRIME OF LARCENY.)**