

State of Utah v. George Howard
Mock Trial Scenario

Stolen Property

Utah Law: “A person commits theft if he receives, retains, or disposes of the property of another knowing that it has been stolen, or believing that it probably has been stolen, or who conceals, sells, withholds or aids in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of it.”
It is a second-degree felony to receive a stolen vehicle.

Scenario: Like most high school students, George Howard is looking for a nice car that, in addition to getting him to and from school and work, will hopefully improve his popularity. He is a senior in high school. He has been fascinated by cars all his life and knows a lot about them. He reads many car magazines and works on cars in his spare time.

George has just sold his old car and is looking for a good deal on a used car. He needs a car to get him to school (no senior wants to be stuck riding the bus) and to his part-time job. In addition, he hopes to find a nice car to impress his girlfriend. One day, at a local fast food restaurant, George is talking about cars with his friends. He mentions the types of cars that interest him. As he is leaving to go home, a man who overheard the conversation stops George and says that he might have a car for him. It's George's dream car. The man introduces himself as Bill Smith. He is well dressed and looks respectable. Mr. Smith gives George his number and an address where the car is located. Although he is not sure that he can afford it, the next day, George takes a look at the car; it is exactly what he wanted. Mr. Smith said that he is asking only \$2,500 for it. He also says he realizes the price is low, it being a new car and all, but his wife and he had recently had some financial difficulties. Mr. Smith states that he bought the car with cash just six months ago but because of his financial reversals needs to sell it for whatever he can get. George has about \$3,000 saved up from his job and the sale of his old car. He also knows that the blue-book value on this car is at least \$23,000. George takes a quick look at the car and determines that there is nothing wrong with it. It is an offer he simply cannot refuse.

George cannot believe his luck, but he has a feeling that there is something suspicious about this deal. Things just seem too good to be true. In the back of his mind, George wonders if the car might be stolen. However, it is so nice and he knows his girlfriend will love it. Against his better judgment, he decides to buy it. After all, he knows that few stolen cars are ever recovered. George tells Mr. Smith that he'll take it.

Mr. Smith gives him papers that appear to be registration papers and signs the car over to him. George gives Mr. Smith the \$2,500 and drives away. Nevertheless, in the back of his mind, George has some reservations about what he has done. He knows that it is illegal to receive stolen property and, knowing what he knows about cars, he has strong suspicions that this car may have been stolen.

That night, George shows the car to his girlfriend and the two go to the movies to celebrate. Two weeks later, they do the same thing. Trying to impress her, George speeds down the road. They are clocked by a state trooper as doing 80 in a 55 mile-per-hour zone and are pulled over. When the officer approaches the car, he looks at it suspiciously. He types something in on his computer. At this point, George begins to fidget in his seat. He wonders if the car really is stolen and if the police know that it is. The next minute, the officer asks George to come to the police barracks for some questioning.

Originally, the police think that George stole the car. Later, they realize that he did not. However, they begin to consider charging him with receiving stolen property. He is informed that the District Attorney's Office is opening an investigation into this matter. George is then released to the custody of his parents; he has yet to be charged with any crime.

George learns that Mr. Smith was the alias of a well-known car thief named Robert Sanders. Sanders was arrested hours after George had bought the car from him. In hopes of receiving a milder sentence, he confessed to stealing many cars and selling them. The car that George bought was one such car. In fact, George's car was one that Sanders admitted to stealing. Later, George finds out that District Attorney's Office is initiating criminal proceedings against George for receiving stolen property. George's car is confiscated and he finds that he could be facing a \$10,000 fine and up to 15 years in prison.

State of Utah v. George Howard
Receiving Stolen Property

Characters

- (1) *The Judge*
- (2) *The Court Clerk*
- (3&4) *The Prosecutor*
- (5&6) *Defense Counsel*
- (7) *Michael Clark* (Prosecution witness; former friend of George Howard)
- (8) *Robert Sanders* (Prosecution witness; car thief George Howard bought his car from)
- (9) *Officer Thomas Jones* (Prosecution witness; state trooper who stopped George Howard)
- (10) *George Howard* (Defense witness; accused of receiving stolen property)
- (11) *Susan Smith* (Defense witness; George Howard's ex-girlfriend)
- (12) *Bailiff* (Job is to keep order in the courtroom)
- (13) *Jurors-8*

Script

Baliff: All rise. The Third District Court is now in session, the Honorable Christine Durham presiding.

