



*Session 23*

*Criminal Law*

*Case studies 1*

## Studying cases

### Elements (= slides)

- 1 – what is the case about = problem / issue
- 2 – parties involved & court held
- 3 – facts = what happened? – do additional research if needed
- 4 – laws in use = which acts/codes, which sections/articles
- 5 – use of laws to interpret facts
- 6 – conclusions = what do you think? do you agree with the judgment made?

ACTIVITY: class to be divided in 4 teams (read-discuss-prepare slides for 45 min) present for 5 min

## Case 1: R v Stillman

Stillman was arrested for the murder of a teenage girl. The victim was found with semen in her vagina and a human bite mark on her abdomen. At the police station, Stillman's lawyers informed the police that he did not consent to provide any bodily samples, including hair and teeth imprints, or to give any statements. After the lawyers left, police took, under threat of force, scalp hair from accused and he was made to pull some of his own pubic hair. Plasticine teeth impressions were also taken. An officer interviewed the accused for an hour in an attempt to obtain a statement. Throughout the interview, accused sobbed, and after speaking with his lawyer, he was escorted to the washroom where he used a tissue to blow his nose. The tissue containing the mucous was seized from the wastebasket by the officer and used for DNA testing. Stillman was released but subsequently re-arrested, at which time, a dentist took new teeth impressions without the accused's consent and more hair, saliva samples and buccal swabs were also taken from accused. Following *avoir dire*, the trial judge found that the hair samples, buccal swabs and teeth impressions had been obtained in violation of [s. 8 of the Charter](#) but nevertheless should be admitted. Stillman was convicted of first degree murder and the conviction was upheld on appeal.

Can the police secure biological samples from an accused incidental to arrest?

## Case 2: R v Greco

Greco was on probation in Ontario for a previous assault charge and was required to be of good behaviour and keep the peace for the duration. While in Cuba, Greco assaulted his companion in a jealous rage. He was convicted at trial of a breach of his probation order which he appealed, stating the court did not have the jurisdiction to convict under [s. 6\(2\)](#).

Was the appellant required to comply with the terms and conditions of his probation order while outside of Canada?

### Case 3: R v Brezack

Brezack appealed from a conviction of assaulting a police officer engaged in the lawful execution of his duty. The officer in question had reason to believe that Brezack was committing or about to commit a breach of the *Drug Act* (now the [Controlled Drugs and Substances Act](#)) After observing persons known to be drug addicts going in the direction of the Golden Grill after Brezack, the officers arrested Brezack and searched his mouth due to information they had which said the drugs would be found concealed there. Each time the officer tried to search his mouth Brezack bit the officer's fingers. No drugs were found on Brezack's person, however they were found in his car.

Was the officer engaged in the lawful execution of his duty as a police officer making an arrest, and believing the information he had, was he entitled to search the appellant's mouth for evidence of the offence of which he believed the appellant to be guilty?

## Case 4: Laporte v Laganière

Laporte was discovered to have a bullet lodged in his body and the police had reason to believe that the bullet may assist them in determining whether he was involved in a shoot out with the police several years previously. A warrant was issued which purported to authorize a search to cause the bullet or bullets in question to be extracted by one or more duly qualified doctors. The warrant also contained a proviso that if in the course of such search the doctors in question should determine that there is any serious danger to Laporte's life, the search must cease.

Laporte petitioned for the warrant to be quashed

Is a person a "building, receptacle, or place" for the purposes of the execution of a warrant?