

Burglary

This file contains three directions;

- 1, Burglary - where the only issue is whether the defendant was the burglar;
- 2, Burglary – the only issue is the defendant’s intent
- 3, Burglary – where the prosecution rely upon recent possession and an offence of handling is an alternative.

Burglary (i)

In this case burglary involves

- entering a building (such as a house or flat) as a trespasser – that is entering without the owner’s permission; and
- stealing property belonging to another – that means dishonestly taking something with the intention of permanently depriving the owner.

In this case there is no doubt that someone committed a burglary - that a trespasser *** and took ***.

There is also no doubt that the Defendant’s DNA was found **.

The only issue is whether the defendant was involved in the burglary.

He denies this and says that ***.

So, the key question for you to answer, having regard to all the evidence and the directions which I give you, is this

Did D commit this burglary?**

If you are sure the answer is “yes”, he is guilty. If the answer may be “no”, he is not guilty.

Burglary (ii – with intent)

In this case burglary involves entering a building (such as a ***) as a trespasser with intent to steal therein.

A trespasser is simply a person who does not have the owner’s permission to enter the building.

It has not been suggested that D*** had the owner’s permission to enter the **, so this is an aspect that you do not have to consider.

The only issue is whether he intended to steal.

In this case, stealing means dishonestly appropriating (i.e. taking) property belonging to another with the intention of permanently depriving the other of it. That includes items, such as ***.

The prosecution do not have to prove that D*** actually stole anything, simply that at the time that he entered the ***, he intended to steal something which was inside it. The prosecution do not have to prove what it was that he intended to steal, simply that he intended to steal something.

How do the prosecution prove intention? Criminals very rarely tell anyone that they intend to commit offences. So, the answer to the question is that you can infer an intention from the surrounding circumstances.

The key question for you to answer in relation to Count *, having regard to all the evidence and the directions which I give you, is this

When D** entered the ***, did he intend to steal something?

If you are sure that the answer is “yes”, he is guilty. If the answer may be “no”, he is not guilty.

Burglary (iii)(recent possession, handling alternative)

In this case burglary involves

- entering a building (such as a flat) as a trespasser – that is entering without the owner’s permission; and
- stealing property belonging to another – that means dishonestly taking something with the intention of permanently depriving the owner.

There is no doubt that someone committed a burglary - that a trespasser or trespassers broke down the doors to V***’s flat and stole **.

The prosecution do not have to prove that D** himself either entered the flat or took all of the items listed in the particulars to the count on the indictment.

The only issue is whether D** played some role in that burglary.

If someone has items which were taken in a burglary soon after the burglary and he fails to give a credible explanation (that is a believable explanation) about how he came to have them, you would be justified in inferring that he was involved in the burglary or dishonestly handling them.

The prosecution case is that ***

The defendant denies this. He says ***

So, the key question for you to answer in relation to Count *, having regard to all the evidence and the directions which I give you, is this

Did D** play some part in the burglary?

If you are sure that the answer is “yes”, he is guilty of Count *.

If the answer may be “no”, he is not guilty of Count *.

D** also faces, in the alternative, Count **, a charge of handling.

This is an alternative.

You cannot find him guilty of both Counts * and **.

You can only find him guilty of handling if he is not guilty of burglary.

So you only have to consider Count ** if you have found him not guilty of Count *, burglary

Count ** Handling stolen goods

“dishonestly received stolen goods ... knowing or believing the same to be stolen goods”

In this case, there is no dispute that the items listed in the particulars of count ** were stolen, or that D** received **

Again, the prosecution do not have to prove that D** himself received all of the items listed in the particulars to the count on the indictment. It is sufficient for him to have received some of them.

So, the only two matters which you have to consider in relation to Count ** are

(a) Did D** act dishonestly?

The word "dishonestly" bears its ordinary meaning. You should decide whether you are sure that, according to the ordinary standards of reasonable and honest people, what D** did was dishonest. If you are sure that it was, you must also consider whether you are sure that he himself knew that what he was doing was dishonest. If you are not sure that he was acting dishonestly, he is not guilty.

(b) Did D** know or believe that the items were stolen?

It is for the prosecution to make you sure that he knew or believed they were stolen.

You can and should take into account all the surrounding circumstances - but mere suspicion is not enough.

Again, if you do not accept D**'s explanation ***, you can infer or conclude that he was acting dishonestly and that he knew or suspected that they were stolen.

So, the key questions for you to answer, having regard to all the evidence and the directions which I give you are these

- (i) Was D** acting dishonestly? and
- (ii) Did he know or believe that the items were stolen?

If you are sure that the answer to both questions is “yes”, he is guilty of Count ** (handling).

If the answer to either question may be “no”, he is not guilty of Count **.