Judge: Please be seated. Is counsel ready to proceed with the opening arguments?

The Prosecutor rises and goes to the lectern.

Prosecutor: Yes, Your Honor. Ladies and gentlemen of the jury, the State intends to prove that the defendant, George Howard, did buy a car, which he, in fact, knew to be stolen in violation of Utah law. The law makes it illegal to purchase any motor vehicle that has been stolen and which one, in fact, knows to have been stolen. The State intends to prove that the extremely low price of the car; the questionable nature of the registration papers given to the Defendant at the time of the car's purchase; and the fact that the Defendant is very knowledgeable about cars demonstrates that he should have and, in fact, did know that the car he purchased was stolen. The Defense will, no doubt, argue that there was no way that the Defendant could have known that the car was stolen. However, I assure you that the facts of the case will bear a different interpretation. The State will present testimony that will indicate the Defendant has the necessary information to know that the car was stolen. At the conclusion of this trial, I will ask you to return a verdict of guilty as charged. Thank you.

The Prosecutor sits down at counsel table

Judge: Does the Defense wish to make an opening statement at this time?

The Defense Attorney rises and proceeds to the lectern.

Defense: Thank you, your Honor. The Defense does wish to make an opening statement. Ladies and Gentlemen of the jury, what the State is attempting to do here today is nothing less than shameful. The State says that my client is guilty of receiving stolen property. The State says that since my client is knowledgeable about cars, he should know if a car is stolen. The State says that he should have the ability to tell when a document is forged. Furthermore, the State says that, when he fails to do these things, my client should be treated as a criminal. The evidence will show that my client had no way of knowing the car he purchased was, in fact, stolen. We will show that the person he purchased the car from was a career criminal who conned my client into thinking that he was entering into a perfectly legal transaction. Make no mistake, ladies and gentlemen of the jury, the only thing that my client is guilty of is getting a good deal on a car, and, as far as I know, that is not against the law. At the conclusion of this trial, I will ask you to return the only just verdict; that being not guilty. Thank you.

The Defense Attorney sits down.

Judge: The State may call its first witness.

The Prosecutor makes his/her way to the lectern.

Prosecutor: Your Honor, the State calls Michael Clark to the stand.

Michael Clark comes forward and stands near the witness box as the Court Clerk stands and raises his/her right hand to administer the oath.

Court Clerk: Do you swear to tell the truth, the whole truth, and nothing but the truth. So help you God?

M. Clark: I do.

Judge: Please be seated.

Michael Clark sits in the witness box. The Court Clerk sits down.

Prosecutor: Please state your full name for the record.

M. Clark: Michael Clark.

Prosecutor: What is your occupation?

M. Clark: I'm a senior at Salt Lake High School. I also have a part time job. On the weekends and during the summer I get paid to do some work on cars for a local mechanic.

Prosecutor: Do you know the Defendant?

M. Clark: Yes, we were good friends.

Prosecutor: Has the Defendant ever worked on any cars with you?

M. Clark: Yes. Actually, we've put together our money in the past, bought some old cars, fixed them up, and sold them. We've made some good money, you know, for high school students working part time.

Prosecutor: During the time you two were putting together your money to buy, fix up, and sell cars for profit, did the defendant ever decide not to purchase a certain car?

M. Clark: Yes. There were actually two such times.

Prosecutor: Why did he refuse to buy these cars?

M. Clark: Well, George basically told me that he thought the cars were stolen. He said the prices were way too low. He said the sellers seemed shady and other stuff about the sale just didn't seem right. For example, with one car, the seller could not find the registration papers but wanted to sell it anyway. That made George suspicious and he wouldn't go through with the deal. In general, I say he knows more about cars than I do so I didn't push it.

Prosecutor: Do you know if the defendant was correct about any of his speculations about the cars being stolen?

M. Clark: Yes, within a week of the two sales, the local paper reported that the cars were stolen and that the sellers were arrested for grand theft auto or something like that.

Prosecutor: Why was the defendant so worried about not buying the cars he thought might have been stolen?

M. Clark: He kept telling me that it was illegal to buy cars when you know they're stolen. If

he hadn't told me, I would have done the deal anyway because I didn't know about the law and I thought we were passing up a good thing. As it turned out, I'm glad I listened to him.

