

## Offensive weapon

Without lawful authority or reasonable excuse had with him in a public place an offensive weapon.

### Without lawful authority

It is not claimed that D\*\* had lawful authority. \*\*Door supervisors have no greater rights in this connection than ordinary members of the public. You do not have to consider those words.

### Had with him

It is not disputed that D\*\* had the \*\*sand or lead gloves with him. So, again you do not have to consider those words.

In a public place As a matter of law the \*\* Public House is a public place. Again, you do not have to consider those words.

### An offensive weapon

As a matter of law, \*\*leather gloves with a padding of lead or sand over the knuckle area are capable of being an offensive weapon. It is for you to decide whether the \*\*gloves in D\*\*'s possession were an offensive weapon.

The prosecution can prove that they were an offensive weapon in either of two different ways.

(i) the item (in this case the \*\*gloves) was manufactured with the intention of causing injury to other persons – i.e. they are offensive by their very nature. So, to take a different example, a stiletto knife or a flick knife is automatically an offensive weapon by its very nature. However, if the item (here, the \*\*gloves) may have been manufactured for an innocent purpose, it is not by its nature offensive; or, alternatively,

(ii) even if the item was not manufactured with the intention of causing injury to other persons, it may be an offensive weapon if it was carried with the intention of causing injury to someone, either offensively or defensively. So, to take different examples, a hammer would be an offensive weapon if it was carried with the intention of hitting and injuring someone, if the carrier was attacked in the street. It would not be an offensive weapon if the carrier intended to use it to hammer in nails. Steel capped boots would be an offensive weapon if the wearer expected to get involved in a fight and intended to use the boots to cause injury by kicking other people. They would not be an offensive weapon if worn on a building site to protect a builder's feet from heavy objects which might fall on them.

Looking at the first way in which the prosecution can prove that the \*\*gloves were an offensive weapon, the prosecution say that were manufactured with the intention of causing injury to other persons. They rely on \*\*. On the other hand, the defence say that they were originally used as \*\*motor cycle gloves and rely on \*\*internet print

outs for other makes of glove which state, among other things, that their sole purpose is to offer protection to the back of the hand from sharp blows.

So the first question that you must answer is, having regard to all the evidence and the directions which I give you, is;

Were the \*\*sand or lead gloves manufactured with the intention of causing injury?

If you are sure that the answer is “yes”, D\*\* is guilty and you need not consider any of the further questions. But if the answer may be no, you must consider the second, alternative way in which the prosecution can prove that the gloves were an offensive weapon.

That is whether or not D\*\* had the \*\*gloves with the intention of causing injury to someone. It makes no difference whether he intended to cause such injury as an aggressor or in defending himself. It is for the prosecution to prove that he had the intention of causing injury to someone. If he may not have intended to cause injury, he is not guilty.

How do the prosecution prove intention? The answer is that you can infer it from the surrounding circumstances. They rely on the design of the \*\*gloves, their weight and \*\*. D\*\* says that he had no intention of hurting anyone with the gloves and that he would use them to protect himself by blocking blows to his body.

Reasonable excuse

The defence say that D\*\* had a reasonable excuse for having the \*\*lead or sand gloves. If he did have a reasonable excuse, that is a defence to the claim and he is not guilty. He says that he had them for \*\*his protection as a door supervisor.

The law is that that is a matter for him to prove on all the evidence.

However, whenever the law requires a defendant to prove something, he does not have to make you sure of it. He has to show that it is probable, which means it is more likely than not, that he had a good reason.

So, if you are not sure that the \*\*gloves were manufactured with the intention of causing injury, there are two further questions which, having regard to all the evidence and the directions which I give you, you must answer.

Did D\*\* have the \*\*sand or lead gloves with the intention of causing injury to someone?

If the answer may be “no”, he is not guilty of Count \*. If you are sure that the answer is yes, please move on to the second question;

Is it more likely than not that D\*\* had the \*\*sand gloves for a good reason?

If the answer is “yes” he is not guilty of Count \*. If the answer is no, he is guilty.