Prosecutor: One last thing, Mr. Clark. Would you please read to the Court the following lines from the agreement of stipulated facts which both the Prosecution and Defense agreed to?

M. Clark: Certainly:
"It is agreed that on April 1, 2007, the defendant, George Howard, purchased a 2005 Mustang convertible for \$2,500 from Mr. Robert Sanders, alias Mr. William (Bill) Smith. It is further agreed that the blue book value of the car in question was at least \$23,000 at the time of the sale and that the Defendant, George Howard, knew the approximate blue book value of the car before purchasing it. The Defendant did not do any online research or seek other information to determine the car's history."

Prosecutor: Mr. Clark, would you say that the Defendant's behavior in this case was different from his actions in past transactions involving cars that the two of you purchased together?

M. Clark: Yes.

Prosecutor: Why?

M. Clark: The difference in the prices, the fact that he never checked the car's history. I mean, in the past, he always tried to make sure that a car wasn't stolen. This time he kind of looked the other way. He must have known it was stolen.

Defense: Objection, Your Honor! Speculation. The witness could not possibly have
(*Standing*) known what was in my client's head.

Judge: Sustained. The jury will disregard the witness's last statement.

Prosecutor: No further questions Your Honor.

The Prosecutor sits down at counsel table as the Defense Attorney rises and walks to the lectern.

Judge: Defense do you wish to cross examine the witness?

Defense: Yes, thank you, Your Honor. Mr. Clark, you are not a certified mechanic are you?

M. Clark: No.

Defense: You said that you and George were good friends. Are you still?

M. Clark: We were pretty ticked off at each other a few months back, if that is what you are getting at.

Defense: What was the nature of that falling out?

M. Clark: As I said, we put our money together to buy, fix up, and then sell cars to make money. A few of the cars George suggested I buy didn't make us any money. In fact, we lost quite a bit. I had saved up some money to buy a car I really wanted. The deal fell through when we kept losing money.

Defense: How much did you lose?

M. Clark: About \$3,000.

Defense: Why do you blame George?

M. Clark: I didn't want to buy these cars. They had been totaled, but he insisted. He's the reason I lost my money.

Defense. So, you're still pretty angry with him, aren't you?

M. Clark: Yes.

Defense: Angry enough to try to send him to jail?

Prosecution: Objection! Argumentative.
(*Standing*)

Defense: Withdrawn. No further questions your Honor.

The Defense Attorney sits down and the Prosecutor goes to the lectern.

Judge: Does the Prosecution wish to redirect?

Prosecution: Yes, Your Honor. Mr. Clark, do your personal feelings toward the Defendant have anything to do with your testimony in this case?

M. Clark: No.

Prosecution: Are you trying to get Mr. Howard in trouble and humiliate him in the community because you blame him for the fact that you lost \$3,000 and the chance to buy a car you really wanted? If you can't have the car you want, neither can he? Is that it?

M. Clark: Absolutely not. I mean, I'm mad at him but I wouldn't sink that low. Anyway, the blame is mine, too, for losing the money. I went along with him. I didn't have to.

Prosecutor: Why are you here testifying today?

M. Clark: I received a subpoena telling me that I had to or I could go to jail.

Prosecutor: No further questions.

The Prosecutor sits down.

Judge: Re-cross?

The Defense Attorney goes to the lectern.

Defense: Thank you, Your Honor. I just have one question. Mr. Clark, you realize that a subpoena requires you to appear in Court to tell the truth, not what the State wants you to say, right?

Prosecution: Objection!
(*Standing*)

Defense: Withdrawn.

Judge: Defense counsel will refrain from any other such comments in the future. Mr. Clark, you may step down. Does the State have any other witnesses it wishes to call?

Michael Clark steps down from the witness stand and walks to the back of the courtroom.

Prosecution: Yes, Your Honor. The State wishes to call Mr. Robert Sanders. (Bailiff brings in from holding cell.)

Robert Sanders proceeds to and stands before the clerk.. The Court Clerk raises his/her right hand to administer the oath.

Court Clerk: Do you swear to tell the truth, the whole truth, and nothing but the truth so help

you God?

R. Sanders: I do.

Judge: You may be seated.

Robert Sanders sits in the witness box and the bailiff remains by his side.

Prosecution: Would you please state your full name for the record?

R. Sanders: Robert Sanders.

Prosecution: Where do you currently reside, sir?

R. Sanders: I am currently incarcerated in the state prison.

Prosecution: What was your crime?

R. Sanders: I stole some cars and then sold them to various people. I've been charged with five counts of auto theft and three counts of selling stolen property.

Prosecution: Have you entered a plea on those charges?

R. Sanders: Yes, I've pleaded guilty.

Prosecution: Is that guilty plea pursuant to an agreement with the State?

R. Sanders: Yes.

Prosecution: As part of your guilty plea are you expected to testify against the Defendant?

R. Sanders: Yes.

Prosecution: Has the State made any promises in exchange for your testimony?

R. Sanders: The State promised to ask the Judge for a reduced sentence.

Prosecution: Have you ever seen the Defendant before (pointing to George)?

R. Sanders: Yes, I sold a car to him.

Prosecution: Let the record reflect that the witness pointed to the Defendant.

Judge: The record will so reflect.

Prosecution: Mr. Sanders, did you have an alias when you sold the car to the Defendant?

R. Sanders: Yes

Prosecution: What was that?

R. Sanders: Bill Smith.

Prosecution: Was the car in question one that you stole?

R. Sanders: It was. I stole it from the Ken Garff lot. From what I heard a few cars had been stolen from the lot lately so the cops were attempting a sting to get them all back. I thought I'd better unload the car as fast as I could. I overheard George one day in a restaurant describe his dream car—the one I had—so I decided this was a good chance to get rid of it. He took the bait.

Prosecution: Took the bait?

R. Sanders: Bought it.

Prosecution: Did you ever hear the Defendant say anything that gave you the impression that he knew the car was stolen?

Defense: Objection. Speculation.
(*Standing*)

Prosecution: I'd ask for a little leeway.

Judge: You can have a little. The objection is overruled. Mr. Sanders, you may answer the question.

R. Sanders: Well, I thought he was getting suspicious. When he came to see the car and I told him the price, he asked me something like, "There's nothing shady about this deal is there?" I thought he was on to something so I told him my wife and I recently had some financial difficulties so we needed to get rid of it as soon as possible. To put some pressure on him, I told him that I had another offer.

Prosecution: Anything else?

R. Sanders: Yeah, the registration. He really looked it over and seemed antsy about it.

Prosecution: Why do you say that?

R. Sanders: Well, I mean, I told him I had to give him a copy because I lost the original. It was rather crude and George asked me if anything was wrong with it. I said no and that was the end of it.

Prosecution: Did he say what he needed the car for?

R. Sanders: He said to get to school and work. Oh yeah, and something about a girlfriend. I think that last reason was why he wanted it so badly. He wanted to impress her.

Prosecution: Thank you. No further questions.

The Prosecutor sits down as the Defense Attorney rises and walks to the lectern.

Defense: Did my client ever directly ask you if the car were stolen?

R. Sanders: No.

Defense: You have recently pleaded guilty to five counts of auto theft and three counts of selling stolen property, have you not?

R. Sanders: Yes.

Defense: And you are currently waiting to be sentenced?

R. Sanders: Yes

Defense: So you're a criminal?

R. Sanders: That's not what my mother calls me.

Defense: And you've lied to people, such as my client? Part of how you sold your stolen property is by lying, correct?

R. Sanders: I think they call it spin.

Defense: So, are you lying here today?

R. Sanders: No.

Defense: How do we know?

R. Sanders: I'm under oath.

Defense: Of course. No further questions.

The Defense Attorney sits down as the Prosecutor proceeds to the lectern.

Prosecution: Does your plea agreement with the State require you to testify truthfully?

R. Sanders: Yes.

Prosecution: And if you don't?

R. Sanders: The State won't ask for a reduced sentence.

Prosecution: Thank you, Mr. Sanders. No further question.

Judge: Re-cross?

Defense: No, your Honor.
(Standing)

The Prosecutor sits down.

Judge: Very well. Mr. Sanders, you may step down.

Robert Sanders steps down from the witness stand and is returned to the holding cell.

Prosecution: The State would like to call Officer Thomas Jones to the stand.

Officer Jones proceeds to and stands before the clerk. The Court Clerk stands and raises hi/her right hand to administer the oath.

Court Clerk: Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

O. Jones: I do.

Judge: You may be seated.

Officer Jones sits in the witness box. The Court Clerk sits down.

Prosecution: Please state your name for the record.

O. Jones: Thomas Jones.

Prosecution: What is your occupation?

O. Jones: I am a sergeant with the Utah State Highway Patrol.

Prosecution: Have you ever seen the Defendant before (pointing to George)?

O. Jones: Yes

Prosecution: Where have you seen the Defendant?

O. Jones: On the night of April 22, 2007, he was in a vehicle going southbound on Highway 5. I was using my radar on the side of the road and clocked his car as doing 80 in a 55 mile-per-hour zone. I proceeded to pull him over.

Prosecution: What happened then?

O. Jones: I followed standard procedure and asked for his license and registration. When he handed me the registration, I became suspicious because it was a photocopy. I checked the information on it with a computer database in my patrol car and it reported that the Defendant's car was stolen. At that point I went back to the Defendant's car, informed him of the situation, and asked him to accompany me to the police barracks until this could be straightened out.

Prosecution: How did the Defendant respond?

O. Jones: Well, he accompanied me back to the police station but didn't say anything. His father was contacted and the father had his lawyer come to the station. After this, the Defendant began to talk. He said that he didn't steal anything and that he bought the car from a Mr. Bill Smith. He even produced the receipt. At this point, we decided to release the Defendant to the custody of his parents. I informed him that the District Attorney's Office may be opening an investigation to determine whether or not he would be charged with the offense of receiving stolen property.

Prosecution: What became of the investigation?

O. Jones: Apparently, the District Attorney investigated the matter and decided there was enough evidence to charge the Defendant with receiving stolen property. That was the last I heard of the matter before I was informed that I would be called to testify here today.

Prosecutor: Thank you Officer Jones, no further questions.

The Prosecution sits down as the Defense Attorney proceeds to the lectern.

Defense: Officer Jones, the Defendant, Mr. Howard, was never actually charged with any

crime while you were investigating this matter, was he?

O. Jones: No. He was being questioned. I believe the District Attorney's Office was the first to formally place him under arrest and charge him with committing a crime.

Defense: Thank you Officer Jones. No further questions.

The Defense Attorney sits down.

Judge: Re-direct?

Prosecution: No, Your Honor.
(Standing)

Judge: Very well, Officer Jones you may step down.

Officer Jones steps down from the witness stand and takes a seat in the courtroom.

Prosecution: Your Honor, the Prosecution rests.
(Standing)

Judge: Is the Defense ready to proceed?

The Defense Attorney approaches the lectern.

Defense: We would like to call Mr. George Howard to the stand.

The witness, George Howard, comes forward and stands in front of the clerk. The Court Clerk stands and raises his right hand to administer the oath.

Court Clerk: Do you swear to tell the truth, the whole truth, and nothing but the truth,
so help you God?

G. Howard: I do.

Judge: You may be seated.

George Howard sits in the witness box

Defense: Please state your name for the record.

G. Howard: George Howard.

Defense: Mr. Howard, would you say that you have a fairly good knowledge of

automobiles, how they work, and what they cost.

G. Howard: Yeah, I guess so.

Defense: In the past, you've had a fairly good track record of figuring out if cars were stolen or not, haven't you?

Prosecution: Objection. Defense counsel is leading the witness.
(*Standing*)

Judge: Sustained.

Defense: Sorry, your Honor. Are you aware that it is against the law to buy stolen property knowing that it is stolen?

G. Howard: Yes, that is why I didn't buy certain cars in the past when Mike and I were fixing them up. We could have made a lot of money because they were being sold so cheaply but I thought that something was not right. The prices were too low, the seller looked shady, and stuff like that.

Defense: Did you have any hesitations about buying the car that got you into this mess?

G. Howard: At first, yes.

Defense: Why?

G. Howard: Well, because of the price, at first I thought that either there was something really wrong with the car itself, bad transmission or something, or it may have been stolen. I mean the price was too good to be true. I thought I got lucky, but I guess not.

Defense: What changed your mind?

G. Howard: Well, Mr. Sanders, who I knew as Bill Smith, told me that his wife and he had some financial difficulties and needed to sell it right away. I felt guilty and kind of wanted to offer more to help him out but then I would have been short on cash myself. I felt bad but I really wanted it. Plus, he looked pretty straight and had the registration papers and stuff. He didn't seem shady like the two sellers I turned down. Those guys, I later found out through the paper, really did steal the cars.

Defense: The Prosecution made an issue about the registration papers. Was anything wrong with them?

G. Howard: Well, they were Xeroxed copies and they looked different from the registration

papers on my last car and most of the cars I've worked on lately. Mr. Sander's car was only six months old. I figured maybe these were new papers, or something. I haven't been to the Department of Motor Vehicles in a while and it's been two years since I bought my last car. I haven't worked on any cars that new, either.

Defense: Did you know that the car you purchased from Mr. Sanders was stolen?

G. Howard: No, I didn't. Like I said, at first, I had my suspicions that something may have been wrong with it but Mr. Sanders made me feel like everything was on the up-and-up. I would never buy something I knew was stolen. That's against the law and you can get arrested for it.

Defense: No further questions.

The Defense Attorney sits down and the Prosecutor proceeds to the lectern.

Prosecution: Mr. Howard, wasn't there another reason you wanted this car so badly?

G. Howard: I don't think I understand the question.

Prosecution: Weren't you trying to impress your girlfriend?

G. Howard: Doesn't every guy want a cool car?

Prosecution: Mr. Howard, you admitted that you thought that something wasn't quite right about this deal. Then, you seemed to convince yourself that everything was fine. Is it true that Mr. Sanders' explanations convinced you that the car was not stolen or is that what you wanted to believe? Truth is, you wanted this car to improve your social life and to impress your girlfriend, didn't you? You knew it was stolen but you had too much to lose to pass it up. You purposely looked the other way didn't you?!

Defense: Objection! The State is testifying for my client!
(*Standing*)

Judge: Sustained.

Prosecution: No further questions.

The Prosecutor returns to the counsel table and the Defense Attorney proceeds to the lectern.

Defense: In good faith, Mr. Howard, you believed the car not to be stolen, didn't you?

G. Howard: Yes! As I said, I wouldn't buy something that I knew was stolen.

Defense: No further questions.

The Defense Attorney returns to counsel table.

Judge: Re-cross?

Prosecution: No, Your Honor

Judge: Very well, the witness may be excused.

The witness, George Howard, leaves the witness stand and goes to the defense counsel's table.

Defense: The defense calls Ms. Susan Smith.

The witness, Ms. Susan Smith, comes forward and stands in front of the court clerk as the Court Clerk stands and raises his right hand to administer the oath.

Court Clerk: Do you swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

S. Smith: I do.

Judge: You may be seated.

Ms. Susan Smith sits in the witness box.

Defense: Please state your name for the record.

S. Smith: Susan Smith

Defense: What is your relationship to the Defendant?

S. Smith: I was his girlfriend.

Defense: Was?

S. Smith: Yes, after he was arrested, my Dad wouldn't let me see him anymore. He's still a good friend but, until this is cleared up, I can't see him.

Defense: Did George need to have a cool car to keep your interest?

S. Smith: No! I mean I liked it, but I'm not that shallow.

Defense: Did you ever tell George that he didn't need status symbols to impress you?

S. Smith: Yes.

Defense: So, there would be no reason why he felt under any obligation to get it, not even to impress you? He simply got a good deal?

Prosecution: Objection. Defense counsel is speculating and testifying.
(*Standing*)

Defense: Withdrawn. No further questions.

The Defense Attorney sits down.

Judge: Cross-examination?

Prosecution: No, Your Honor.
(*Standing*)

Judge: Very well, the witness is excused.

Ms. Susan Smith steps down from the witness stand and walks to her seat.

Defense: The Defense rests.
(*Standing*)

Prosecution: The State rests.
(*Standing*)

Judge: Are both sides ready to proceed to final arguments?

Prosecution: Yes, Your Honor.
(*Standing*)

Defense: Yes, Your Honor.
(*Standing*)

The Prosecutor proceeds to the lectern and faces the jury.

Prosecution: Ladies and gentlemen of the jury, the evidence has shown that the Defendant, Mr. George Howard, knew that the car he purchased from Mr. Robert Sanders, or Mr. William (Bill) Smith as he was known to the Defendant was, in fact, stolen. The Defendant contends that he did not know this. This is how the defendant wished

to construe the facts. However, when viewed objectively, the facts are clearly different from Mr. Howard's perspective on them.

The Defendant has been working on cars for years. He reads about them, works on them in his spare time, helps out a local mechanic, and even fixes up used ones and sells them for a profit. He didn't buy certain cars in the past because he thought they were stolen. They were suspiciously low priced and there were problems with the registration papers.

Ladies and gentlemen of the jury, these are the same facts that have been presented in this case. The Defendant bought a \$23,000 car for \$2,500. He acknowledged that he knew the blue book value. Mr. Sanders testified that the Defendant questioned him about the price difference and also about the registration papers. The Defendant would have us believe that Mr. Sanders' explanations reassured and convinced him that nothing was wrong with this transaction.

Are we to believe this? Is it probable that a young man so experienced in automobiles as the Defendant could have not known that something was wrong with this transaction? Ladies and gentlemen of the jury, the fact of the matter is this: the Defendant wanted this car to raise his social standing and to impress his girlfriend. He let this cloud his judgment and this led him to buy a car he knew was stolen. It led him to break the law.

We have presented testimony that he knew that he was buying stolen property. Now we must make him realize this. That is all the State is asking. All we are asking is that he take responsibility for his actions. For these reasons, we ask you to return the only possible verdict in this case "Guilty." Thank you.

The Prosecutor sits down and the Defense Attorney makes his way to the lectern. When the Defense Attorney begins his argument, he/she will be facing the jury.

Defense: Ladies and gentlemen of the jury, I'm going to begin by asking you a question. How many of you like to throw money away? How many of you like to buy a product for full price at one store when you know it is 50% off at another nearby location? You don't have to answer me but I would ask you to reflect on these questions.

You see, the only reason my client, George Howard, is on trial today is because he was looking for a bargain—something we do as often as possible. My client happened to be very lucky. He found his dream car and, I will acknowledge, he seemed to get it dirt-cheap. What I, and I hope you, would call a good deal, the State attempts to call something very different. The State calls this "Sale or receipt of stolen property."

I don't argue with this law. Those who knowingly receive or buy stolen property should be subjected to it. However, I object most strenuously when it is used to charge an unknowing 18 year old with a felony! Yes, George knows a lot about cars. He testified that, at first, he thought there was something amiss with this transaction. However, Mr. Sanders, being the thief, con artist, and criminal that he is, was able to convince my client that everything was okay.

Instead of trying to punish Mr. Sanders even more for this, the State comes after young George and even goes so far as to recommend that Mr. Sanders receive a reduced sentence for his testimony!

Ladies and gentlemen of the jury, this is inexcusable. What this case comes down to is just two simple points: (1) The State is attempting to punish my client because he is not omnipotent and could not tell that the car he bought was stolen, and (2) They are attempting to punish him for nothing other than getting a good deal. Make no mistake; George has suffered a grave injustice at the hands of the State, which is supposed to protect him. I trust that you will let this injustice continue no longer and return the only just verdict in this case: "Not guilty." Thank you.

The Defense Attorney sits down. Addressing the jury, the Judge begins reading the jury instructions.

Judge: In order to convict the defendant, George Howard, according to the law as set forth you must find, beyond a reasonable doubt, that he:

"Received, retained, or disposed of the property of another knowing that it had been stolen, or believing that it probably had been stolen, or who concealed, sold, withheld or aided in concealing, selling, or withholding the property from the owner, knowing the property to be stolen, intending to deprive the owner of it."

In other words, you must find that the Defendant, George Howard, bought the property in question knowing it to have been stolen. If you cannot find this beyond a reasonable doubt, you must find the Defendant "Not Guilty." If you find, beyond a reasonable doubt, that the Defendant bought the property in question knowing it to have been stolen, then you may return a verdict of "Guilty."

Remember that your verdict must be unanimous. The jury now may begin its deliberations.

Judge: This Court is in recess.

The judge polls the teachers for the verdict by requesting a show of hands. The judge will explain that jury deliberations and the procedure for sentencing.

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State of Utah v. George Howard
Sentencing Script

Bailiff: All rise.
(Judge enters courtroom.)

Judge: Please be seated. We're here in the matter of State of Utah. versus George Howard. Counsel please state your appearances for the record.

Prosecution: _____, for the State.

Defense: _____, for Mr. Howard.

Judge: Are we ready to proceed with sentencing?

Prosecution: Yes, Your Honor.

Defense: Ready, Your Honor.

Judge: Mr. Howard, have you received a copy of the pre-sentence report prepared by Adult Probation and Parole and had an opportunity to review it with you attorney?

G. Howard: Yes, Your Honor.

Judge: Does the state have any unresolved objections to the pre-sentence report?

Prosecution: No, Your Honor.

Judge: Does the defendant have any objections to the pre-sentence report?

Defense: Yes, Your Honor. There are some statements in the report that we'd like corrected for the record. In particular, Mr. Howard, objects to the inclusion of his prior arrest for driving with a suspended license. His only sanction for that incident was a \$250 fine, which he paid immediately. The pre-sentence report fails to explain the context in which that incident occurred, namely that Mr. Howard was in the middle of final exams when his license expired, and he could not arrange to get to the motor vehicle department before he was stopped by the police at a random checkpoint.

Judge: Does the state have a position on the defense's motion?

Prosecution: I don't think that any revision to the pre-sentence report is required. The information is not inaccurate. The court can still consider this prior arrest when setting its sentence.

Judge: Any other objections from the defense?

Defense: Our last objection to the pre-sentence report concerns the determination of the probation office that the Mr. Howard has the ability to pay a fine. This determination is based on a cash flow and net worth analysis conducted by the probation officer; however, it does not accurately reflect that Mr. Howard is a high school student, whose financial picture is about to change dramatically as he prepares to start college. To force Mr. Howard to pay a fine could jeopardize his hopes to attend college.

Judge: Does the state have anything to add?

Prosecution: Only that the state believes that a fine should be imposed in this case, the defendant clearly has the means to pay one, and that the defendant must assume responsibility for all of the collateral consequences of his involvement in this offense.

Judge: Are there any other objections to the report?

Prosecution: None, Your Honor.

Defense: None.

Judge: Mr. Howard, do you have anything that you would like to say before I impose your sentence?

G. Howard: Thank you, Your Honor. First, I'd like to apologize to my family for embarrassing them -- and, I guess, my girlfriend, I mean, ex-girlfriend. I hope that I can make it up to them. I'd also like to apologize to the car dealer whose car was stolen and sold to me. I didn't intend to rip you off, sir. Finally, I'd just like to say to you, judge, that I've learned a lot from what's happened and you can be sure that I'll use better judgment in the future.

Judge: I have reviewed the pre-sentence report, and considered the arguments of both parties, along with Mr. Howard's statement.

Starting with the defense motions, I find that the facts contained in the pre-sentence report are accurate, and I see no reason for the information about the defendant's prior arrest to be excluded. With regard to the probation office's determination that Mr. Howard has the ability to pay a fine, the court recognizes that Mr. Howard hopes to attend college. This court strongly encourages him to pursue this goal. However, I find no compelling reason to strike the probation office's determination.

After considering all of the facts of the offense, the defendant's history, the need for punishment, deterrence, and rehabilitation, I impose a sentence of five months in custody to be followed by three years supervised release. As a condition of supervised release, the defendant shall serve five months of home detention, which shall be electronically monitored. Additionally, the pretrial services investigation reveals that Mr. Howard has been experimenting with drugs and could be developing a drug problem. As a result, I am imposing a special condition of drug testing and treatment during the course of supervision.

Defense: The defendant has complied with all of the conditions of his pretrial release, and has demonstrated no risk factors, which would require immediate surrender.

Judge: Any objections?

Prosecution: None, Your Honor.

Judge: The defendant will be permitted to voluntarily surrender to the Salt Lake County Jail. Mr. Howard, you will be contacted with a date by which you are to report to jail to commence your sentence. Until then, I will continue your bond.

Lastly, the parties have the right to appeal the sentence imposed. If you wish to exercise that right you have ten days in which to do so by filing a Notice to Appeal. If you cannot afford representation for your appeal, the court can provide you with appointed counsel. Do you understand your rights, Mr. Howard?

G. Howard: Yes.

Judge: Unless there's anything else, court is adjourned.

Prosecution: Thank you Your Honor.

Defense: Thank you.

Courtroom Deputy: All rise.
(Judge steps down from the bench).